# D7 R8 1NC vs UMW

## Off-Case

### T Per Se

#### Business practices are ongoing conduct defined by the behaviors of many market participants

Kerry Lynn Macintosh 97, Associate Professor of Law, Santa Clara University School of Law. B.A. 1978, Pomona College; J.D. 1982, Stanford University, “Liberty, Trade, and the Uniform Commercial Code: When Should Default Rules Be Based On Business Practices?,” 38 Wm. & Mary L. Rev. 1465, Lexis

These new and revised articles reflect a strong trend toward choosing default rules 4 that codify existing business practices. 5 [FOOTNOTE 5 BEGINS] In this Article, the term "business practices" is used to refer to practices that emerge over time as countless market participants exercise their freedom to engage in profitable transactions. For an account of the evolution of business practices, see infra Part II. As used here, "business practices" is broader and less technical than "trade usage," which the Code narrowly defines as "any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question." U.C.C. 1-205(2). [FOOTNOTE 5 ENDS] This is particularly true of the recent revisions to Articles 3 (Negotiable Instruments), 4 (Bank Deposits and Collections) and 5 (Letters of Credit).

#### Only per se illegality prohibits a practice---rules of reason prohibit anticompetitive effects for individual acts, or instances of ‘practice.’

John Paul Stevens 90, Justice, Supreme Court of the United States, “FTC v. Superior Court Trial Lawyers Ass'n,” 493 U.S. 411, Lexis

LEdHN[3C] [3C]LEdHN[14] [14]Equally important is the second error implicit in respondents' claim to immunity from the per se rules. In its opinion, the Court of Appeals assumed that the antitrust laws permit, but do not require, the condemnation of price fixing and boycotts without proof of market power. 15 The opinion further assumed that the per se rule prohibiting such activity "is only a rule of 'administrative convenience and efficiency,' not a statutory command." 272 U.S. App. D. C., at 295, 856 F. 2d, at 249.This statement contains two errors. HN10 [\*\*\*\*42] The per se [\*433] rules are, of course, the product of judicial interpretations of the Sherman Act, but the rules nevertheless have the same force and effect as any other statutory commands. Moreover, while the per se rule against price fixing and boycotts is indeed justified in part by "administrative convenience," the Court of Appeals erred in describing the prohibition as justified only by such concerns. The per se rules also reflect a long-standing judgment that the prohibited practices by their nature have "a substantial potential for impact on competition." Jefferson Parish Hospital District No. 2 v. Hyde, 466 U.S. 2, 16 (1984).

[\*\*\*\*43] LEdHN[15] [15]As we explained in Professional Engineers, HN11 the rule of reason in antitrust law generates

"two complementary categories of antitrust analysis. In the first category are agreements whose nature and necessary effect are so plainly anticompetitive that no elaborate study of the industry is needed to establish their illegality -- they are 'illegal per se.' In the second category are agreements whose competitive effect can only be evaluated by analyzing the facts peculiar to the business, the history of the restraint, and the reasons why it was imposed." 435 U.S., at 692.

[\*\*\*873] "Once experience with a particular kind of restraint enables the Court to predict with confidence that the rule of reason will condemn it, it has applied a conclusive presumption that the restraint is unreasonable." Arizona v. Maricopa County Medical Society, 457 U.S. 332, 344 (1982).

[\*\*781] LEdHN[16] [16] [\*\*\*\*44] The per se rules in antitrust law serve purposes analogous to per se restrictions upon, for example, stunt flying in congested areas or speeding. Laws prohibiting stunt flying or setting speed limits are justified by the State's interest in protecting human life and property. Perhaps most violations of such rules actually cause no harm. No doubt many experienced drivers and pilots can operate much more safely, even at prohibited speeds, than the average citizen.

[\*434] If the especially skilled drivers and pilots were to paint messages on their cars, or attach streamers to their planes, their conduct would have an expressive component. High speeds and unusual maneuvers would help to draw attention to their messages. Yet the laws may nonetheless be enforced against these skilled persons without proof that their conduct was actually harmful or dangerous.

In part, the justification for these per se rules is rooted in administrative convenience. They are also supported, however, by the observation that every speeder and every stunt pilot poses some threat to the community. An unpredictable event may overwhelm the skills of the best driver or pilot, even if the [\*\*\*\*45] proposed course of action was entirely prudent when initiated. A bad driver going slowly may be more dangerous that a good driver going quickly, but a good driver who obeys the law is safer still.

#### Prefer it---too many fringe standards with distinct lit and changing levels of enforcement that shreds link uniqueness AND they can pick a broader but more permissive standard

### T Subsets

#### “Private sector” means all non-governmental persons or entities, including non-profits

Senate Report 95, (Senate Report, 1995, 104-1, “UNFUNDED MANDATE REFORM ACT OF 1995,” <https://www.congress.gov/congressional-report/104th-congress/senate-report/1>)

"Private sector" is defined to cover all persons or entities in the United States except for State, local or tribal governments. It includes individuals, partnerships, associations, corporations, and educational and nonprofit institutions.

#### That includes any universally applied standard, like CWS (Consumer Welfare Standard)

Phillips 18, commissioner on the Federal Trade Commission (Noah J. Phillips, 11-1-2018, “Before the Federal Trade Commission, “Competition and Consumer Protection in the 21st Century,” <https://www.ftc.gov/system/files/documents/public_events/1415284/ftc_hearings_session_5_transcript_11-1-18_0.pdf>)

Our second topic today is the consumer welfare standard. And I think most folks even out in the public know, this is the standard that we use across the board, mergers and conduct in courts and at agencies, to judge anticompetitive conduct. It is not only a standard that we in the U.S. apply, it is a standard that is used by competition agencies around the world. It is an economically-grounded standard, and it requires that there be harm to consumers for conduct to be condemned. Mere harm to competitors is considered insufficient. So let me repeat that again. There has to be harm to consumers, not just competitors. The reason that is so, the reason harm to competitors is considered insufficient is because sometimes a less-efficient firm losing sales or market share to a cheaper, more innovative or efficient rival, can be and often is consistent with vibrant competition and with outcomes that benefit consumers. Courts and agencies have embraced this standard for decades. Today, there are two very important discussions going on about the consumer welfare standard, and they are happening simultaneously. And I think it is important that we understand that there are two conversations going on. One is a continuing discussion about how we apply the standard, regarding whether enforcement is at the appropriate level, whether it is properly targeted. This is an introspective question on some level, in which scholars, economists, practitioners, and enforcers all ask ourselves, are we bringing the right kinds of cases? Are we using the right kinds of evidence? Should we be doing more or less in certain places? The antitrust bar, the business community, and others benefit from this ongoing and active analysis. The second discussion happening now, and the one on which today’s consumer welfare standard panels will focus, is whether the standard is itself the right metric we ought to use in antitrust enforcement and in antitrust law; some argue that enforcement under the consumer welfare standard has failed because of the law, and accordingly, that we should reform the law.

#### The aff only applies to conduct in a specific segment

#### Vote neg---potential subsets is infinite---only economy-wide affs have link uniqueness by forcing the aff to structurally change antitrust

### T Scope

#### ‘Scope’ is the extent of the area dealt with or relevant to the core laws

Oxford Languages ND, “scope,” shorturl.at/wCDY3

scope

the extent of the area or subject matter that something deals with or to which it is relevant.

"we widened the scope of our investigation"

#### It’s bounded by exemptions and immunities

Kruse et al. 19, Layne E. Kruse, Co-Chair; Melissa H. Maxman, Co-Chair; Vittorio Cottafavi, Vice Chair; Stephen M. Medlock, Vice Chair; David Shaw, Vice Chair; Travis Wheeler, Vice Chair; Lisa Peterson, Young Lawyer Representative; all on the Exemptions and Immunities Committee of the ABA Antitrust Section, “Long Range Plan, 2018-19,” American Bar Association, 3/18/19, https://www.americanbar.org/content/dam/aba/administrative/antitrust\_law/lrps/2019/exemptions-immunities.pdf

D. Top 3 Accomplishments Since Last Long Range Plan in 2015

(1) Publications. In addition to our Annual ALD Updates, we are set to publish an update to the Noerr-Pennington Handbook, which should be out in 2019. We also published a new version of the State Action Handbook in 2016. The Handbook on the Scope of the Antitrust Laws was published in 2015.

(2) Commentary on Legislative and Regulatory Proposals. The Committee has been very active in supporting Section commentary on proposed legislation, regulations, and other policy issues.

For instance, in March 2018, the E&I Committee assisted former E&I Chair John Roberti in composing his article, “The Role and Relevance of Exemptions and Immunities in U.S. Antitrust Law”, presented to the DOJ Antitrust Division Roundtable on behalf of the ABA Antitrust Section.

In January 2018, in response to a request from the Section Chair, we submitted Section comments along with the Legislative and State AG Committees, addressing the proposed Restoring Board Immunity Act legislation that would impact the post-NC Dental exemptions and immunity climate. Previously, we commented on the Professional Responsibility Act.

(3) Spring Meeting Programs. We have sponsored or co-sponsored a program at every Spring Meeting since our last long range plan. In 2019 we will chair Sham Litigation after FTC v. AbbVie The FTC v. AbbVie decision – calling for the disgorgement of $448 million on the basis of sham patent litigation. In addition, we will co-sponsor in 2019 with the Trade, Sports & Professional Associations Committee, a program on “Antitrust Law's Anomalous Treatment of Sports,” addressing how US courts have shown broad deference to the "rules of the game," including near-immunity status for concepts such as "amateurism."

II. Major Competition/Consumer Protection Policy or Substantive Issues Within Committee’s Jurisdiction Anticipated to Arise Over Next Three Years

A. Issue #1: Will Certain Exemptions Be Eliminated or Expanded?

A goal of the current DOJ Antitrust Division is to streamline antitrust laws, and in particular, take a hard look at exemptions and immunities. This is in the wheelhouse of our Committee’s fundamental policy issue: How much of the economy has opted out of our antitrust system? Is that a problem or are ad hoc exemptions acceptable ways to fine tune the application of the antitrust laws?

We anticipate, therefore, that efforts to enact or to repeal existing statutory exemptions and immunities will continue. In recent years, there have been efforts to repeal the exemptions for railroads and (at least in part) the McCarran-Ferguson insurance exemption. The Section and the Committee has generally supported efforts to repeal statutory exemptions. Given that repeal issues are very political it is unlikely that we will see many exemptions actually repealed.

On the other hand, proposals for new exemptions and immunities will continue to be introduced in Congress. The Committee will improve on a template for use in assisting the Section in drafting comments to Congress on newly proposed exemptions and immunities.

One development that may continue in the health care area are issues over a "COPA" or "Certificate of Public Advantage" at the state level. A COPA is a state statutory mechanism that provides certain collaborations in the health care community with immunity from private or government actions under the antitrust laws by invoking the state action doctrine. The FTC has generally opposed such efforts at the state level, but several states have used them to immunize health care mergers. This is a major development that should be monitored.

Through programs, newsletters, and Connect entries, the Committee intends to educate its members about Congressional and other efforts to repeal, or introduce new, exemptions and immunities, as well as the application of existing statutory exemptions and immunities in the courts. The Committee’s Handbook on the Scope of Antitrust Law, published in 2015, addresses developments in the statutory immunities area. It built on the prior publication, Federal Statutory Exemptions from Antitrust Law Handbook in 2007. Our Scope book will need to be updated within the next three years.

B. Issue #2: Will There Be Legislative Solutions to State Action Issues at State and Federal Levels?

The FTC’s case against the North Carolina Board of Dental Examiners put the "active supervision" prong of the state action test front and center. North Carolina State Board of Dental Examiners v. Federal Trade Commission, 135 S.Ct. 1101 (2015). The Court agreed with the FTC’s position that state occupational licensing boards comprised of market participants must satisfy the active supervision requirement. This spurred additional suits against other types of state boards involving regulated professionals. Moreover, every State had to reassess its boards to determine if there is "active supervision." Courts and state legislatures are addressing those issues. We also expect the proper framing of the clear articulation prong of the state action doctrine will be addressed. The Supreme Court spoke to the clear articulation test in FTC v. Phoebe Putney Health System, Inc., 133 S.Ct. 1003 (2013), narrowing the foreseeability test to cover only situations in which the anticompetitive conduct is the “inherent, logical, or ordinary result of the exercise of authority delegated by the state legislature.” How this test has played out in the lower courts will be of particular interest to the Committee and its membership. The COPA issues, at the state level, as previously mentioned, will impact this area.

The Committee expects to address these issues through updates to Connect, newsletters, Spring Meeting programs, committee programs, its contributions to the Annual Review of Antitrust Law Developments. The State Action Practice Manual addresses these issues, as well as the Committee’s Handbook on the Scope of Antitrust Law.

C. Issue #3: Will Noerr Be Restricted or Expanded?

The Noerr-Pennington doctrine is an exemption issue that is frequently litigated. In particular, the most likely area of further development is in the pharma industry. Alleged misrepresentations to government agencies has caught the attention of some courts. In addition, there may be more development on the pattern exception, which raises the issue of whether each act of petitioning in a pattern must satisfy the objectively and subjectively baseless requirements for sham petitioning. The Committee’s new Handbook on Noerr (forthcoming) and its earlier Handbook on the Scope of Antitrust Law addresses developments in the Noerr law.

III. Specific Long Term Plans to Strengthen Committee

The Committee provides important services to the membership of the Section through publications, drafting ABA Antitrust Section comments to proposed regulation and international competition proposed immunities, and programming. The goals of the Committee include: (1) to provide policy comments on key questions about the scope of the antitrust laws for legislation and policy-making; (2) produce a mix of publications and programming that provides relevant and useful information to our members; (3) to ensure that the Committee remains valuable to our members’ practices; and (4) to make the most productive use of electronic communications to deliver the Committee’s work product.

A. Potential Modifications to Charter: What is the Role of this Committee?

The Committee’s current charter accurately characterizes its purview—that is, addressing the scope of the antitrust laws. That scope, of course, is defined primarily in terms of exemptions and immunities (both statutory and non-statutory). The Committee, however, has dealt with other doctrines, such as preemption and primary jurisdiction. These areas may not necessarily be viewed as traditional exemptions or immunities, but they nonetheless directly affect the application and extent of the antitrust laws. In addition, the Committee expends significant efforts to address international issues, including statutory exclusions from the U.S. antitrust laws, including the FTAIA; the related doctrines of act of state, sovereign immunity, and foreign sovereign compulsion; and industry-specific exemptions and exclusions from non-U.S. antitrust laws, including blocking exemptions.

#### ‘Expand’ must make more expansive---NOT merely clarify existing principles

Terry J. Hatter, Jr. 90, Judge, US District Court, California Central, “In re Eastport Assoc.,” 114 B.R. 686, Lexis

[\*\*10] Second, Eastport asserts that the presumption against retroactivity does not apply because the amendment was intended only as a clarification of existing law. HN7 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 "the 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 [\*\*11] law. In light of the Counsel's comment, Eastport's argument is unpersuasive.

#### The AFF just intensifies the application of antitrust to already covered activities---it does NOT curtail an exemption or immunity.

#### Vote NEG---eliminating exemptions and immunities provides a limited AND predictable basis for prep, and focuses debates on the balance between antitrust and regulation, ensuring conceptual unity.

### Regs CP

The United States federal government should

* utilize sector-specific regulation for developing procompetitive blockchain policies;
* require open blockchain standards and mandate that dominant blockchain networks offer open and non-discriminatory access to users who meet reasonable and fair membership criteria; and
* cooperate with the EU and other willing countries to set an international standard for the use of, and trade in spyware.

#### The CP employs sector specific regulation that enhances blockchain competition without expanding the scope of antitrust law.

Weinstein ’21 [Samuel; 2/19/21; Associate Professor of Law, Benjamin N. Cardozo School of Law; Georgia Law Review; “Blockchain Neutrality,” vol. 55, p. 499-592]

In doing so, the Article draws a distinction between antitrust and competition policy. The former term is used here to refer to enforcement of federal and state antitrust statutes, particularly the Sherman and Clayton Acts.25 This Article treats the latter term as a broader concept encompassing not only decisions about antitrust enforcement priorities, but a wider set of choices made by Congress, the executive branch, sector regulators, and state and local governments that establish the terms on which competition takes place in various markets.26 It argues that concerns among some scholars and practitioners that blockchain threatens effective antitrust enforcement are premature.27 Despite the technology’s disruptive nature, the substantive antitrust challenges blockchain poses are not novel and can be addressed using current law and enforcement strategies. Indeed, the transparency blockchain offers may simplify discovery and prosecution of antitrust violations. Rather than locating and sifting through hundreds of thousands of documents to prove a price-fixing conspiracy, enforcers may find the relevant evidence permanently recorded on a cartel’s blockchain. The ability of blockchain users to mask their identities by employing pseudonyms may raise some technical enforcement challenges, but pseudonymity does not guarantee anonymity.28 Violators typically can be identified, and remedies can attach.29

In contrast, this Article contends that blockchain presents new and difficult competition policy issues that will require innovative regulatory solutions. Because blockchain-related technologies have applications across industries, multiple regulators may be positioned to make blockchain competition policy. Even if the details differ between regulatory regimes, the question these regulators will face should be similar: how to manage markets where incumbents are under attack by new competitors using blockchainbased systems to decentralize and deconcentrate industries. Agencies charged with developing blockchain-related competition policy must grapple with at least three fundamental challenges: (1) balancing the benefits of the increased competition that blockchain networks will make possible against concerns for marketplace and consumer safety; (2) determining how much market decentralization to promote or tolerate; and (3) deciding whether and how to promote standardization, open-access, and nondiscrimination requirements on blockchain networks.

This Article focuses on the financial-services industry, where blockchain-based technologies might fundamentally alter the way business is conducted. Cryptocurrencies like Bitcoin are the leading edge of this transformation, but they likely are just the first step in remaking the financial sector. Bigger changes may be coming in capital markets and equities and derivatives trading. Blockchain technologies are enabling firms to raise significant amounts of capital directly from the public. Several companies already have used ICOs to raise over $100 million each, 30 more than an average initial public offering (IPO) raises, and, in 2019, companies used blockchain-based IEOs to raise $1.7 billion.31 These new funding models might endanger traditional sources of capital formation: if businesses can use token sales to raise public money directly, fewer reasons exist to pay VCs and Wall Street for these services. Blockchains are also being used to build equities and derivatives trading and clearing platforms that can reduce or eliminate the need for traditional dealers and big banks in these markets.32 These platforms allow individual users to trade directly with one another from their personal terminals.33

Together, these blockchain-based services potentially could compete for large chunks of incumbent financial institutions’ most profitable businesses. This development could have significant economic and social consequences. The financial services sector represents seven percent of U.S. GDP,34 and Wall Street banks—for many decades—have been among the most important private institutions in the country.35 The outsized profits these institutions garner have played a role in the nation’s growing income inequality,36 and their gatekeeper function has limited which firms can raise money and who can trade in financial products. Blockchain-based networks offer the opportunity to reshape this financial-services landscape.

Because they oversee financial markets—including capital markets and equities and derivatives trading—sector regulators, especially the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC), likely will play a significant role in determining whether blockchain realizes its transformative potential. In doing so, they must determine how to balance enhanced blockchain competition against marketplace and consumer safety, how to manage market decentralization, and whether to promote standardization, open-access, and nondiscrimination on blockchain networks.

Of these issues, perhaps the most pressing is how to weigh the prospects for increased blockchain-related competition and its many benefits against threats to consumer safety and systemic soundness arising from blockchain networks. In antitrust cases, agencies and courts typically reject safety-related justifications for competition restrictions.37 Sector regulators view this balance differently. Despite statutory mandates to promote competition,38 the SEC and CFTC strongly favor consumer safety and systemic risk prevention over competition concerns.39 These agencies have been active in the blockchain space, especially with regard to ICOs and cryptocurrencies.40 Considering their regulatory priorities, it is unsurprising that the agencies’ focus to date has been on fraud prevention and classification and registration of financial products and entities.41 Less attention is being paid to broader competition issues. This approach is not balanced; it tilts heavily toward harm prevention.

This Article argues that sector regulators should promote the increased competition that blockchain-based networks make possible, rather than focusing solely on the need to ameliorate the potential systemic risk and fraud-related harms those networks may engender. FCC regulation of the telephony system and, later, the Internet provides a useful model for the financial regulatory agencies in this regard. Net neutrality rules and earlier FCC regulations struck a balance between promoting innovation and competition and protecting the public from unsafe practices.42 These rules prohibited networks from discriminating against downstream competitors except when their applications were harmful or fraudulent.43 A similar approach makes sense for the SEC and CFTC as they grapple with emerging blockchain-related competition-policy issues. In general, the agencies should think systematically about how to encourage blockchain-based competition. A narrow focus on fraud and registration requirements misses the forest for the trees.

Market decentralization poses related but distinct challenges for regulators. Among blockchain’s most lauded attributes is its potential to democratize and decentralize markets.44 In theory, blockchain technology offers the possibility for markets to become more competitive by reducing the power of gatekeeper firms—including platform companies—and by creating the potential for new competitors to emerge. This decentralization may have noneconomic benefits too, including spreading opportunity beyond elite institutions and offering market access to underserved populations. But decentralization also raises challenges for regulators. The more decentralized a market becomes, the more problematic it is for regulators to monitor market participants.45 In financial markets, decentralization can create significant difficulties. One only has to recall the role derivatives products played in the 2008 financial crisis to be reminded of the risks posed by widespread, unregulated financial contracts. Presently, the CFTC and SEC can monitor much of the world’s riskiest financial activity by keeping tabs on the largest regulated banks.46 Decentralization through blockchain will likely complicate that task and may compromise consumer safety and systemic stability.

Nonetheless, because the benefits of decentralization in the financial markets may be significant, this Article argues that regulators should resist the temptation to implement policies that favor incumbent big banks simply because they are already heavily regulated. Instead, the agencies should promote decentralization while developing ways to address the safety and fraud threats it poses. The use of regulatory nodes on private (permissioned) blockchain networks, which grant the agencies direct access to all the information on a blockchain, may be one way to achieve this goal.47

The third key competition policy challenge blockchain technologies raise for regulators is how to handle standardization, open-access, and non-discrimination issues on blockchain networks. These issues might arise in a variety of ways. To the extent that permissioned blockchains become necessary to compete in certain markets, firms controlling those networks might discriminate against rivals and otherwise harm competition. Or public (permissionless) blockchain networks might institute rules favoring execution of certain transactions over other transactions. Intellectual property rights and standard setting also could play a key role in how blockchain-based competition develops. Blockchainrelated patent holders could use their rights strategically to limit competition and establish (or retain) market power. Anticompetitive abuses of the standard-setting process for blockchain technologies is also a risk.

To maximize blockchain-based competition, this Article contends that regulators (or, if necessary, Congress) should require or encourage open blockchain standards and mandate that dominant blockchain networks offer open and non-discriminatory access to users who meet reasonable and fair membership criteria. Like netneutrality rules for the Internet (before they were overturned),48 this approach will increase competition and innovation on blockchain networks and make it more difficult for the big banks that currently dominate financial services to continue to do so.49

### Capitalism K

#### Antitrust reform is based on neoliberal exploitation, which makes monopolies and violence inevitable ⁠— only the alt solves

Tell 21, PhD, author of the book “Charter School Report Card.” His main research interests include charter schools, neoliberal education policy, privatization and political economy (Shawgi Tell, 7-29-2021, “EMPTY RHETORIC THAT SEEKS TO MISINFORM AND APPEASE: ON BIDEN'S FARCICAL ANTI-MONOPOLY EXECUTIVE ORDER,” *Hampton Think*, <https://www.hamptonthink.org/read/on-bidens-farcical-anti-monopoly-executive-order?rq=antitrust>)

One of these is the inexorable tendency of competition to lead to monopoly under capitalism. Competition means winners and losers. By definition, not everyone can win when competing. Competition means rivalry for supremacy. Thousands compete in the Olympics, for example, but only a select few (“winners”) go home with a gold medal.[1] It is no accident that the economy, media, and politics are heavily monopolized by a handful of billionaires while billions of people who actually produce the wealth in society and run society remain marginalized and disempowered. This brutal reality cannot be reversed or overcome with the utterance of a few platitudes, the passage of some policies, or the creation of some agencies that claim to be able to fix the outdated economic system, especially when all of the above come from billionaires themselves. On July 9, 2021, President Joe Biden issued an Executive Order on Promoting Competition in the American Economy (https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/). The order is about 7,000 words long and full of anticonscious statements. Disinformation pervades the entire order. The opening paragraph begins with the following disinformation: By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote the interests of American workers, businesses, and consumers, it is hereby ordered…. Here, “American workers, businesses, and consumers” are casually misequated and no mention is made of citizens or humans. The implication is that consumerism is normal, healthy, and desirable, and that workers and big business somehow have the same aims, world outlook, and interests. This conceals the fact that owners of capital and workers have antagonistic irreconcilable interests and that people exist as humans and citizens, not just utilitarian consumers and shoppers in a taken-for-granted system based on chaos, anarchy, and violence.

Disinformation is further escalated in the next paragraph:

A fair, open, and competitive marketplace has long been a cornerstone of the American economy, while excessive market concentration threatens basic economic liberties, democratic accountability, and the welfare of workers, farmers, small businesses, startups, and consumers. “Market concentration” has been the norm for generations. Monopolies, cartels, and oligopolies have been around since the late 1800s. Mergers and acquisitions have been taking place non-stop for decades. The so-called “free market” largely disappeared long ago. Objectively, there can be no fairness in a system rooted in wage-slavery and empire-building. Wage-slavery is the precondition for the tendency of the rich to get richer and the poor poorer. It is not a recipe for prosperity and security for all. This is also why inequality, tyranny, violence, and surveillance have been growing over the years. Moreover, what “threatens basic economic liberties, democratic accountability, and the welfare of workers, farmers, small businesses, startups, and consumers” is the ongoing political and economic exclusion of people from control over the economy and their lives by the financial oligarchy. There can be no liberty, accountability, and welfare when most people are deprived of real decision-making power and major owners of capital make all the decisions. Problems would not constantly worsen if people had control over their lives. The “best allocation of resources” cannot be made when the economy is carved up, fractured, and controlled by competing owners of capital. Although recurring economic crises for well over a century have repeatedly discredited “free market” ideology, the 7,000-word executive order is saturated with the language of “choice,” “competition,” and “consumers.” This is the same worn-out language used by privatizers of all hues at home and abroad. Further, while the executive order gives many examples of “economic consolidation” in numerous sectors, the government is not interested in creating a self-reliant vibrant diverse economy that meets the needs of all. It is not committed to reversing “the harmful effects of monopoly and monopsony.” Numerous antitrust laws have not stopped either. Big mergers and acquisitions have been going on for years. Rather, the executive order is an attempt to restructure economic and political arrangements among different factions of the wealthy elite; it reflects a new stage or form of inter-capitalist rivalry for even greater domination of the economy by fewer owners of capital. In other words, moving forward, the economy will remain monopolized by a few monopolies. Wealth is only going to become more concentrated in fewer hands in the years ahead. Mountains of data from hundreds of sources document growing wealth and income inequality every year. The bulk of the executive order is filled with endless directives, strategies, rules, and suggestions for how to curb “unfair practices” and promote “fairness” and “competition.” But these all ring hollow given concrete realities and past experience. Today, governments at all levels have been taken over by global private monopoly interests and have become instruments of decisions made on a supranational basis. There is a fine-tuned revolving door between officials from government and the private sector; they have become synonymous for all essential purposes. The same people who run major corporations also serve in high-level government positions where they advance the narrow interests of the private sector and then they leave government and return to their high-level corporate positions. There is a reason why the majority of members of Congress are millionaires. The Executive Branch in the United States, especially the President’s Office, is a major tool for the expression of the will of the most powerful monopolies. This is why billions of dollars are spent every few years to select the President of the country. A modern economy must be controlled and directed by workers themselves. Only such an economy can provide for the needs of all and avoid endless economic distortions. Uneven economic development, “unfair” arrangements, “market concentration,” monopolies, oligopolies, and recurring crises cannot be avoided so long as those who actually produce the social product have no control over the social product. Workers have first claim to the wealth they produce and have the right to decide how, where, and when that wealth is used. Major owners of capital are historically superfluous and a big block to progress. They are not needed for a healthy vibrant self-reliant economy that meets the needs of all.

#### Capitalism is unsustainable due to ecological overshoot which causes multiple avenues for extinction. Err neg—breaching carrying capacity turns every impact.

Martenson 1/25/19 (Chris Martenson – PhD, Co-Founder of Peak Prosperity, Economic Researcher, writer and trend forecaster interested in macro trends regarding the economy, energy composition and environment. “Collapse is Already Here” <https://www.peakprosperity.com/blog/114741/collapse-already-here>, DOA: 2/1/19, kbb)

Many people are expecting some degree of approaching collapse -- be it economic, environmental and/or societal -- thinking that they’ll recognize the danger signs in time. As if it will be completely obvious, like a Hollywood blockbuster. Complete with clear warnings from scientists, politicians and the media. And everyone can then get busy either panicking or becoming the plucky heroes. That's not how collapse works. Collapse is a process, not an event. And it's already underway, all around us. Collapse is already here. However, unlike Hollywood's vision, the early stages of collapse cause people to cling even tighter to the status quo. Instead of panic in the streets, we simply see more of the same -- as those in power do all they can to remain so, while the majority of the public attempts to ignore the growing problems for as long as it possibly can. For both the elite and the majority, their entire world view and their personal sense of self depends on things not crumbling all around them, so they remain willfully blind to any evidence to the contrary. When faced with the predicaments we warn about here at PeakProsperity.com, getting an early start on prudently shifting your own personal situation is of vital strategic and tactical importance. Tens of thousands of our readers already have taken wise steps in their lives to position themselves resiliently. But most of the majority won't get started until it’s entirely too late to make any difference at all. Which is sad but perhaps unavoidable, given human nature. If everybody around you is saying “Everything is awesome!”, it can take a long time to determine for yourself that things in fact aren't: Real collapse happens slowly, and often without any sort of acknowledgement by the so-called political and economic elites until its abrupt terminal end. The degree of rot within the Soviet Union went undetected until its final implosion, catching pretty much everyone in the West (as well as in the former USSR!) by surprise. Similarly, one day people woke up and passenger pigeons were extinct. They used to literally darken the skies for hours as they migrated past, numbering in the billions. Nobody planned on their demise and virtually nobody saw it coming. Sure, just as there always are, a few crackpots at the fringes noticed, but they were ignored until it was too late. Our view is that collapse of our current way of life is happening right now. The signs are all around us. Our invitation is for you to notice them and inquire critically what the ramifications will be -- irrespective of whatever pablum our leaders and media are currently spewing. While the monetary and financial elites strain to crank out one more day/week/month/year of “market stability”, the ecosystems we depend on for life are vanishing. It's as if the Rapture were happening, but it's the insects, plants and animals ascending to heaven instead of we humans. Committing Ecocide Be very skeptical when the cause of each new ecological nightmare is ascribed to “natural causes.” While it’s entire possible for any one ecological mishap to be due to a natural cycle, it’s weak thinking to assign the same cause to dozens of troubling findings happening all over the globe. As they say in the military: Once is an accident. Twice is a coincidence. But three times is enemy action. Right now, Australia is in the middle of the summer season and being absolutely hammered by high heat. Sure it gets hot during an Australian summer, but not like this. The impact has been devastating: Australia's Facing an Unprecedented Ecological Crisis, But No One's Paying Attention Jan 9, 2019 It started in December, just before Christmas. Hundreds of dead perch were discovered floating along the banks of the Darling River – victims of a "dirty, rotten green" algae bloom spreading in the still waters of the small country town of Menindee, Australia. Things didn't get better. The dead hundreds became dead thousands, as the crisis expanded to claim the lives of 10,000 fish along a 40-kilometre (25-mile) stretch of the river. But the worst was still yet to come. This week, the environmental disaster has exploded to a horrific new level – what one Twitter user called "Extinction level water degradation" – with reports suggesting up to a million fish have now been killed in a new instance of the toxic algae bloom conditions. For their part, authorities in the state of New South Wales have only gone as far as confirming "hundreds of thousands" of fish have died in the event – but regardless of the exact toll, it's clear the deadly calamity is an unprecedented ecological disaster in the region's waterways. "I've never seen two fish kills of this scale so close together in terms of time, especially in the same stretch of river," fisheries manager Iain Ellis from NSW Department of Primary Industries (DPI) explained to ABC News. The DPI blames ongoing drought conditions for the algae bloom's devastating impact on local bream, cod, and perch species – with a combination of high temperature and chronic low water supply (along with high nutrient concentrations in the water) making for a toxic algal soup. ([Source](https://www.sciencealert.com/up-to-a-million-fish-killed-in-unprecedented-australian-environmental-disaster)) Watching the video above showing grown men crying over the loss of 100-year-old fish is heartbreaking. This fish kill is described as “unprecedented” and as an “extinction level event", meaning it left no survivors over a long stretch of waterway. We can try to console oursleves that maybe this was just a singular event, a cluster of bad juju and worse waterway management that combined to give us this horror -- but it wasn’t. It's part of a larger tapestry of heat-induced misery that Australia is facing: How one heatwave killed 'a third' of a bat species in Australia Jan 15, 2019 Over two days in November, record-breaking heat in Australia's north wiped out almost one-third of the nation's spectacled flying foxes, according to researchers. The animals, also known as spectacled fruit bats, were unable to survive in temperatures which exceeded 42C. "It was totally depressing," one rescuer, David White, told the BBC. Flying foxes are no more sensitive to extreme heat than some other species, experts say. But because they often gather in urban areas in large numbers, their deaths can be more conspicuous, and easily documented. "It raises concerns as to the fate of other creatures who have more secretive, secluded lifestyles," Dr Welbergen says. He sees the bats as the "the canary in the coal mine for climate change". ([Source](https://www.bbc.com/news/world-australia-46859000)) A two-day heatwave last November (2018) was sufficient to kill up to a third of all Australia's known flying foxes, a vulnerable species that was already endangered. As those bats are well-studied and their deaths quite conspicuous to observers, it raises the important question: How many other less-scrutinized species are dying off at the same time? And the death parade continues: [More than 90 wild horses die in Australia's heat wave](https://tribune.com.pk/story/1895741/3-90-wild-horses-die-australias-heat-wave/) (Jan 24, 2019) [Australia heatwave: Mass animal deaths and roads melting as temperatures reach record high](https://www.independent.co.uk/news/world/australasia/australia-heatwave-latest-temperature-heat-records-stress-new-south-wales-bushfires-a8735541.html)(Jan 19, 2019) [Australia's Heatwave Responsible for Deaths of Horses, Camels](https://weather.com/news/news/2019-01-24-australia-extreme-heat-kills-horses-camels-0) (Jan 24) Are these data points severe enough for you to recognize as signs of ongoing collapse? Last summer was a time of extreme drought and heat for Australia, and this summer looks set to be even worse. This may be the country's 'new normal' for if the situation is due to climate change instead of just an ordinary (if punishing) hot cycle. If so, these heat waves will likely intensify over time, completely collapsing the existing biological systems across Australia. Meanwhile, nearby in New Zealand, similar species loss is underway: 'Like losing family': time may be running out for New Zealand's most sacred tree July 2018 New Zealand’s oldest and most sacred tree stands 60 metres from death, as a fungal disease known as kauri dieback spreads unabated across the country. Tāne Mahuta (Lord of the Forest) is a giant kauri tree located in the Waipoua forest in the north of the country, and is sacred to the Māori people, who regard it as a living ancestor. The tree is believed to be around 2,500 years old, has a girth of 13.77m and is more than 50m tall. Thousands of locals and tourists alike visit the tree every year to pay their respects, and take selfies beside the trunk. Now, the survival of what is believed to be New Zealand’s oldest living tree is threatened by kauri dieback, with kauri trees a mere 60m from Tāne Mahuta confirmed to be infected. Kauri dieback causes most infected trees to die, and is threatening to completely wipe out New Zealand’s most treasured native tree species, prized for its beauty, strength and use in boats, carvings and buildings. “We don’t have any time to do the usual scientific trials anymore, we just have to start responding immediately in any way possible; it is not ideal but we have kind of run out of time,” Black says, adding that although there is no cure for kauri dieback there is a range of measures which could slow its progress. ([Source](https://www.theguardian.com/world/2018/jul/14/like-losing-family-time-may-be-running-out-for-new-zealands-most-sacred-tree)) People are rallying to try and save the kauri trees, although it’s unclear exactly how to stop the spread of the new fungal invader or why it's so pathogenic all of a sudden. It could be due to another natural sort of cycle (except the fungus was thought to have been introduced and spread by human activity) or it could be a another collapse indicator we need to finally hear and heed. It turns out that New Zealand is not alone. Giant trees are dying all over the globe. [2,000-year-old baobab trees in Africa](https://blogs.scientificamerican.com/extinction-countdown/climate-change-is-killing-these-ancient-trees-but-thats-just-part-of-the-story/) are suddenly and rather mysteriously giving up the ghost. These trees survived happily for 2,000 years and now all of a sudden they're dying. Are the deaths of our most ancient trees all across the globe some sort of natural process? Or is there a different culprit we need to recognize? In Japan they're [lamenting record low squid catches](https://www.telegraph.co.uk/news/2019/01/21/japans-squid-industry-crisis-amid-record-low-catches/). Oh well, maybe it’s just overfishing? Or could it be another message we need to heed? To all this we can add the numerous scientific articles now decrying the 'insect Apocalypse' unfolding across the northern hemisphere. The Guardian recently issued this warning: [“Insect collapse: ‘We are destroying our life support systems’”](https://www.theguardian.com/environment/2019/jan/15/insect-collapse-we-are-destroying-our-life-support-systems?CMP=share_btn_tw). Researchers in Puerto Rico's forest preserves recorded a 98% decline in insect mass over 35 years. Does a 98% decline have a natural explanation? Or is something bigger going on? Meanwhile, the butterfly die-off is unfolding with alarming speed. I rarely see them in the summer anymore, much to my great regret. Seeing one is now as exciting as seeing a meteor streak across the sky, and just as rare: Monarch butterfly numbers plummet 86 percent in California Jan 7, 2019 CAMARILLO, Calif. – The number of monarch butterflies turning up at California's overwintering sites has dropped by about 86 percent compared to only a year ago,according to the Xerces Society, which organizes a yearly count of the iconic creatures. That’s bad news for a species whose numbers have already declined an estimated 97 percent since the 1980s. Each year, monarchs in the western United States migrate from inland areas to California’s coastline to spend the winter, usually between September and February. “It’s been the worst year we’ve ever seen,” said Emma Pelton, a conservation biologist with the Xerces Society who helps lead the annual Thanksgiving count. “We already know we’re dealing with a really small population, and now we have a really bad year and all of a sudden, we’re kind of in crisis mode where we have very, very few butterflies left.” What’s causing the dramatic drop-off is somewhat of a mystery. Experts believe the decline is spurred by a confluence of unfortunate factors, including late rainy-season storms across California last March, the effects of the state’s years long drought and the seemingly relentless onslaught of wildfires that have burned acres upon acres of habitat and at times choked the air with toxic smoke. ([Source](https://www.usatoday.com/story/news/nation/2019/01/07/monarch-butterfly-numbers-drop-86-california/2499761002/)) Note the “explanation” given blames the decline on mostly natural processes: late storms, droughts and wildfires. I believe that's because the article appears in a US paper, so no mention was permitted of neonicotinoid pesticides or glyphosate. Both of these are highly effective decimators of insect life -- but they're highly profitable for Big Ag, so for now, any criticism is not allowed. Sure a 97% decline since the 1980’s might be due to fires, droughts and rains. But that’s really not very likely. There have always been fires, droughts and rains. Something else has shifted since the 1980’s. And that “thing” is human activity, which has increased its willingness to destroy habitat and spray poisons everywhere in pursuit of cheaper food and easier profits. The loss of insects, which we observe in the loss of the beautiful and iconic Monarch butterfly, is a gigantic warning flag that we desperately need to heed. If the bottom of our billion-year-old food web disintegrates, you can be certain that the repercussions to humans will be dramatic and terribly difficult to ‘fix.’ In scientific terms, it will be called a “bottom-up trophic cascade”. In a trophic cascade, the loss of a single layer of the food pyramid crumbles the entire structure. Carefully-tuned food webs a billion years in the making are suddenly destabilized. Life cannot adapt quickly enough, and so entire species are quickly lost. Once enough species die off, the web cannot be rewoven, and life … simply ends. What exactly would a “trophic cascade” look like in real life? Oh, perhaps something just like this: Deadly deficiency at the heart of an environmental mystery Oct 16, 2018 During spring and summer, busy colonies of a duck called the common eider (Somateria mollissima) and other wild birds are usually seen breeding on the rocky coasts around the Baltic Sea. Thousands of eager new parents vie for the best spots to build nests and catch food for their demanding young broods. But Lennart Balk, an environmental biochemist at Stockholm University, witnessed a dramatically different scene when he visited Swedish coastal colonies during a 5-year period starting in 2004. Many birds couldn’t fly. Others were completely paralyzed. Birds also weren’t eating and had difficulty breathing. Thousands of birds were suffering and dying from this paralytic disease, says Balk. “We went into the bird colonies, and we were shocked. You could see something was really wrong. It was a scary situation for this time of year,” he says. Based on his past work documenting a similar crisis in several Baltic Sea fish species, Balk suspected that the birds’ disease was caused by a thiamine (vitamin B1) deficiency. Thiamine is required for critical metabolic processes, such as energy production and proper functioning of the nervous system. This essential micronutrient is produced mainly by plants, including phytoplankton, bacteria, and fungi; people and animals must acquire it through their food. “We found that thiamine deficiency is much more widespread and severe than previously thought,” Balk says. Given its scope, he suggests that a pervasive thiamine deficiency could be at least partly responsible for global wildlife population declines. Over a 60-year period up to 2010, for example, worldwide seabird populations declined by approximately 70%, and globally, species are being lost 1,000 times faster than the natural rate of extinction (9, 10). “He has seen a thiamine deficiency in several differ phyla now,” says Fitzsimons of Balk. “One wonders what is going on. It’s a larger issue than we first suspected.” ([Source](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6196476/)) This is beyond disturbing. It should have been on the front pages of every newspaper and TV show across the globe. We should be discussing it in urgent, worried tones and devoting a huge amount of money to studying and fixing it. At a minimum, we should stop hauling more tiny fish and krill from the sea in an effort to at least stabilize the food pyramid while we sort things out. If you recall, we’ve also recently reported on the findings showing that phytoplankton levels are down 50% (these are a prime source for thiamine, by the way). Again, here's a possible “trophic cascade” in progress: ([Source](http://www.roperld.com/science/peakfish.htm)) Fewer phytoplankton means less thiamine being produced. That means less thiamine is available to pass up the food chain. Next thing you know, there’s a 70% decline in seabird populations. This is something I’ve noticed directly and commented n during my annual pilgrimages to the northern Maine coast over the past 30 years, where seagulls used to be extremely common and are now practically gone. Seagulls! Next thing you know, some other major food chain will be wiped out and we'll get oceans full of jellyfish instead of actual fish. Or perhaps some once-benign mold grows unchecked because the former complex food web holding it in balance has collapsed, suddenyl transforming Big Ag's "green revolution" into grayish-brown spore-ridden dust. To add to the terrifying mix of ecological news has been the sudden and rapid loss of amphibian species all over the world. A possible source for the culprit has been found, if that’s any consolation; though that discovery does not yet identify a solution to this saddening development. Ground Zero of Amphibian 'Apocalypse' Finally Found May 10, 2018 MANY OF THE world's amphibians are staring down an existential threat: an ancient skin-eating fungus that can wipe out entire forests' worth of frogs in a flash. This ecological super-villain, the chytrid fungus Batrachochytrium dendrobatidis, has driven more than 200 amphibian species to extinction or near-extinction—radically rewiring ecosystems all over Earth. “This is the worst pathogen in the history of the world, as far as we can tell, in terms of its impacts on biodiversity,” says Mat Fisher, an Imperial College London mycologist who studies the fungus. Now, a global team of 58 researchers has uncovered the creature's origin story. A groundbreaking study published in Science on Thursday reveals where and when the fungus most likely emerged: the Korean peninsula, sometime during the 1950s. From there, scientists theorize that human activities inadvertently spread it far and wide—leading to amphibian die-offs across the Americas, Africa, Europe, and Australia. ([Source](https://news.nationalgeographic.com/2018/05/amphibians-decline-frogs-chytrid-fungi-bd-animals-science/)) Frogs, toads and salamanders were absolutely critical parts of my childhood and I delighted in their presence. I cannot imagine a world without them. But effectively, that’s what we’ve got now with so many on the endangered species list. This parade of awful ecological news is both endless and worsening. And there is no real prospect for us to fix things in time to avoid substantial ecological pain. None. After all, we can’t even manage our watersheds properly. And those are dead simple by comparison. Water falls from the sky in (Mostly) predictable volume and you then distribute somewhat less than that total each year. Linear and simple in comparison to trying to unravel the many factors underlying a specie's collapse. But challenges like this are popping up all over the globe: Fear And Grieving In Las Vegas: Colorado River Managers Struggle With Water Scarcity Dec 14th, 2018 On stage in a conference room at Las Vegas's Caesars Palace, Keith Moses said coming to terms with the limits of the Colorado River is like losing a loved one. "It reminds me of the seven stages of grief," Moses said. "Because I think we've been in denial for a long time." Moses is vice chairman of the Colorado River Indian Tribes, a group of four tribes near Parker, Arizona. He was speaking at the annual Colorado River Water Users Association meeting. The denial turned to pain and guilt as it became clear just how big the supply and demand gaps were on the river that delivers water to 40 million people in the southwest. For the last six months Arizona's water leaders have been experiencing the third stage of grief: anger and bargaining. Of the seven U.S. states that rely on the Colorado River, Arizona has had the hardest time figuring out how to rein in water use and avoid seeing the river's largest reservoirs — Lakes Mead and Powell — drop to extremely low levels. Kathryn Sorenson, director of Phoenix's water utility, characterized the process this way: "Interesting. Complicated. Some might say difficult." One of the loudest voices in the debate has been coming from a small group of farmers in rural Pinal County, Arizona, south of Phoenix. Under the current rules those farmers could see their Colorado River supplies zeroed out within two years. The county's biggest grower of cotton and alfalfa, Brian Rhodes, is trying to make sure that doesn't happen. The soil in his fields is powder-like, bursting into tiny brown clouds with each step. "We're going to have to take large cuts," Rhodes said. "We all understand that." ([Source](http://www.kunc.org/post/fear-and-grieving-las-vegas-colorado-river-managers-struggle-water-scarcity#stream/0)) Oh my goodness. If we’re having trouble realizing that wasting precious water from the Colorado River to grow cotton is a bad idea, then there’s just no hope at all that we'll successfully rally to address the loss of ocean phytoplankton. That’s about the easiest connection of dots that could ever be made. As [Sam Kinison](https://www.youtube.com/watch?v=bjO7QMP4h-Y), the 1980’s comedian might have yelled – IT’S A DESERT!! YOU’RE TRYING TO GROW WATER-INTENSIVE CROPS IN THE FREAKING DESERT! CAN’T YOU SEE ALL THE SAND AROUND YOU?!? THAT MEANS "DON’T GROW COTTON HERE!!" A World On The Brink The bottom line is this: We are destroying the natural world. And that means that we are destroying ourselves. I know that the mainstream news has relegated this conversation to the back pages (when they covered it at all) and so it's not “front and center” for most people. But it should be. Everything we hold dear is a subset of the ecosphere. If that goes, so does everything else. Nothing else matters in the slightest if we actively destroy the Earth’s carrying capacity. At the same time, we're in the grips of an extremely dangerous delusion that has placed money, finance and the economy at the top spot on our temple of daily worship. Any idea of slowing down or stopping economic growth is “bad for business” and dismissed out of hand as “not practical”, "undesirable" or "unwise". It’s always a bad time to discuss the end of economic growth, apparently. But as today's young people are increasingly discovering, if "conducting business" is just a lame rationale for failed stewardship of our lands and oceans, then it’s a broken idea. One not worth preserving in its current form. The parade of terrible ecological breakdowns provided above is there for all willing to see it. Are you willing? Each failing ecosystem is screaming at us in urgent, strident tones that we’ve gone too far in our quest for "more". We might be able to explain away each failure individually. But taken as a whole? The pattern is clear: We’ve got enemy action at work. These are not random coincidences. Nature is warning us loudly that it's past time to change our ways. That our "endless growth" model is no longer valid. In fact, it's now becoming an existential threat The collapse is underway. It’s just not being televised (yet).

#### Vote Neg for anti-capitalist commons.

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

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

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

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

### FTC DA

#### Courts have gutted FTC anti-fraud measures---Congress will pass a legislative fix now, BUT it’ll be a referendum on FTC overreach.

Christopher Olsen & Stephen Schultze 21, Olsen is a partner in the privacy and cybersecurity practice at Wilson Sonsini and Vice Chair of the Privacy and Information Security Committee of the ABA Antitrust Law Section, and former Deputy Director of the FTC’s Bureau of Consumer Protection; Schultze is an Associate in the privacy and cybersecurity practice at Wilson Sonsini, “FTC Authority Under Siege: Monetary and Injunctive Relief at Risk in Courts as Congress Contemplates a Response,” The Antitrust Source, April 2021, ABA

It is hard to imagine a favorable outcome for the FTC after this oral argument. The Court will prob- ably limit 13(b) relief to injunctions, requiring the Commission to resort to cumbersome administrative proceedings to get any monetary relief. That would dramatically undermine the Commission’s work over several decades to build a robust fraud program.40 It would leave Section 5 and 19 as the only avenues for monetary relief under the FTC’s general consumer protection authority. Under Section 5, the Commission may impose monetary civil penalties under some limited circumstances.41 Under Section 19, the Commission may obtain monetary consumer redress or disgorgement but only after obtaining a final cease-and-desist order through administrative litigation and only after demonstrating that “a reasonable man would have known under the circumstances [that the conduct] was dishonest or fraudulent.”42 Moreover, Section 19 includes a statute of limitations whereas Section 13(b) does not.43 Thus, the FTC has strongly favored Section 13(b) actions. At oral argument, the FTC conceded that going directly to court is “more attractive in certain instances” and that the Commission brings “far more [consumer protection] cases” in court than through its own administrative proceedings.

An Unlikely Out for the FTC. It is worth noting that the Court could also rule against the FTC in a more limited way, although there was little indication at oral argument that it would. Last term, the Court held 8-1 in Liu v. SEC that even where a statute permitted “any equitable relief that may be appropriate,” the government’s equitable monetary relief could not exceed the wrongdoer’s net profits.44 Justice Sotomayor wrote for the court that the government cannot impose a “penalty” under equity; therefore actual net profits is all that restitution or disgorgement allows.45

If the FTC could still obtain “net profits,” AMG would not be a total loss for the agency. AMG argued in the briefs that the Ninth Circuit “did not limit the Commission’s recovery to anything close to net profits” when it awarded the FTC $1.27 billion, which was more than triple the amount that petitioners had allegedly received.46 But the textual difference between 13(b)’s “permanent injunction” and the SEC statute’s “any equitable relief that may be appropriate” makes it unlikely that the FTC will win even this less-than-half a loaf. Instead, the FTC will likely lose any ability to obtain monetary relief under 13(b). And limits to its ability to obtain even injunctive relief may also soon bubble up to the Supreme Court.

Even for Injunctive Relief, Lower Courts Are Reconsidering Whether Past Misconduct Is Actionable Under 13(b)

As noted above, Section 13(b) gives the FTC the authority to obtain injunctions in federal court only where a defendant “is violating, or is about to violate” the law. It is hornbook law that injunctive relief cannot be based solely on past conduct.47 Instead, there must be a present violation or some prospect of future violation. But the circuits differ on how likely the future violation must be.

The majority view has been that 13(b) requires the typical injunction predicate—“some cogniza- ble danger of recurrent violation, something more than the mere possibility.”48 The Ninth Circuit is a good example, having long embraced this standard in Section 13(b) cases.49 Most of the lower courts continue to rely on the “cognizable danger” standard, with the Ninth Circuit showing no signs of altering its view.50 This is a “likelihood of recurrence” standard, based on a factual analy- sis of the totality of the circumstances. On this reading, 13(b)’s “about to violate” language adds nothing to the inherent injunctive relief requirements.

Shire Leads the Way. The Third Circuit recently adopted a more demanding threshold. In Shire Viropharma, the court held that the “about to violate” provision plainly limited injunctive relief to “impending conduct.”51 The court reasoned that 13(b) “was not designed to address hypothetical conduct or the mere suspicion that such conduct may yet occur”; that it is not enough for the FTC to allege a “vague and generalized likelihood of recurrent conduct.”52 Moreover, the court held that the 13(b) requirement applies “right out of the gate” at the pleading stage, rather than at a later stage when the court is considering appropriate remedies.53 The Third Circuit thus upheld the trial court’s conclusion that the FTC failed to meet the 13(b) threshold when it merely alleged that the defendant had the “incentive and opportunity” to commit violations like it had in the past.54 The FTC did not petition for certiorari, presumably out of concern that the Supreme Court might adopt the Shire view.55

No other circuit has squarely addressed the Third Circuit’s view. Some lower courts in other cir- cuits have at least acknowledged Shire’s holding without explicitly rejecting it.56 Procedurally, we should expect more of these challenges to occur at the pleading stage, creating early opportunities for appellate review and Supreme Court cert petitions.57 Indeed, even some district courts in the Shire-hostile Ninth Circuit have nevertheless entertained 13(b) challenges “right out of the gate” at the motion to dismiss stage.58 Moreover, regardless of whether courts go so far as to adopt the Shire test, violators may sometimes be able to avoid any action under 13(b) by ceasing their violations before the FTC files suit. For example, a district court in the Ninth Circuit granted summary judgment where Amazon had ceased the alleged practice after the FTC began an administrative investigation but before the suit was filed, and the court could find no “cognizable danger of a recurring violation.”59

A Shire-style defense is not just permitted at the pleading stage, it likely must be raised early oth- erwise it will be forfeited. The Shire court held flatly that “13(b)’s ‘is’ or ‘is about to violate’ requirement is non-jurisdictional.”60 This is no academic distinction. It means that a Shire argument might have to be raised on a motion to dismiss. The sometimes obtuse and varied rules of waiver and forfeiture may control whether a Shire defense has fallen out of the case.61 While circuits do not have uniform rules, they all agree that “waiver and forfeiture rules . . . ensure that parties can determine when an issue is out of the case, and that litigation remains, to the extent possible, an orderly progression.”62

Failure to timely raise a Shire argument has already tripped up one prominent defendant. In FTC v. Vyera, the Southern District of New York recently rejected a 13(b) challenge framed as an affirmative defense because “Defendants had a full opportunity to challenge the sufficiency of the pleading at the motion to dismiss stage.”63

The potential impact of Shire has not gone unnoticed by consumer protection advocates. In a recent congressional hearing, one advocate argued that, under Shire, “wrongdoers that line their pockets with money they have illegally obtained can sail off into the sunset just as long as they retire their scams before the FTC catches up with them.”64 Jessica Rich, former Director of the FTC’s Bureau of Consumer Protection, similarly noted that Shire limited the FTC’s authority to remedy past conduct and called for Congressional action.65

Whether under Shire in the Third Circuit or under less-restrictive standards in the Ninth Circuit and elsewhere, courts’ limitations on injunctive relief under Section 13(b) increasingly curtail the availability of the FTC’s go-directly-to-court approach of the past few decades. Nobody would dispute that— as the Chief Justice observed at AMG oral arguments—an agency only has the authority delegated to it by Congress.66 Of course, Congress may yet delegate more authority than the FTC already has.

Congressional Activity in the New Administration

In light of the incursions into the FTC’s Section 13(b) authority, Congress may well expressly legislate to broaden or clarify the Commission’s authority. In the last Congress, Senator Roger Wicker (R-MS) introduced a bill that would have both allowed the FTC to bring a 13(b) suit even where the offender merely “has violated” the law, and expressly allowed for “restitution for consumer loss,” “rescission or reformation of contracts,” and “the refund of money or return of property.”67 Such an approach would, in one fell swoop, end any uncertainty about the FTC’s authority to go directly to court even for past violations and obtain monetary relief. The prospects of any such legislation are unclear, but there can be no doubt that if the Supreme Court rules in favor of AMG, some in Congress will seek to give the FTC more express authority. The trend in Shire—and even in courts with less stringent standards for injunctive relief—only adds fuel to that fire.

Back in October 2020, all five then-Commissioners urged Congress to pass legislation to “swiftly []clarify the statutory text and allow us to continue to protect consumers.”68 They warned that “13(b) is a critical tool in our enforcement mission” but that AMG and Shire were “grave” “judicial threats” to “the FTC’s ability to protect consumers.”69 With a Democratic-majority FTC and the Biden administration expected to take a forward-leaning approach on consumer protection, Congressional “clarification” would likely garner broad executive branch support.70

In February, the Subcommittee on Consumer Protection and Commerce of the Committee on Energy and Commerce held a hearing ostensibly focused on “Fighting Fraud and Scams During the Pandemic.”71 Discussion of AMG, Shire, and 13(b) dominated the hearing. Subcommittee Chair Jan- ice D. Schakowsky stated that “[u]nder 13(b), the FTC can require defrauders to provide restitution (money) to individuals who have been defrauded. Unfortunately, this authority is under assault at the Supreme Court, and the FTC may find itself deprived of a critical tool.”72 She argued that “reaffirming the FTC 13(b) authority is a bipartisan issue at the Commission as it should be everywhere.”73

While Congressional activity and interest may be easy to predict if the Court rules in AMG as anticipated, the outcome of that activity is entirely uncertain. Opening the FTC Act to amendment is likely to lead to a broader Congressional referendum on the Act as a whole, with various members of Congress seeking to amend the Act in ways unrelated to the 13(b) issues currently in dispute. For example, some members are likely to seek broader FTC rulemaking authority while others may use the opportunity to press for the transfer of powers from the agency to a new agency empow- ered to address privacy concerns or even digital markets as a whole. This will undoubtedly complicate the ability of Congress to address the relatively narrow issue teed up in AMG and leaves the future of FTC monetary—and potentially injunctive—relief in jeopardy. ●

ADDENDUM

On April 22, 2021, a day after this article was published, the United States Supreme Court unanimously decided AMG Capital Management v. FTC. That decision marks the end of the FTC’s broad exercise of Section 13(b) authority to get money back from those who violate the FTC Act—for now.

In a unanimous decision written by Justice Breyer, the Supreme Court held that the statute does not authorize the FTC to seek “equitable monetary relief such as restitution or disgorgement.” In essence, the Court decided that Section 13(b)’s reference to a “permanent injunction” means just that and no more. So, for monetary relief, the FTC is now left with its existing authority under Section 19 of the FTC Act.

While the Supreme Court settled an important issue in AMG, the law around FTC enforcement authority is in flux. Indeed, on the day before the decision, the FTC testified before Congress that “Section 13(b) is a critical tool in support of our enforcement missions, but its effectiveness is cur- rently imperiled [by AMG and further curtailments by circuit courts], and this uncertainty is hurting our ongoing enforcement efforts.” The Commission called for legislation, and a bill that would reverse the effect of AMG was introduced that same day in the House.

#### The plan derails it

Alison Jones & William E. Kovacic 20, Jones is a professor at King’s College London; Kovacic is Global Competition Professor of Law and Policy, The George Washington University Law School, “Antitrust’s Implementation Blind Side: Challenges to Major Expansion of U.S. Competition Policy,” The Antitrust Bulletin, vol. 65, no. 2, SAGE Publications Inc, 06/01/2020, pp. 227–255

D. Political Backlash

As we have already indicated, the government’s prosecution of high stakes antitrust cases often inspires defendants to lobby elected officials to rein in the enforcement agency. Targets of cases that seek to impose powerful remedies have several possible paths to encourage politicians to blunt enforcement measures. One path is to seek intervention from the President. The Assistant Attorney General of the Antitrust Division serves at the will of the President, making DOJ policy dependent on the President’s continuing support. The White House ordinarily does not guide the Antitrust Division’s selection of cases, but there have been instances in which the President pressured the Division to alter course on behalf of a defendant, and did so successfully.125

The second path is to lobby the Congress. The FTC is called an “independent” regulatory agency, but Congress interprets independence in an idiosyncratic way.126 Legislators believe independence means insulation from the executive branch, not from the legislature. The FTC is dependent on a good relationship with Congress, which controls its budget and can react with hostility, and forcefully, when it disapproves of FTC litigation—particularly where it adversely affects the interests of members’ constituents. Controversial and contested cases may consequently be derailed or muted if political support for them wanes and politicians become more sympathetic to commercial interests. The FTC’s sometimes tempestuous relationship with Congress demonstrates that political coalitions favoring bold enforcement can be volatile, unpredictable, and evanescent.127 If the FTC does not manage its relationship with Congress carefully, its litigation opponents may mobilize legislative intervention that causes ambitious enforcement measures to the founder.

#### Fraud crackdowns stop major terror attacks

Michael Tierney 18, George & Mary Hylton Professor of International Relations; Director Global Research Institute (GRI), “#TerroristFinancing: An Examination of Terrorism Financing via the Internet,” International Journal of Cyber Warfare and Terrorism, vol. 8, no. 1, 01/2018, pp. 1–11

2. TERRORIST FINANCING AND THE INTERNET

As mentioned, terrorists’ use of the internet has become a major concern for security officials across the world in recent years. Like many other users, terrorists have found that the internet is an invaluable tool to share information quickly, in order to disseminate ideas and link up with likeminded individuals (Jacobson, 2010; Okolie-Osemene & Okoh, 2015). In this manner, terrorists use the internet for a variety of purposes, including recruitment, propaganda, and financing. As scholars have also noted, the internet is an attractive option for extremists due to the security and anonymity it provides (Jacobson, 2010). Yet while there have been a growing number of studies completed on the ways in which terrorist organizations use the internet to recruit and indoctrinate others, there has been relatively little focus on the methods by which terrorists finance themselves through online activities. Some researchers have attempted to fill gaps in this area by broadly studying internet aspects of terrorism financing. However, research on this particular aspect of terrorism financing still appears to be lacking, with little focus on new methods of terrorist financing via the internet or a marrying of strategies to combat online financing trends available to practitioners in the field.

For instance, Sean Paul Ashley (2012) assessed the mobile banking phenomenon, which is prevalent in regions such as the Middle East and Africa, and provides extremists with the ability to easily connect to the internet and remit funds around the world. The decentralization of this kind of banking, due to the fact that brick-and-mortar facilities are not needed to conduct transactions, has allowed terrorist financiersto more efficiently move funds while avoiding detection from authorities. Other researchers,such as MichaelJacobson (2010), have studied the waysin which terrorists engage in cyber-crime to raise and move funds. For example, Jacobson (2010) found that online credit card fraud was a fairly major source of terrorist financing. By stealing a victim’s private credit information, terrorists are able to co-opt needed funds and provide support to themselves or their counterparts. Yet as James Okolie-Osemene and Rosemary Ifeanyi Okoh (2015) note, the internet is mostly used to augment and assist activities which occur in the physical world. In this way, it would appear that the internet is far more useful as a means to move funds globally in support of terrorism, rather than simply as a method to raise funds.

#### Nuclear war---cash is key

Dr. Peter J. Hayes 18, Executive Director of the Nautilus Institute for Security and Sustainability, Ph.D. in Energy and Resources from the University of California-Berkeley, Professor of International Relations at RMIT University, “Non-State Terrorism and Inadvertent Nuclear War”, NAPSNet Special Reports, 1/18/2018, <https://nautilus.org/napsnet/napsnet-special-reports/non-state-terrorism-and-inadvertent-nuclear-war/>

The critical issue is how a nuclear terrorist attack may “catalyze” inter-state nuclear war, especially the NC3 systems that inform and partly determine how leaders respond to nuclear threat. Current conditions in Northeast Asia suggest that multiple precursory conditions for nuclear terrorism already exist or exist in nascent form. In Japan, for example, low-level, individual, terroristic violence with nuclear materials, against nuclear facilities, is real. In all countries of the region, the risk of diversion of nuclear material is real, although the risk is likely higher due to volume and laxity of security in some countries of the region than in others. In all countries, the risk of an insider “sleeper” threat is real in security and nuclear agencies, and such insiders already operated in actual terrorist organizations. Insider corruption is also observable in nuclear fuel cycle agencies in all countries of the region. The threat of extortion to induce insider cooperation is also real in all countries. The possibility of a cult attempting to build and buy nuclear weapons is real and has already occurred in the region.[15] Cyber-terrorism against nuclear reactors is real and such attacks have already taken place in South Korea (although it remains difficult to attribute the source of the attacks with certainty). The stand-off ballistic and drone threat to nuclear weapons and fuel cycle facilities is real in the region, including from non-state actors, some of whom have already adopted and used such technology almost instantly from when it becomes accessible (for example, drones).[16]

Two other broad risk factors are also present in the region. The social and political conditions for extreme ethnic and xenophobic nationalism are emerging in China, Korea, Japan, and Russia. Although there has been no risk of attack on or loss of control over nuclear weapons since their removal from Japan in 1972 and from South Korea in 1991, this risk continues to exist in North Korea, China, and Russia, and to the extent that they are deployed on aircraft and ships of these and other nuclear weapons states (including submarines) deployed in the region’s high seas, also outside their territorial borders.

The most conducive circumstance for catalysis to occur due to a nuclear terrorist attack might involve the following nexi of timing and conditions:

1. Low-level, tactical, or random individual terrorist attacks for whatever reasons, even assassination of national leaders, up to and including dirty radiological bomb attacks, that overlap with inter-state crisis dynamics in ways that affect state decisions to threaten with or to use nuclear weapons. This might be undertaken by an opportunist nuclear terrorist entity in search of rapid and high political impact.
2. Attacks on major national or international events in each country to maximize terror and to de-legitimate national leaders and whole governments. In Japan, for example, more than ten heads of state and senior ministerial international meetings are held each year. For the strategic nuclear terrorist, patiently acquiring higher level nuclear threat capabilities for such attacks and then staging them to maximum effect could accrue strategic gains.
3. Attacks or threatened attacks, including deception and disguised attacks, will have maximum leverage when nuclear-armed states are near or on the brink of war or during a national crisis (such as Fukushima), when intelligence agencies, national leaders, facility operators, surveillance and policing agencies, and first responders are already maximally committed and over-extended.

At this point, we note an important caveat to the original concept of catalytic nuclear war as it might pertain to nuclear terrorist threats or attacks. Although an attack might be disguised so that it is attributed to a nuclear-armed state, or a ruse might be undertaken to threaten such attacks by deception, in reality a catalytic strike by a nuclear weapons state in conditions of mutual vulnerability to nuclear retaliation for such a strike from other nuclear armed states would be highly irrational.

Accordingly, the effect of nuclear terrorism involving a nuclear detonation or major radiological release may not of itself be *catalytic* of *nuclear* war—at least not intentionally–because it will not lead directly to the destruction of a targeted nuclear-armed state. Rather, it may be catalytic of non-nuclear war between states, especially if the non-state actor turns out to be aligned with or sponsored by a state (in many Japanese minds, the natural candidate for the perpetrator of such an attack is the pro-North Korean General Association of Korean Residents, often called Chosen Soren, which represents many of the otherwise stateless Koreans who were born and live in Japan) and a further sequence of coincident events is necessary to drive escalation to the point of nuclear first use by a state. Also, the catalyst—the non-state actor–is almost assured of discovery and destruction either during the attack itself (if it takes the form of a nuclear suicide attack then self-immolation is assured) or as a result of a search-and-destroy campaign from the targeted state (unless the targeted government is annihilated by the initial terrorist nuclear attack).

It follows that the effects of a non-state nuclear attack may be characterized better as a *trigger* effect, bringing about a *cascade* of nuclear use decisions within NC3 systems that shift each state increasingly away from nuclear non-use and increasingly towards nuclear use by releasing negative controls and enhancing positive controls in multiple action-reaction escalation spirals (depending on how many nuclear armed states are party to an inter-state conflict that is already underway at the time of the non-state nuclear attack); and/or by inducing concatenating nuclear attacks across geographically proximate nuclear weapons forces of states already caught in the crossfire of nuclear threat or attacks of their own making before a nuclear terrorist attack.[17]

### Clog DA

#### Antitrust litigation is uniquely complex and resource intensive---it’ll spike, trading off with judicial function in other areas.

Warren ’15 [Daniel; 2015; JD from the Boston University School of Law, BS from Ohio State University; Review of Banking and Financial Law, “Stress Fractures: The Need to Stop and Repair the Growing Divide in Circuit Court Application of Summary Judgment in Antitrust Litigation,” vol. 35]

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 weapona 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 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 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?

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.

#### Docket overload prevents efficient resolution of water disputes

Perez ’19 [Vanessa; 2019; Associate Professor of Law at Texas A&M, Associate Research Professor at the Texas A&M Department of Agricultural Economics, J.S.D. from New York University, L.L.M. from the University of Chicago; Environmental Law, “Specialization Trend: Water Courts,” vol. 49]

I. Introduction

Definition of property rights is an essential solution to the tragedy of the commons 1 from which many of our natural resources suffer. The scholarship analyzing how property rights are created and how they evolve often takes for granted the enforcement of those rights. 2 Enforcement is key. Enforcement is a public good often, but not exclusively, provided by [\*589] government. Enforcement takes many different forms: from ostracism in self-governed property rights systems to administrative agencies' resolutions and judicial decisions in formal property right systems.

This Article focuses on the last step in the enforcement of water rights: the courts. In particular, it analyzes whether the introduction of water courts is advisable in western United States. Currently, water rights are first enforced by administrative agencies, and the decisions of those agencies may be challenged in court. For example, a water rights holder may challenge a water agency's denial of a location change for their water right. 3 Additionally, private parties may bring claims against other water rights holders to court. Presently water cases are heard by generalist state courts. However, water law cases may unduly burden the dockets of those generalist courts. 4 Courts decide on many different areas and the complexity of the facts and the law in water law cases suggests that a different institutional design, one with specialized courts, may be more efficient. 5 The gains in efficiency will come from a faster, more accurate resolution of cases. 6

Specialized courts are quite common from a comparative perspective in areas as varied as corporate matters, tax issues, gender violence, administrative law, family law, or patents. 7 One such area is environmental law. Forty-two countries have specialized environmental courts. For example, India created the Green Tribunal in 2010, 8 New South Wales (Australia) has the Land and Environmental Courts that hear environmental and land use cases since 1979. 9 Sweden, in 2011, replaced property and environmental courts for a system of Land and Environment Courts which also hears water cases. 10

In the United States, the generalist judge is celebrated. 11 Judge Posner wrote in defense of the generalist judge in 1983. 12 While in 1990, the United States Judicial Conference qualified them as "exotic," 13 around that time the [\*590] Vermont Superior Court Environmental Division 14 and the Shelby County-Tennessee Environmental Court 15 were created. Setting aside the specialization of administrative law judges such as the United States Environmental Protection Agency administrative law judges or the environmental appeals board, 16 there are plenty of examples of specialized courts in the United States, such as bankruptcy courts or Federal Circuit Court of Appeals. 17

Water law has not been immune to specialization at the judicial level. Water law is similar to environmental law 18 and patent law because both the facts and the regulations are very complex. In fact, across the world, water issues have often prompted the establishment of environmental courts and tribunals. 19 In the United States, only Colorado has a system of water courts. 20 These courts have been in place since 1969 21 but, surprisingly, the literature about specialized courts has not paid much attention to these Colorado courts. In addition, some specialized courts, created to deal with the adjudication processes in the western states where water rights were not properly recorded, are becoming permanent courts of limited jurisdiction. 22 While there are few examples, water courts are not frequent. However, voices advocate for them. For example, in California, when drought strikes, there are often claims of the need for water courts. 23

This Article analyzes whether water law courts are a sound reform to deal with water rights disputes in an era of climate change which will inevitably make water disputes more common. Water courts compete with general courts as a forum for dispute resolution, but they also compete with market mechanisms or with political deal-making as alternative ways to [\*591] solve water conflicts. 24 A better system of judicial decision making should reduce the overall social costs of water conflicts.

In order to assess the suitability of water courts, the Article starts by analyzing the comparative advantages and disadvantages of specialized courts in relation to the current system of generalist courts. Second, it looks at some examples of existing water courts in the United States and beyond, namely the Water tribunal of Valencia, the South Africa Water Court, Colorado Water Courts, and the Montana Water Court. Third, the Article describes the trend towards specialization in water law judicial decision making and distills the characteristics that a water court should have and how those could also inform the establishment of other specialized judicial institutions for other natural resources.

II. Specialized Tribunals

Specialized courts are expected to make quicker decisions, reducing the workload of regular courts, and provide higher quality decisions, thus ensuring legal coherence and uniform judicial decisions. 25 Beyond these advantages that all scholars agree on, some works on specialized courts identify additional advantages. 26 The study Greening Justice about the potential for environmental courts lists visibility as an advantage. 27 The report understands environmental courts as a way to increase the public relevance of a subject because by creating these courts, the government shows that environmental issues are a topic of great importance. 28 The lessons offered here for specialized water courts can be translated to many other areas.

If all the above advantages were realized, private parties should favor specialized courts because they would greatly reduce the cost of doing business in the subject matter areas where those courts specialize. 29 Additionally, a trustworthy, respected judicial system is a key part of procedural environmental justice. 30 Some scholars consider specialized [\*592] courts as increasing public confidence 31 in the system, which in turn may enjoy greater legitimacy. 32 Subpart A below will focus on the two advantages that encompass all the additional ones listed in the current scholarship on the topic: celerity and quality of adjudication 33

#### It goes global---extinction.

Gleick ’21 [Peter; 2021; MacArthur Fellow, Member of the US National Academy of Sciences and Hydroclimatologist, B.S. from Yale University and M.S. and Ph.D. from the University of California, Berkeley; Bulletin of the Atomic Scientists, “Water Recommendation for the New Administration,” vol. 77]

Climate changes are already affecting US water resources, and the consequences for communities, health, and the environment will worsen

The science is unambiguous, as shown in the long series of US National Climate Assessments, reports from the US National Academies of Science, and other national and international scientific reviews (US Global Change Research Program 2020). Rising temperatures affect both water supply and demand. Rapidly melting snow and ice mean floods in spring, droughts in summer, and new threats to hydropower production. Rising sea levels threaten coastal communities, groundwater, and wetlands.

Hurricanes, floods, and droughts – already the nation’s most destructive natural disasters – are getting worse. By failing to address climate change, we threaten our economy, security, health, and the environment.

So, what can we do about it? A few key recommendations include supporting the ongoing US National Climate Assessments, as required by law. These reports provide the best scientific assessment of the risks of climate change. The Biden administration could also require all federal agencies to integrate climate resilience and risk mitigation into water programs, including infrastructure investments, disaster planning, insurance programs, agricultural and industrial commitments, and military and national security assessments. Funding and scientific advice is needed for states, counties, cities, and tribal communities to establish key partnerships, develop climate change risk-reduction and resilience programs, and enhance protection from disasters.

It’s also long past time to revise and modernize the federal National Flood Insurance Program to increase protections from changing flood risks and discourage development or redevelopment in vulnerable areas. The new administration should also develop federal water- and energy-efficiency programs and greenhouse-gas emissions reductions strategies that reduce the energy cost of providing, treating, delivering, using, and cleaning water, and boosting soil carbon – and President-elect Biden, immediately upon his inauguration, should reaffirm US commitments to the Paris Agreement and the World Health Organization.

Which brings us to the next problem.

Water resource problems pose threats to US national and international security and will continue to be a source of intra- and inter-state conflict

In 2012, the US Intelligence Community released an assessment of national security threats associated with water resources (Intelligence Community Assessment 2012). Among their conclusions: “During the next 10 years, many countries important to the United States will experience water problems – shortages, poor water quality, or floods – that will risk instability and state failure, increase regional tensions, and distract them from working with the United States on important US policy objectives.” These conclusions have unfortunately been borne out with water-based conflicts affecting US global interests in countries around the world.

The 2014 US Quadrennial Defense Review also identified water resource issues as threat multipliers that pose significant challenges for the United States and the world at large (Quadrennial Defense Review 2014). The May 2017 statement of the Director of US National Intelligence to the Senate Select Committee on Intelligence noted: “[h]eightened tensions over shared water resources are likely in some regions” (Coats 2017). Beginning immediately, the National War College system, State Department, Department of Homeland Security, and other defense and intelligence agencies should conduct a series of integrated assessments to identify and analyze water-related threats to vital US interests, including the vulnerability of US water systems to terrorism and cyber-attacks.

As we improve our understanding of the nature of the threats, US foreign policy should place greater emphasis on reducing the risks of water-related conflicts around the world. A variety of approaches to reduce water-related tensions should be implemented, including international agreements and treaties, technology based solutions, conflict-resolution institutions, and innovative water management (Gleick, Iceland, and Trivedi 2020). These approaches hold great promise for reducing water-related conflicts but have not yet been adequately adopted.

Here in the United States, Federal agencies and Congress should assist local water agencies to identify security threats to water systems and put in place improved physical barriers, real-time chemical and biological monitoring and treatment, cyber-security strategies, and integrated responses.

And that takes us to our final problem.

The United States has no National Water Strategy, reducing the ability to understand water problems and define and implement solutions

More than 20 federal agencies have overlapping and conflicting responsibilities for water management. As a result, current US water programs are incomplete, haphazard, and inconsistent. Basic water data are not collected or analyzed. Fundamental science remains undone. Regulations are inconsistent and outdated. Financial investments are haphazard and insufficient. Our freshwater resources are used inefficiently and ineffectively. Continuing to neglect these water problems will impoverish and sicken this and future generations, destroy irreplaceable aquatic ecosystems, and threaten our economy and food supply.

There are several ways to address these problems. For starters, the president should immediately create a new National Water Commission for the 21st Century to evaluate and recommend specific federal actions to improve national water policy. We have had no national water commission since 1973. Such a commission would reorganize and streamline the diverse and uncoordinated federal water responsibilities and laws.

And such a commission should not be idle, but expected to produce recommendations within 12 months that include executive branch actions, congressional actions, and legal and judicial actions. The National Water Commission should address the entire range of national water challenges, be nonpartisan, and consist of scientists, legal and policy experts, and nongovernmental and community representatives who can speak to the on-the-ground realities facing American communities.

The need to address water problems in the United States is great, but so are the opportunities. The new administration must move forward rapidly to make progress on this vital challenge.

## Innovation

### 1NC – Circumvention

#### Court circumvention---they ignore intent and plain meaning, reject literature bias towards optimism in judges who probably don’t even know what blockchain is!

Crane ‘21 [Daniel A Crane. Frederick Paul Furth, Sr. Professor of Law, University of Michigan. I am very grateful for many helpful comments from Tom Arthur, Jonathan Baker, Steve Calkins, Dale Collins, Eleanor Fox, Rebecca Haw, Hiba Hafiz, Jack Kirkwood, Bob Lande, Christopher Leslie, Alan Meese, Steve Ross, Danny Sokol, and other participants at the University of Florida Summer Antitrust Workshop. "ANTITRUST ANTITEXTUALISM." https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4952&context=ndlr]

This view is so widely entrenched in the legal profession’s understanding of the antitrust laws—including, it must be admitted, this author’s—that it seems presumptuous to claim that the conventional wisdom is wrong, or at least significantly overstated. But it is. While the antitrust statutes may be lacking in some important particulars, they present a readily discernable meaning on many others. As Daniel Farber and Brett McDonnell have argued, “For the conscientious textualist, the statutory texts [of the antitrust laws] have considerably more specific meaning than the conventional wisdom would suggest.”5 And it is not simply the case that the meaning of the statutory texts could be rendered through ordinary methods of statutory interpretation but the courts have failed to see it. Rather, the courts frequently acknowledge that the statutory texts have a plain meaning, and then refuse to follow it.

But it gets worse. The courts have not merely abandoned statutory textualism or other modes of faithful interpretation out of a commitment to a dynamic common-law process. Rather, they have departed from text and original meaning in one consistent direction—toward reading down the antitrust statutes in favor of big business. As detailed in this Article, this unilateral process began almost immediately upon the promulgation of the Sherman Act and continues to this day. In brief: within their first decade of antitrust jurisprudence, the courts read an atextual rule of reason into section 1 of the Sherman Act to transform an absolute prohibition on agreements restraining trade into a flexible standard often invoked to bless large business combinations; after Congress passed two reform statutes in 1914, the courts incrementally read much of the textual distinctiveness out of the statutes to lessen their anticorporate bite; the courts have read the 1936 Robinson-Patman Act almost out of existence; and the Celler-Kefauver Amendments of 1950, faithfully followed in the years immediately after their promulgation, have been watered down to textually unrecognizable levels by judicial interpretation and agency practice. It is no exaggeration to say that not one of the principal substantive antitrust statutes has been consistently interpreted by the courts in a way faithful to its text or legislative intent, and that the arc of antitrust antitexualism has bent always in favor of capital.

### 1NC – Solvency

#### Jurisdiction, tech, and court incompetence all prevent enforcement – it’s functionally impossible

Kapanazde 21 [Lika, Master of Laws, Comparative Private and International Law at New Vision University. "The Challenges of Blockchain Technology to Antitrust Law." https://openscience.ge/handle/1/2670]

Anonymity of the parties creates another challenge as well - business transactions on the blockchain are encrypted and location of the transacting users (and thus, legal entities behind the users) is completely unknown, making it impossible to determine the relevant jurisdiction.101 In contradiction with blockchains, determining the jurisdiction on the internet is simple and it is based on internationally recognized jurisdiction principles (territorial jurisdiction, effective jurisdiction, personal jurisdiction, passive personal jurisdiction, protective jurisdiction, and universal jurisdiction), namely, each internet user is subject to national legal regime, where they decide to create content and enable it online.102 In technical terms, every computer or device that goes on the internet needs its own IP address and the main central authority, the Internet Corporation for Assigned Names and Numbers, manages and controls assigning and distributing such IP addresses and domain registrations in the regions and continents, making it easy to detect parties ’locations on the basis of the registrations of IP Addresses.103 In case of blockchain, the data storage is virtually everywhere making it impossible to determine jurisdiction on the blockchain and its transactions.104

In traditional law, and in absence of any agreement stating otherwise, blockchain disputes would be normally settled by state courts, but in this digital economy not only it is impossible to determine the jurisdiction, but also there is no technical necessity for the stakeholders to be attached to any jurisdiction at all.105 For that reason, self-regulation of the market participants may play an important role, one part of which could be dispute settlement by an arbitral tribunal, and other part of which could be compliance of blockchains with a potentially unwieldy number of legal and regulatory regimes and settle disputes in courts.106 The success of the former approach solely depends on the enforcement. The states retain certain control over private arbitration with recognition and enforcement procedures, and as jurisdiction on the blockchain is not recognized by any state jurisdiction, it would be difficult to have the awards enforced.107 The latter approach is also unclear, as the transactions may occur simultaneously in a few different places, which again makes it nearly impossible to determine the competent jurisdiction and even if jurisdiction were to be determined, state courts would not be able to decide any dispute fast enough compared to the rapidly proceeding blockchain applications without having any technological expertise to sufficiently understand the mechanism of blockchains.

### 1NC - Warming

#### No internal link to warming AND there are massive alt causes – i.e. every other country that engages in blockchain

#### U.S. action alone fails

I&I 21, Issues & Insights Editorial Board, “There’s Nothing The U.S. Can Do To Affect Global Temperature”, Issues & Insights, 9/7/21, https://issuesinsights.com/2021/09/07/theres-nothing-the-u-s-can-do-to-affect-global-temperature/

“We simulated the environmental impact of eliminating greenhouse gas emissions from the United States completely,” Dayaratna said in testimony.

“Simulation results indicate that if all carbon dioxide, methane, and nitrous oxide emissions were to be eliminated from the United States completely, the result in terms of temperature reductions would be less than 0.2 degrees Celsius, 0.03 degrees Celsius, and 0.02 degrees Celsius, respectively. These temperature reductions would also be accompanied by minuscule changes in sea level rise (less than 2-centimeter reduction).”

This isn’t hard to understand when it’s put next to the fact that more than half of the world’s human greenhouse gas emissions are produced by 25 cities, all but two of them in China, none of them in the U.S.

It’s truly asinine to believe that Washington and our state lawmakers can do anything about greenhouse gas emissions when China and India have been busy building hundreds of coal plants and that, as of last year, 350 coal-fired power plants were under construction worldwide. China – which, we must point out, produces most of the solar panels installed in the West in factories powered by that country’s “mountain” of coal – is not going to yield to John Kerry’s embarrassing begging that it cut emissions. Beijing will do only what it wishes.

### 1NC - Food Security

#### Food insecurity doesn’t cause war.

Vestby et al 18, \*Jonas, Doctoral Researcher at the Peace Research Institute Oslo, \*\*Ida Rudolfsen, doctoral researcher at the Department of Peace and Conflict Research at Uppsala University and PRIO, and \*\*\*Halvard Buhaug, Research Professor at the Peace Research Institute Oslo (PRIO); Professor of Political Science at the Norwegian University of Science and Technology (NTNU); and Associate Editor of the Journal of Peace Research and Political Geography. (5-18-2018, “Does hunger cause conflict?”, *Climate & Conflict Blog*, <https://blogs.prio.org/ClimateAndConflict/2018/05/does-hunger-cause-conflict/>)

It is perhaps surprising, then, that there is little scholarly merit in the notion that a short-term reduction in access to food increases the probability that conflict will break out. This is because to start or participate in violent conflict requires people to have both the means and the will. Most people on the brink of starvation are not in the position to resort to violence, whether against the government or other social groups. In fact, the urban middle classes tend to be the most likely to protest against rises in food prices, since they often have the best opportunities, the most energy, and the best skills to coordinate and participate in protests.

Accordingly, there is a widespread misapprehension that social unrest in periods of high food prices relates primarily to food shortages. In reality, the sources of discontent are considerably more complex – linked to political structures, land ownership, corruption, the desire for democratic reforms and general economic problems – where the price of food is seen in the context of general increases in the cost of living. Research has shown that while the international media have a tendency to seek simple resource-related explanations – such as drought or famine – for conflicts in the Global South, debates in the local media are permeated by more complex political relationships.

## FRAND Standard Setting

### 1NC- China Tech Lead

#### No impact to loss of tech leadership.

Swaine '21 [Michael; 4/21/21; PhD in Government from Harvard University, director of the East Asia program at the Quincy Institute; "China Doesn’t Pose an Existential Threat for America," https://foreignpolicy.com/2021/04/21/china-existential-threat-america/]

Finally, the latter set of supposedly existential normative or ideological threats consists of many elements, including Beijing’s possible overturning of the so-called global liberal international order, Chinese influence operations aimed at U.S. society, the export of China’s political values and state-directed economic approach, and its sale of surveillance technologies and other items that facilitate the rise or strengthening of authoritarian states. These threats all seem hair-raising at first glance. But while significant, they are greatly exaggerated and do not rise to the level of constituting an existential threat.

Beijing has little interest in exporting its governance system, and where it does, it is almost entirely directed at developing countries, not industrial democracies such as the United States. In addition, there is no evidence to indicate that the Chinese are actually engaged in compelling or actively persuading countries to follow their experience. Rather, they want developing nations to study from and copy China’s approach because doing so would help to legitimize the Chinese system both internationally and more importantly to Beijing’s domestic audience.

In addition, the notion that Beijing is deliberately attempting to control other countries and make them more authoritarian by entrapping them in debt and selling them “Big Brother” hardware such as surveillance systems is unsupported by the facts. Chinese banks show little desire to extend loans that will fail, and the failures that do occur are mostly due to poor feasibility studies and the incompetence and excessive zeal of lenders and/or borrowers. Moreover, in both loan-giving and surveillance equipment sales, China has shown no specific preference for nondemocratic over democratic states.

Even if Beijing were to attempt to export its development approach to other states, the actual attractiveness of that approach would prove to be highly limited. The features undergirding China’s developmental success are not replicable for most (if any) countries. These include a high savings rate; a highly acquisitive and entrepreneurial cultural environment; a state-owned banking system and nonconvertible currency; many massive state-owned industries that exist to provide employment, facilitate party control over key sectors, and drive huge infrastructure construction; and strong controls over virtually all information flows. Moreover, such a model (if you can call it that) is almost certainly not sustainable in its present form, given China’s aging population, extensive corruption, very large levels of income inequality, inadequate social safety net, and the fact that free information flows are required to drive global innovation.

Although China’s combination of economic reform policies and authoritarian political system has been around since the early 1980s, not a single nation has adopted that system either willingly or under Chinese compulsion. There are certainly many authoritarian states and fragile democracies on China’s periphery, but none of them were made that way by China.

China’s challenge to the so-called global liberal international order is also exaggerated. In the first place, it is highly debatable whether in fact a single coherent global order even exists. What observers usually refer to as the “liberal international order” (a relatively recent term) actually consists of an amalgam of disparate regimes with different origins, including international human rights pacts, multilateral economic arrangements, and an international court.

The United States certainly plays an important or leading role in many of these regimes. But it did not create and does not drive all global regimes—and in fact does not support some of them, such as the International Court of Justice, and has not ratified some critical pacts such as the United National Convention on the Law of the Sea. And many very important global regimes (e.g., regarding the proliferation of weapons of mass destruction, trade and investment, climate change, and pandemics) have no deep connection to liberal democratic values per se and are supported by Beijing, albeit sometimes more in letter than in spirit.

The challenge for the United States is not how to fend off the imagined existential threats posed by China. Rather, it lies in developing a much clearer and factually based overall understanding of the limited challenges, threats, and indeed opportunities China poses to the United States and the policies needed to address them. Rejecting the specious notion that China is threatening to destroy an entire way of life will make this task much easier.

### 1NC - China War

#### No China war – certainly not over economic competition.

Henry Bienen and Jeremiah Ostriker 21. Former James S McDonnell Distinguished University Professor and Dean of Woodrow Wilson School at Princeton University, former President of NU. Astrophysicist whose academic positions have been divided among Princeton University, Cambridge University and Columbia University. “How the United States can chart a new path that avoids war with China”. Bureau of Atomic Scientists. Feb 3 2021. <https://thebulletin.org/2021/02/how-the-united-states-can-chart-a-new-path-that-avoids-war-with-china/>

Relations between China and the United States have degenerated so far that some foreign policy experts now believe that war between the countries is possible. While this is a minority view, it is a dangerous one. In the past, a US-China war was often considered unlikely for reasons of mutual economic interdependence and nuclear deterrence, not to mention the huge costs of war. Moreover, it has been said, ideological conflict and regional and international striving for advantage are not reasons enough for war. But now more pessimistic voices are also being heard. Citing pre-World War I analogies, in which it was (quite inaccurately) said that economic interdependence among European powers made war impossible, and noting what Harvard University’s Graham Allison has called the “Thucydides Trap,” in which there is a drift towards war when an emerging power threatens to displace an existing leading power, some believe war between China and the United States is becoming more conceivable and even probable.

We are concerned with the current direction of US-China’s policies, but we believe that the pessimists both overstate the possibility of a US-China war and understate the consequences of possible armed conflict. The production of so-called “small” nuclear weapons is given as a reason for the possibility of war without massive destruction. Nuclear war among nuclear powers has not occurred since the spread of nuclear weapons precisely because destruction would be huge and ghastly. But even lower-yield nuclear weapons nonetheless are quite deadly; each has the destructive potential of thousands of WWII airplane bombs. We cannot tell how limited the use of such weapons would be in advance of armed conflict, and, since Chinese missiles can reach our shores, we do not know if such a conflict could be contained.

There are other reasons for thinking war between China and the United States not only should be but will be avoided. We have past experience to warn us. The United States and China fought in the Korean War when US forces pushed to the Yalu River on China’s border. We know how that turned out. We also note that the United States did not send a land army to North Vietnam after China warned that the first US troops in North Vietnam would be met by Chinese “volunteers.” Lesson learned.

What points of conflict does the United States have with China that could actually lead to war? We can find only one, and it has nothing to do with trade, economic competition, ideology, human rights violations by China, or struggle for relative power in Asia or elsewhere. Taiwan is the critical point of conflict. China asserts its historical right to Taiwan as an integral part of China. The United States is committed to the principle that Taiwan’s relationship with China cannot be changed by force. Thus, how much military assistance to give to Taiwan, if China uses blockades or applies military force, is a critical issue for US policy. How and in what way to defend Taiwan loom as large questions. To do nothing in the face of Chinese military threats would not only call into question US commitments everywhere but might well lead to nuclear proliferation in Asia. What lessons would Japan, the Republic of Korea, Australia, perhaps Vietnam and Indonesia take? Taiwan itself has the capacity to build nuclear weapons and could do so, if the United States made clear that it would not respond to threats against Taiwan.

We do not minimize the difficulty of the Taiwan issue. There needs to be both clarity and ambiguity in how the United States deals with Taiwan. The United States needs to make clear that if China uses force against Taiwan there will be severe consequences. But we cannot in advance specify the consequences. We do not think war with China is probable over Taiwan. But we admit to the difficulties of finding the right policies in this area. We propose the following: As Joseph Nye noted recently in the Wall Street Journal, in consultation with China, the Biden administration should review policies for accident avoidance, crisis management, and high-level communications. Military-to-military relations already exist, and we do not know the details of them. But we suspect that the Trump administration let lapse, or weakened, constant communications and accident-avoidance protocols. These must be maintained and strengthened.

Arms sales to Taiwan are sensitive. Our aim is to avoid an invasion of Taiwan, and thus sales of missiles and technologies for defensive purposes seem right. We must make clear that we would work to circumvent a blockade of Taiwan. But obviously, Taiwan is not Berlin during the Cold War, and airlifts would have limited utility. Thus, it is the avoidance of a blockade that must be worked toward. And here, we need allies and friends in Asia and beyond to support the position that such a blockade would be disastrous for China’s economy and trade worldwide.

We can find no other issues where war could plausibly arise between China and the United States. And we reassert that any armed conflict could lead to a global catastrophe. In a more positive vein, the United States should be finding new paths to both cooperate and compete with China. The demonization of China—as per Donald Trump’s “China virus” and Secretary of State Pompeo’s bellicose language—are misguided and counterproductive. The two countries need to cooperate on climate and environmental issues and on the pandemic and other health matters.

Decoupling the economies of the United States and China would be very difficult, very expensive, and very foolish, as the Trump administration found out. It continued to want to export agricultural goods to China, and where it imposed tariffs, they raised costs to US consumers and manufacturers. We need to challenge China over its trade policies, but the best way to do that is to strengthen the US domestic economy and invest in education and technology innovation and research. So much of our vaunted technological progress has come from government investment. We should renew our government support for advanced research and technology, rather than faulting the Chinese for imitating our past actions. For but one example, consider how the internet was developed in the 1970s.

# 2NC/1NR

## Cap K

#### Warming outweighs!

McDonald 19 (Samuel Miller - writer and geography PhD student at University of Oxford studying the intersection of grassroots movements and energy transition, 1-4-2019, “Deathly Salvation”, *The Trouble*, https://www.the-trouble.com/content/2019/1/4/deathly-salvation)

A devastating fact of climate collapse is that there may be a silver lining to the mushroom cloud. First, it should be noted that a nuclear exchange does not inevitably result in apocalyptic loss of life. Nuclear winter—the idea that firestorms would make the earth uninhabitable—is based on shaky science. There’s no reliable model that can determine how many megatons would decimate agriculture or make humans extinct. Nations have already detonated 2,476 nuclear devices. An exchange that shuts down the global economy but stops short of human extinction may be the only blade realistically likely to cut the carbon knot we’re trapped within. It would decimate existing infrastructures, providing an opportunity to build new energy infrastructure and intervene in the current investments and subsidies keeping fossil fuels alive. In the near term, emissions would almost certainly rise as militaries are some of the world’s largest emitters. Given what we know of human history, though, conflict may be the only way to build the mass social cohesion necessary for undertaking the kind of huge, collective action needed for global sequestration and energy transition. Like the 20th century’s world wars, a nuclear exchange could serve as an economic leveler. It could provide justification for nationalizing energy industries with the interest of shuttering fossil fuel plants and transitioning to renewables and, uh, nuclear energy. It could shock us into reimagining a less ~~suicidal~~ civilization, one that dethrones the death-cult zealots who are currently in power. And it may toss particulates into the atmosphere sufficient to block out some of the solar heat helping to drive global warming. Or it may have the opposite effects. Who knows? What we do know is that humans can survive and recover from war, probably even a nuclear one. Humans cannot recover from runaway climate change. Nuclear war is not an inevitable extinction event; six degrees of warming is.

#### Blockchain isn’t the perm, it’s the link

Varoufakis 20 [Yanis Varoufakis. Ioannis "Yanis" Varoufakis is a Greek economist and politician. A former academic, he served as the Greek Minister of Finance from January to July 2015 under Prime Minister Alexis Tsipras. He has been Secretary-General of MeRA25, a left-wing political party, since he founded it in 2018. Why Bitcoin is not a socialist’s ally: Reply to Ben Arc. <https://diem25.org/why-bitcoin-not-socialists-ally-reply-ben-arc/> ]

Two propositions support this view. In the hypothetical case where Bitcoin were, under presently-existing capitalism, to replace fiat money: (1) It would lack the mechanism necessary to stop capitalist crises from yielding depressions that benefit only the ultra-right; and, (2) Its community-based, democratic protocols would do little to democratise economic life.

I shall explain my two propositions briefly below. But, before you despair (at my continued negative take on Bitcoin), let me foreshadow the concluding sentence in the Epilogue below: Once (and, of course, if) socialism dawns, money will have to be founded on a distributed-ledger, monetary commons enabling technology.

In other words, I shall argue that Bitcoin is not fit for purpose under capitalism, or as a vehicle toward transcending capitalism, but something like Bitcoin will characterise monetary systems in a future world free of private banks and share markets.

OK, let me now support my two propositions:

Proposition 1: Bitcoin lacks the shock absorbers necessary to prevent capitalist crises from doing untold damage to the working class.

Consider the Crash of 2008 or the more recent 2020 Covid-19-induced crisis. Suppose that Central Banks did not have the capacity instantly to create trillions of dollars, euros, pounds and yen — and instead had to rely on a spontaneous majority of Bitcoin’s users to agree to a massive increase in the supply of money. The result would be a 1929-like collapse of banks and corporations.

While socialists would shed no tears for the tragedy of the oligarchy, socialists should beware that a 1929-like systemic collapse is bound to strengthen the forces of the ultra-right — not of the socialist left (that has been, since at least 1991, languishing in the doldrums of political paralysis).

Technically, there is of course nothing that would prevent the Bitcoin community from agreeing instantly to even a doubling of the money base. However, the Tragedy of the Commons guarantees that Bitcoin owners will be subject to the usual prisoner’s dilemma dynamic that prevents the boost in the money supply necessary to avert the liquidation of potentially viable businesses and jobs. Moreover, this free-rider problem is made far, far worse by the fact that Bitcoin ownership is very unequally distributed, thus giving the Bitcoin-rich powerful incentives to restrain the growth of the money supply (since such restrictions would boost their private rents at the expense of the public interest).

In short, the free-rider problem that guarantees the maximal reinforcement of any capitalist crisis (in any economy relying on Bitcoin as its main currency) will be turbocharged by the unequal ownership of Bitcoin – which is unavoidable in any monetary system overlaid upon contemporary capitalism.

Proposition 2: Under capitalism, Bitcoin’s dominance will not democratise economic life — or give socialism a chance.

Suppose, again, that some magic wand is waved and Bitcoin replaces fiat money under contemporary capitalist conditions. In other words, as Bitcoin replaced dollars, pounds, euros and yen, property rights over land, resources and machines remain as they are while private equity firms and pension funds continue to own the bulk of shares trading in Wall Street, the City etc. All that will have changed is that Central Banks will vanish and the community of Bitcoin users will determine the global money supply (subject to the free-rider problems mentioned above).

At the firm level, nothing will have changed. Jeff Bezos will still control a massive monopsony-cum-monopoly, Facebook will still own the whole marketplace within its platform, Exxon-Mobil will continue to lean on weaker developing country governments to drill for oil and gas that should be left in the Earth’s guts etc.

And what of private banks? They would, make no mistake here, find ways of creating complex derivatives based on Bitcoin – derivatives that will soon (just like Lehman Brothers’ CDOs prior to 2008) function as stores of value and means of exchange; i.e. as private money. Massive bubbles denominated in Bitcoin will build up and they will burst just as they did in the 19th century under the Gold Standard. And then?

In the absence of Central Banks and with the Bitcoin community in the clasps of the aforementioned free-rider problem, depression will follow – as it did before the Fed was instituted in the US. Thus, the tragedy mentioned in Proposition 1 above kicks in.

In short, not only will the democratisation of money via Bitcoin fail to democratise capitalism but it will also give an almighty boost to the forces of regression.

Epilogue.

Bitcoin’s great appeal is that it breaks the cronyist chain linking central banks and private bankers. However, it does not undermine the cronyism of the network of bosses, politicians and private bankers.

Lest we forget, 19th Century bimetallic America also lacked a central bank. Under the gold and silver standards, the public money supply was fixed — and could not be easily manipulated by the state (either the government or the, then non-existent, Fed). But that did not stop private bankers from leveraging public money out of thin air to create huge quantities of private money with which to fund the Robber Barons, i.e. the Jeff Bezoses, of the era.

In this sense, replacing fiat money with Bitcoin would take us back to a postmodern version of 19th Century America — not exactly a prospect socialists should go to the barricades for.

#### Link turns case---Biden’s DOJ is full of neoliberal shills who will systematically underenforce anti-trust law.

Alsbergas & Moran 21, Research assistants at the Revolving Door Project at the Center for Economic and Policy Research (Elias & Max, February 23rd, “It’s Looking Like the Department of Justice Under Biden Will Have Major Influence from Corporate Law,” *Jacobin Magazine*, <https://www.jacobinmag.com/2021/02/corporate-power-amazon-big-law-department-of-justice-biden>, Accessed 10-16-2021)

It’s kind of trite, but personnel is policy. That goes doubly for the people you keep around you who aren’t on the books. People like Gorelick thrive because their relationships and their work are not scrutinized. This is how Biden is able to get away with the fact that unions helped put him in the Oval Office but some of his highest-level appointees have deep long-standing relationships with people who are anathema to labor’s agenda.

Biden is clearly signaling — and in some cases, moving — in a more left-wing direction on issues including labor, the environment, and so on. He’s certainly moving to the left of where Obama was at this point in his presidency. But a great number of the people who are staffing his administration across the board are still part of the same neoliberal groups that came up under Bill Clinton. They got their start in Democratic Party politics during the Reagan years, and that is still the frame through which they view a lot of these issues.

You’re seeing some of that, maybe, a little bit, begin to change. But absent significant pressure, the path of least resistance, and the path which Biden and his people are going to take, is to bring back the same people who have been doing and failing at these jobs for the last forty years.

#### Crypto mining wrecks the environment

Jon Huang et al. 21. Claire O’Neill and Hiroko Tabuchi. "Bitcoin Uses More Electricity Than Many Countries. How Is That Possible?." NYT. 9-3-2021. https://www.nytimes.com/interactive/2021/09/03/climate/bitcoin-carbon-footprint-electricity.html

Today you need highly specialized machines, a lot of money, a big space and enough cooling power to keep the constantly running hardware from overheating. That’s why mining now happens in giant data centers owned by companies or groups of people.

In fact, operations have consolidated so much that now, only seven mining groups own nearly 80 percent of all computing power on the network. (The aim behind “pooling” computing power like this is to distribute income more evenly so participants get $10 per day rather than $50,000 every 10 years, for example.)

Mining happens all over the world, often wherever there’s an abundance of cheap energy. For years, much of the Bitcoin mining has been in China, although recently, the country has started cracking down. Researchers at the University of Cambridge who have been tracking Bitcoin mining said recently that China’s share of global Bitcoin mining had fallen to 46 percent in April from 75 percent in late 2019. Meanwhile, the United States’ share of mining grew to 16 percent from 4 percent during the same period.

Bitcoin mining means more than just emissions. Hardware piles up, too. Everyone wants the newest, fastest machinery, which causes high turnover and a new e-waste problem. Alex de Vries, a Paris-based economist, estimates that every year and a half or so, the computational power of mining hardware doubles, making older machines obsolete. According to his calculations, at the start of 2021, Bitcoin alone was generating more e-waste than many midsize countries.

“Bitcoin miners are completely ignoring this issue, because they don’t have a solution,” said Mr. de Vries, who runs Digiconomist, a site that tracks the sustainability of cryptocurrencies. “These machines are just dumped.”

#### Mining creates lots of emissions

Nathan Reiff 21. He has been writing expert articles and news about financial topics such as investing and trading, cryptocurrency, ETFs, and alternative investments on Investopedia since 2016. "What's the Environmental Impact of Cryptocurrency?." Investopedia. 9-8-2021. https://www.investopedia.com/tech/whats-environmental-impact-cryptocurrency/

Fossil Fuels and Digital Currencies

All of this has combined to link cryptocurrencies with fossil fuels in a way that many investors have yet to acknowledge. According to researchers at the University of Cambridge, around 65% of bitcoin mining takes place in China, a country that gets most of its electricity by burning coal.

Coal and other fossil fuels are currently a major source of electricity worldwide, both for cryptocurrency mining operations and other industries. However, burning coal is a significant contributor to climate change as a result of the carbon dioxide that the process produces. According to a report by CNBC, bitcoin mining accounts for about 35.95 million tons of carbon dioxide emissions each year—about the same amount as New Zealand.

#### Causes offshoring

Michelle Gavin 21. A Distinguished Fellow at the Council on Foreign Relations. He previously served as Deputy Secretary of the U.S. Treasury. "America’s Crypto Conundrum." Foreign Affairs. November/December 2021. https://www.foreignaffairs.com/articles/united-states/americas-crypto-currency-conundrum

Policymakers will also have to think creatively about enforcement. Requiring ID verification could end up driving some digital currency users to so-called anonymity-enhanced coins or to offshore exchanges and wallets beyond U.S. jurisdiction. Anonymity-enhanced coins, such as Monero, are more difficult to track, since in addition to not requiring ID verification, they obscure other transaction details, including amounts and wallet addresses. Because their brands are so closely tied to anonymity, these coins might be less likely to comply with ID verification rules and therefore more likely to attract illicit users. Yet such an outcome would not necessarily be all bad, because it would give authorities tracking illicit finance a place to focus their efforts. The overwhelming majority of digital currency users are not doing anything illegal, and many would probably accept ID requirements similar to those needed for cash deposits or stocks, as evidenced by the broad use of regulated platforms such as Coinbase. Users who balk at these requirements and shift their transactions to anonymity-enhanced coins will have signaled something useful to law enforcement.

#### U.S. Fintech leadership reinforces gross exploitation and white supremacy

Friedline 21 Friedline, Terri. Banking on a Revolution: Why Financial Technology Won't Save a Broken System. New York, NY: Oxford University Press, 2021. ND.

Beyond unequal landscapes and cost burdens, marginalization also may be amplified based on the ways that fintech embeds society’s destructive systems. Fintech and its supporters often operate under the assumption that digital and financial technologies can be developed devoid of white supremacy and financialized racial neoliberal capitalism. For example, as the Co-Director of MIT’s Initiative on the Digital Economy, Andrew McAfee, said in 2018, “If you want the bias out, get the algorithms in.” 66 This sentiment is shared by IBM Fellows Aleksandra Mojsilovic and John Smith, who believe that algorithms can be trained to reduce or eliminate any racial biases built in by their designers. 67 Even Stephen Schwarzman, Chief Executive-Officer (CEO) of Blackstone (yes, the same monopoly-esque investment corporation that is a central figure in Chapter 4), has chimed in on this possibility. Penning an opinion–editorial for The Washington Post in 2019 in a somewhat satirical caricature given his perch atop global capitalism, Schwarzman espoused the importance of an “ethics driven approach” to fintech. 68 Schwarzman described a multidisciplinary approach as sufficient for preventing broadly conceptualized “biases” and ensuring that fintech’s “powerful capabilities are a net positive for people and workers.” In other words, fintech’s disadvantages can be overlooked so long as advantages accrue on average. This viewpoint actually means that any disadvantages can be overlooked because “on average” (or “net positive, ” in Schwarzman’s terms) is code for white. 69 Fintech is acceptable—even ethical—so long as advantages accrue to whites (preferably wealthy elites) while averages disguise vast underlying racial disparities. For example, reporting the median net worth of $78,000 for all households in 2016 would conceal the fact that the median value of white households’ net worth is 41 times greater than that of Black households. 70 In fact, coders, computer scientists, engineers, and other designers—many of whom are white 71—stitch fintech and other technological advancements onto the fabric of society’s systems, 72 developing it as a tool for hoarding capitalism’s wealth. Insidiously, fintech is also developing as tool for surveilling and preying on Black and Brown communities by requiring individuals to sacrifice their privacy in order to participate. 73 This requirement disproportionately subjects people of color to ubiquitous, targeted surveillance that they are already experiencing in other contexts such as law enforcement, 74 education, 75 public welfare, 76 and housing. 77 White fintech users who experience technologies’ benefits without racist exploitation or wealth extraction may actually be contributing to mass surveillance that disproportionately impacts Black and Brown people. Like a white property owner ignoring how their predatory contract agreement contributed to the pattern of mass wealth extraction from Black and Brown communities, white fintech designers and users may similarly discount how their willingness—even eagerness—to sacrifice their privacy in exchange for fintech’s benefits may come with the costs of mass surveillance in the context of the financial system. And, if there was ever a case for history repeating itself, Black and Brown communities will disproportionally accrue the disadvantages if fintech marches full steam ahead without the voices of marginalized communities at the helm. 78 Fintech’s ability to accelerate the concentration of wealth can be overlooked when overemphasizing fintech for individuals. However, the problems with fintech for individuals are a microcosm of what is being acted out on a larger scale. For instance, Pagaya Investments, a U.S.–Israeli fintech start-up that describes its technology as the next generation of asset management investing, 79 announced in 2019 its complete reliance on machine learning and big data analytics to manage its $100 million portfolio. 80 Without human intervention, Pagaya’s fintech automatically manages the company’s asset-backed securities (ABS)—including all trading, buying, and selling transactions—and quickly spots potentially lucrative investment opportunities. Pagaya eventually plans to apply its fintech to collateralized loan obligations (CLO) and mortgage-backed securities (MBS). Minimal oversight from Pagaya’s data scientists is led by a former managing director of BlackRock, another monopoly-esque investment corporation. Buzzwords such as “disrupt, ” “reshape, ” and “innovate” are commonly applied to descriptions of Pagaya’s fintech, similar to the ways these buzzwords are enthusiastically applied to solving inequalities in individuals’ financial access. Pagaya Investments’ CEO, Gal Krubiner, promotes the advantages of a fintech approach that “can access very unique datasets” for making “really important insights and understanding on the valuation of assets” by identifying “what is really the risk behind each individual borrower or loan.” 81 At a 2017 fintech conference held in Tel Aviv, Krubiner described how fintech could modernize the field of corporate asset management, saying, “Many institutional investors are interested in investing in online lending markets. There’s a need for new, technology-based investment tools.” 82 Pagaya’s investors include venture capitalists, hedge funds, and financial institutions such as Oak HC/FT, GF Investments, and Citi Group. 83 In an announcement that Pagaya had raised $75 million in debt finance from the financial institution Citi Group, Citi Group’s Vice President of Consumer Finance, Ari Rosenberg, stated, “This transaction is a great example of the continuing evolution of consumer credit as an asset class and growth opportunity.” 84 Any evolution introduced by Pagaya’s fintech stands to benefit monopoly-esque investment corporations and their shareholders. “Consumer credit as an asset class and growth opportunity” is the language of a financialized racial neoliberal capitalism that equates growth with progress and deploys fintech to scavenge for new, profitable income streams. Individual consumers—the people whose collateralized credit card and mortgage debts are commodified and securitized to form these asset classes—do not see the profits that fintech generates from these new income streams. People are exploited by these processes, where algorithms scrape as much information on an individual as possible to be employed in risk models for generating profits that the individual will never receive. 85 Quickly and quietly, fintech efficiently ensconces the profits into the accounts of already-wealthy corporations and their disproportionately white shareholders. Not only can fintech concentrate wealth, the computer algorithms on which fintech is built replicate and reinforce white supremacy. 86 Evidence from online advertisements provides several examples. A study of Google advertisements reveals that searching for a person with a Black-identifying name is more likely to produce advertisements that falsely suggest the person has a criminal record. 87 Algorithms that determine whether a person is exposed to certain housing advertisements discriminate against people of color and those from lower-income backgrounds. 88 The American Civil Liberties Union (ACLU) filed a lawsuit against Facebook claiming that their algorithms targeting online job ads to demographic groups excluded women. 89 Netflix has come under scrutiny for its algorithms’ tailoring of promotional advertisements based on customers’ viewing histories, effectively misrepresenting movies’ mostly white casts by showing scenes with movies’ few Black actors to Black customers. 90 Just as these algorithms work to discriminate on social media platforms and streaming services, fintech algorithms calibrate the financial system to whiteness. “Our whole defining mission is to redefine this discussion of both race, gender, and the intersectionality of that as it outlays and plays with closing the digital divide and providing access to girls of color . . . having the divine skills and innate ability to create change in both their own lives and their communities.” —Kimberly Bryant, 2017 91 As it stands—and especially when controlled by white data scientists and the wealthy corporations of financialized racial neoliberal capitalism—fintech offers new and sophisticated means of exploitation and surveillance. In the era of big data and predictive algorithms, benefits do not extend to Black and Brown communities or to lower-income whites. 92 Even Google Fiber’s purportedly well-intentioned city-wide efforts reinforce rather than remedy inequalities. While reflecting on the scientific contributions of her famed father, Stephen Hawking, Lucy Hawking mused, “How good is the track record of the human race in using advances in technology for the good of ordinary people?” 93 We can’t just hope that fintech will offer a slightly better track record. Hope steeped in willful, ahistorical ignorance is insulting and dangerous. We all need and deserve dignified access to digital and financial services without having our information exploited, wealth extracted, and movements surveilled—marginalized communities especially deserve this. Let us make it so.

#### Crypto-currencies make propping up blockchain unsustainable – zeroes undermine the institutional guardrails that prevent the worst effects of financial crises.

Simon English 20. Senior City Correspondent at the Evening Stand. “What happens in a financial crash if bitcoin rules? Disaster…” Evening Standard. 11-27-2020. https://www.standard.co.uk/business/crypto/bitcoin-crash-economy-b81132.html

BITCOIN has had a rollercoaster ride this week, even by its own skittish standards. The FT, an august journal that doesn’t make many jokes, said on its Alphaville blog that Her Majesty the Queen had expressed an interest in blockchain, the database which stores bitcoin data, among other things. Bitcoiners began to wonder how many bitcoin Her Maj has amassed. There has been no official comment, but I think we can assume the answer is none. Nevertheless, bitcoin lept $1000 on Tuesday to more than $19,000. By Wednesday it was nearing all-time highs. The bitcoin bros were well excited. The price is now back down to $16,802. Some of the bros have got seriously burnt fingers. Ayush Ansal, of the hedge fund Crimson Black Capital, said: “After being in a relative wasteland for a few years since notorious bull run of late 2017, crypto, and Bitcoin in particular, are back.” He added: “As it headed for a new record high, Bitcoin appeared to get white line fever mid-week when it dropped by more than 12% in a day. “This, almost certainly, was triggered by a lot of long-term investors cashing in as a reward for three years of extreme volatility and abject lows.” A wider debate being had in the City and elsewhere is just how powerful bitcoin could become. Is it really a rival to actual currencies that have a central bank sitting behind them, such as the dollar, pound and euro. Could it actually replace them? If it could, what does that mean for central banks’ ability to invent money and bail us out of disasters? In the last 12 years there have been two major crises – the financial crash and Covid. Some say Brexit will make a third. Is bitcoin the impending 4th? This week Chancellor Rishi Sunak said the UK government will borrow almost £400 billion this year. This is undoubtedly a lot, but it will occur relatively easily because the Bank of England is rock solid and because everyone in Britain needs what it controls – pounds. At the moment bitcoin is priced in dollars. That is still its method of comparison for value. What happens if bitcoin becomes priced in, well, bitcoin, and there were plenty of mediums of exchange, including perhaps at your local supermarket. Simon French at Panmure Gordon said: “Then all of a sudden economic activity does not link back to official institutions and the ability of central banks and governments to influence the flow of value between private individuals is impaired. When you talk about soft power – it is not foreign aid that matters, it is controlling the agreed medium of exchange. Lose that and you are in trouble.” Want an apocalyptic vision? Try a rejection of fiat currencies and adaptation of private digital currencies. That leaves whole swathes of economic activity outside the purview of governments and regulators. That’s nirvana for some, certainly including the bitcoin bros. But what happens when there is a serious crash that requires emergency money, of any sort, to be magicked up and spent? Ayush Ansal again: “Bitcoin’s obstinate refusal to go away will once again have central banks on red alert. “If they become truly mainstream, bitcoin and other cryptocurrencies represent a systemic threat to the entire banking system.“During the Global Financial Crisis, central banks and Governments could act together to defend economies, but if a decentralised cryptocurrency becomes the norm then economies globally are arguably sitting ducks. “In the event of a major collapse, central banks would be redundant and the damage could be not just economic but impact the very fabric of society as we know it.” James Bentley of Financial Markets Online said:“If the world’s major currencies are decentralised, central banks will arguably be helpless in the event of a future financial crisis. “All the tools that central banks traditionally use will be redundant. It will be like turning up to a gun fight with a knife.” Crypto currency has cyberpunk roots. At its inception, it was designed as an alternative to the banking system – and a way to bypass the power of central banks to control the money supply. Maybe that dream has died – now it is just another volatile asset class on which fans can take a punt. But every time it emerges into the mainstream. Such as when it is rumoured that the Queen is taking an interest and some folk think that is plausible, blood pressures at the Bank of England the US Federal Reserve rise. Perhaps we should all really buy some bitcoin. Come the end of the world, we might actually need it.

#### Can’t solve warming ⁠— ignores regressions, outsourcing emissions, AND our ev assumes best-case scenarios

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Can Economies Grow as Carbon Emissions Fall?

All economic activity requires energy; to the extent, this energy comes from fossil fuels, the energy use results in emissions of CO2.8 This linkage implies that deep emissions reduction will constrain economic growth unless there is decoupling—meaning that drastic emission reductions are possible with little or no effect on growth. An instructive device for analyzing the linkage (or decoupling) of growth and CO2 emissions is the well-known Kaya identity (Kaya and Yokobori 1997), which decomposes global CO2 emissions (in million tonnes), denoted by C, into measurable “drivers” directly relevant to climate and energy policy: C=P×YP×CE×EY=P×y×c×e (1) where P = world population (billions of persons), Y = world GDP (in 2010 US$), E = total primary energy supply or TPES (in PJ), y = global per-capita income (in 2010 US$), c = C/E = carbon intensity of primary energy supply, or CO2 emissions per TPES, and e = E/Y = energy intensity of GDP. External factors influence the variables that make up the identity, and the variables interact with one another in various ways. Whatever the underlying causal mechanisms, the identity has to be satisfied ex-post. Carbon emissions rise, ceteris paribus when world population increases and/or when per-capita income rises. Emissions decline when energy intensity declines, for example, when higher energy prices cause firms to make energy efficiency investments that reduce the amount of energy needed to produce output. Carbon intensity declines when the share of renewable energy sources in electricity generation increases and the share of fossil-fuel energy goes down. In the growth-rate from the Kaya identity can be approximated by: Global carbon emissions growth is driven by population growth Pˆ, per-capita income growth yˆ, the growth of the carbon intensity of energy cˆ, and the growth of energy intensity of GDP eˆ. Table 1 shows the results of a decomposition of global CO2 emissions for the period 1971–2017 and our projection for the period 2017–2050, which satisfies Equation (2). We focus on CO2 emissions from the energy system which represent more than 70% of global GHG emissions in 2010.9 [Table 1 omitted] Let us first consider historical changes during 1971–2017 when global CO2 emissions increased by 1.88% yr−1. Growth in the population (at 1.52% yr−1) and in per capita real GDP (at 1.49% yr−1) exerted upward pressure on CO2 emissions, which was only partially offset by downward pressure from higher energy efficiency (energy intensity declined by 0.96% yr−1) and lower carbon intensity (which declined by 0.17% yr−1).10 These downward trends in energy and carbon intensity are still insufficient to delink economic growth and carbon emissions. Table 1 signals some improvement over time however, as energy intensity has begun to decline appreciably faster post-1990, recording a decline of 1.05% yr−1 during 1991–2017 as compared to 0.86% during 1971–1990. There is no similar sign of declining carbon intensity—the carbon intensity declined by 0.41% yr−1 during 1971–1990 but did not decline further during 1991–2017 Global average changes are the net outcomes of underlying regional changes. Table 2 shows the Kaya decomposition results for the OECD countries and the non-OECD countries, as well as separately for the U.S.A., the E.U.-28, China, India, and Indonesia, for the period 1971–2017. Country trajectories differ, but there are four general developments that are of critical importance to changes in emission trajectories. First, population growth has been lower during 1991-2017 compared to 1971-1990, leading to lower CO2 emissions growth; this declining trend will continue during the rest of this century. Second, all countries experienced negative energy intensity growth—in the OECD countries during 1991–2017, the improved energy efficiency more than offset the upward pressure on carbon emissions coming from per capita income growth. Third, the E.U.-28 and the U.S.A. exhibit negative carbon intensity growth, but somewhat worryingly, the rate of de-carbonization in the OECD has been slowing down during 1991–2017 compared to the years 1971–1990. The E.U. carbon intensity decline recorded during 1991–2017 is dominated by the growing share of (zero-carbon) renewables in total energy use, particularly due to Germany’s Energiewende (cf. Peters et al. 2017, 120). The non-OECD countries as a whole experienced somewhat lower carbon intensity growth during 1971–2017, as China, India, and Indonesia managed to substantially lower their (still high) carbon intensity growth rates. For instance, China brought down carbon intensity growth from 0.85% yr−1 during 1971–1990 to 0.27% yr−1 during 1991–2017, mostly because it reduced the share of fossil fuels in total energy use, and especially of coal (Grubb et al. 2015; Peters et al. 2017, 119; Guan et al. 2018). Finally, neither in the OECD nor in the non-OECD countries are the negative energy intensity growth and the declining carbon intensity growth large enough to ensure a decoupling of growth of CO2 emissions and growth of real GDP. The world as a whole has achieved only relative decoupling but no absolute decline in carbon emissions during 1971–1990 and 1991–2017. [Table 2 omitted] The greatest potential for drastic cuts in emissions lies in the deep de-carbonization of energy systems (Geels et al. 2017), which is exactly what emission scenarios consistent with COP21 indicate (Peters et al. 2017). The potential is largest in the non-OECD countries, where “low-hanging fruit” could be harvested by means of a rapid phasing out of coal, an equally rapid “phasing in” of renewable energies, enhancing the biosphere and carbon sinks, and the large-scale deployment of CCS. But most models cannot identify emission pathways consistent with the 66% “below 2 °C” goal without a large-scale ramp-up of CCS facilities (Peters et al. 2017, 121). It should be obvious that past and current trends in energy and carbon intensity are woefully inconsistent with future pathways that would stabilize the climate at temperature rises well below 2 °C—continuing with business-as-usual will irreversibly put the Earth System onto a “Hothouse Earth” pathway (Steffen et al. 2018). “The challenge that humanity faces,” write Steffen et al. (2018, 3), “is to create a “Stabilized Earth” pathway that steers the Earth System away from its current trajectory toward the threshold beyond which is Hothouse Earth.” The key issue is what the deep emissions reductions will mean for economic growth. Can we stabilize the climate system while growing the economy? A tentative growth projection for the period 2017–2050 is provided in the last two columns of Table 1. We use the transparent Kaya identity in growth rate form to explore the scope for economic growth in a climate-constrained world: yˆ=Cˆ−Pˆ−cˆ−eˆ (3) We assign values to the right side of Equation (3) to determine per-capita real income growth. First, we adopt the United Nation’s population projection (the “medium variant” from UN DESA 2015), which implies Pˆ = 0.79% yr−1 until 2050. Next, in line with the “2050 Low Carbon Economy Roadmap” adopted by the E.U., we assume that global CO2 emissions in 2050 will be 85% lower than in 1990; this implies an annual average reduction in global carbon emissions Cˆ by 6.92% yr−1. Our numbers refer to CO2 emissions caused by the combustion of fossil fuels in the energy sector. The latest IPCC target—net zero emissions by 2050—refers to all climate-relevant GHGs (IPCC 2018). CO2 emissions from land-use changes and the transport sector, as well as other GHG emissions, are probably harder to reduce or more expensive to reduce than energy-sector CO2 emissions; and it is doubtful that negative-emission technologies can be ramped up to the equivalent of 15% of the 1990 global emissions level. Therefore the 85% reduction target is a soft one (the IPCC target is stricter). Next, we borrow from the OECD (2017, Table 2.18) the projected decreases in energy intensity and carbon intensity: eˆ = −2.69% yr−1 and cˆ = −3.68% yr−1. These ambitious intensity reductions originally come from the IEA-IRENA 66% 2 °C scenario (IEA-IRENA 2017), which refers to the G20, and we assume they apply to the whole world. Based on the assumptions made, the climate-constrained growth rate of global real per-capita income is found to be negative (−1.34%yr−1) during the next three decades: yˆ=Cˆ−Pˆ−cˆ−eˆ=−6.92%−0.79%+3.68%+2.69%=−1.34% (4) Even with a relatively “soft” emission-reduction target, climate-constrained growth is not just well below the historical income growth rate (of 1.49%yr−1 during 1971–2017), but negative—which means there is a conflict between growing the world economy and keeping global warming from becoming dangerous and unstoppable. The sobering bottom line is this: taking the 85% reduction target as given, even under the techno-optimistic assumption that we manage to bring about historically unprecedented reductions in carbon intensity and energy intensity, the climate constraint is binding in the sense that future global economic growth would have to be not just significantly lower than historical growth, but even negative.11 An argument in favor of greater scope for economic growth has to rely on even more optimistic assumptions concerning technological progress—even more potent climate policies would have to be adopted to bring about even sharper reductions in carbon intensity and energy intensity. The growth implications of uncompromising climate policies are not obvious. Our plea is that we do whatever it takes to force through the technological, structural and societal changes needed to reduce carbon emissions so as to stabilize warming at 1.5 °C (Grubb 2014; Steffen et al. 2018) and just accept whatever consequences this has in terms of economic growth.

Is Obama Right about Decoupling?

The only way the world can meet the COP21 target is by a permanent absolute decoupling of growth and CO2 emissions (de Bruyn and Opschoor 1997; Ward et al. 2016). As shown in Tables 1 and 2 absolute decoupling over long periods remains elusive both in the OECD and non-OECD countries (as a whole). But what about recent individual country experiences: is there a group of leading high-income countries, including the U.S., that are growing their GDP while at the same time reducing their carbon emissions? Can we indeed put to rest the argument that halting warming requires accepting lower growth, as Obama argues? We systematically investigate the hypothesis that today’s high-income countries have crossed the turning point of the ubiquitous “inverted U-shaped” CKC (see Dinda 2004; Kaika and Zervas 2013a, 2013b; Stern 2017). The CKC hypothesis holds that CO2 emissions per person do initially increase with rising per capita income (due to industrialization), then peak and decline after a threshold level of per capita GDP, as countries arguably become more energy-efficient, more technologically sophisticated and more inclined to and able to reduce emissions by corresponding legislation and enforcement. The large empirical and methodological literature12 on the CKC does not provide unambiguous and robust evidence of a CKC peaking for carbon dioxide, if only because of well documented but yet unresolved econometric problems concerning the appropriateness of model specification and estimation strategies (e.g., Wagner 2008). We will leave these econometric issues aside however and instead focus on the fact that the majority of empirical CKC studies use territorial or PB emissions data to test the CKC hypothesis (Mir and Storm 2016)—and hence overlook the emissions embodied in international trade and in global commodity chains (Peters et al. 2011). Based on IPCC guidelines, GHG emissions are counted as the national emissions coming from domestic production. This geographical definition hides the GHG emissions embodied in international trade. Rich countries including the EU-27 and the United States. with high average consumption levels are known to be net carbon importers as the CO2 emissions embodied in their exports are lower than the emissions embodied in their imports (Nakano et al. 2009; Boitier 2012; Agrawala et al. 2013). Vice versa, most developing (and industrializing) countries are net carbon exporters. What this implies is that, because of cross-border carbon leakages, CB emissions are higher than PB emissions in the OECD countries but lower in the developing countries (Aichele and Felbermayr 2012). This indicates that while there may well be a Kuznets-like delinking between per-capita income and per-capita PB emissions, it is as yet unclear whether such delinking is also occurring in terms of CB emissions (e.g., Rosa and Dietz 2012; Knight and Schor 2014; Jorgenson 2014; Mir and Storm 2016).13 If not, the notion of “carbon decoupling” has to be rethought—in terms of a delinking between income and CB emissions. After all, it is no great achievement to reduce domestic per capita carbon emissions by outsourcing carbon-intensive activities to other countries and by being a net importer of GHG, while raising consumption and living standards (e.g., Rothman 1998; Bagliani, Bravo, and Dalmazzone 2008).

Estimating the Turning Points of Production-Based and Consumption-Based CKCs

Method

To evaluate the CKC hypothesis we run standard panel data regressions of per-capita CO2 emissions on per-capita income and per-capita income squared. The data and replication files are available as part of the supplementary materials on the article webpage. The population model includes country-specific effects and time-specific effects: lnco2=β0+β1⋅ln y+β2⋅(ln y)2+αt+ai+u (5) The dependent variable, co2, is either PB per-capita CO2 emissions or CB per-capita CO2 emissions. y is “real” per-capita GDP, and u is the unobserved disturbance term. t = 1, 2, …, T indexes time periods, and i = 1, 2, …, n indexes countries. αt is a time-specific effect, and ai is a country-specific effect (the population model, as written here, includes a regression constant, so ∑tαt=0 and ∑iai=0). The model restricts all countries to have a common turning point while allowing the level of emissions at the turning point to differ across countries. Turning points TP are calculated as TP=exp(−βˆ12βˆ2) (6) where the hat “∧” from now on denotes an estimate of the corresponding population parameter. The country-specific effect captures, for instance, a country’s endowment with fossil fuels. This interpretation immediately suggests that ai correlates with y; after all, a large resource endowment can be expected to increase a country’s income. The fixed-effect estimator (FE) addresses this endogeneity problem. The cross-country panel is short (large n, small T). The time-specific effects are estimated by the inclusion of dummy variables in the regressor vector. Equation (5) represents the “standard EKC regression model” (Stern 2017, 13), relating the log of per-capita emissions to the log of per-capita income. With the fixed-effects estimator, we are using the most common, tried, and tested estimation method. Alternative estimation methods including non-parametric ones tend to produce similar results (Stern 2017). The fixed-effects estimator exploits the variation over time to estimate the parameters of the model in Equation (5). Over a time period of one or two decades, the within-variation is relatively small compared to the variation across countries. Consequently, the standard errors will be relatively large. This is the price to pay for the ability to control for country-specific effects. Structural change means that the parameters of the model (5) will in general not be constant over time, but given our time horizon of one or two decades, there is no point in testing for structural breaks. When predicting the level of per-capita CO2 emissions for the average country, we use Duan’s smearing estimate to address the re-transformation bias (Duan 1983). Simply re-transforming the estimated conditional expectation would lead to underestimation of the per-capita emission level. We predict the per-capita emissions level at the mean of the estimated time-specific effects and the mean of the (implicitly) estimated country-specific effects: co2ˆ0=h⋅exp(βˆ0+βˆ1⋅ln y0+βˆ2⋅(ln y0)2+1T∑Tt=2aˆt) (7) where h=N−1∑i∑t exp(aˆi+uˆit) is the adjustment factor. aˆi+uˆit is the combined residual, the sum of the implicitly estimated country-specific effect and the idiosyncratic residual. Duan’s assumptions (homoscedasticity and i.i.d. data) are not satisfied here (heteroscedasticity and possible dependence across time), but it is better to make the adjustment than to knowingly underestimate the per-capita emission level.

Data

Our primary CO2 emissions data come from TECO2, the OECD’s Trade-in Embodied CO2 Database (OECD, 2019).14 The database, described in Wiebe and Yamano (2016), provides county-level estimates of CO2 emissions caused by the combustion of fossil fuels. This emissions concept excludes CO2 emissions from land-use change and forest fires, fugitive emissions, and emissions from industrial processes. The independent variable, co2, is defined as either PB emissions divided by population or CB emissions divided by population (kg CO2 per person). TECO2 covers 64 countries between 2005–2015. The GDP and population variables come from the Penn World Table (PWT) 9.1 (Feenstra, Inklaar, and Timmer 2015). The income variable, y, is defined as expenditure-side real GDP at chained PPPs in 2011 US$ (PWT variable code “rgdpe”) divided by population (“pop”). We simply write “dollars” or “dollars per person” to refer to this unit. We work with non-overlapping three-year averages to reduce measurement error and focus on structural relationships. We exclude small countries from our main estimation sample; more specifically, we exclude countries with a 1990–2015-average population below the first quartile in the PWT (fewer than 1.92 million people). The main estimation sample has N = 174 observations with n = 58 and T = 3. Table 3 reports descriptive statistics of the main sample (based on TECO2) and the other two samples. The mean per-capita income level in the main sample is $28,000, the minimum income is $2300 (Cambodia), and the maximum income is $75,000 (Singapore). The majority of countries in the main sample are high-income countries; income at the first quartile is $15,000. PB emissions range from 310 to 23,105 kg CO2 per person, and CB emissions range from 527 to 20,867 kg CO2 per person. The 58 countries account for 85% of global emissions in 2015 (both in terms of PB accounting and in terms of CB accounting). [Table 3 omitted]

Robustness

We adjust the baseline regressions in a number of ways to assess the robustness of the results. We include linear and quadratic time trends; we vary the observation frequency by switching from three-year non-overlapping averages to annual data; we include the small countries that are excluded from the main estimation sample; and finally, we use several sources for the CO2 emission data. This last robustness check is particularly important because the literature documents how country-level CB emission estimates vary with the underlying input-output table (Wiedmann et al. 2011; Moran and Wood 2014; Rodrigues et al. 2018; Wieland et al. 2018). Therefore, we source alternative CO2 emission data from Eora15 and the OECD-ICIO-201516. Both databases provide country-level estimates of PC and CB CO2 emissions caused by the combustion of fossil fuels. Eora (Lenzen et al. 2013) covers 190 countries between 1990 and 2015. The OECD-ICIO-2015 (OECD 2015) covers 61 countries between 1995 and 2011.

Regression Results

Figure 1 plots CKCs for the “average country” and “average time period,” that is, it shows predicted emissions at varying income levels at the mean of the country-specific effects and the mean of the time-specific effects (the country-specific effects and the time-specific effects shift the intercept, moving the curves up or down). The curves in the upper panel are derived from regressions based on the main estimation sample. The regressions provide no evidence for the existence of a CKC, neither for PB emissions nor for CB emissions. Over the sample range, emissions monotonically increase with income. There is no turning point. Figure 1. The Carbon-Kuznets-Curve. Note: Based on calculations by the authors as described in the Method section. For the underlying fixed-effect estimations results, see Table 4, column 1, and Table 5, column 1. The CKCs are drawn as solid lines inside the range of observed per-capita incomes and as dotted lines outside the sample range (dotted when higher than the sample maximum or lower than the sample minimum). Diagram, engineering drawing

Description automatically generated The claim that eventually emissions will fall as income grows—there are turning points, but they are outside the sample range—would require a willingness to extrapolate the statistical relationship beyond the extreme values in the sample to an unobserved domain. The data determines the shape of the curve in the sample range, but it cannot tell us whether the population parameters and the functional form are stable at unobserved income levels. The statistical analysis of historical data cannot justify extrapolation. The fixed-effect regression that underpins Figure 1 is summarized in Table 4. Columns 1 and 4 report results from the baseline specification that includes time period dummies in the regressor vector. A Wald test for the joint significance of the time period dummies suggests that they should be included in the regression model (it rejects the null that the coefficients on the time period dummies are jointly zero). The signs of the regression coefficients are consistent with the existence of a CKC, but their magnitude implies turning points far outside the estimation sample range. In the case of CB emissions, the coefficient on the log of income squared is not statistically significant at the 5% level, suggesting a linear positive relationship between emissions and income.17 Replacing the time period dummies with a linear time trend (columns 2 and 5) or with a quadratic time trend (columns 3 and 6) changes little: coefficient signs, magnitudes, and their statistical significance are essentially the same as in the specification with time period dummies. [Table 4 omitted] A different source for emissions data gives different results. We postulate the same statistical model and use the same estimation method but switch the emissions data source. The use of the OECD-ICIO-2015 database leads to the CKCs shown in the lower panel of Figure 1—now the turning points fall inside the estimation sample range. The turning point for PB emissions is at $39,000–$41,000 and the turning point for CB emissions is at nearly twice that level at $71,000–$78,000, near the estimation sample’s maximum. The underlying regressions are summarized in Table 5. In general, the OECD-ICIO-2015 yields more precise coefficient estimates (in the sense that the t ratios are higher than in the baseline regressions) because it covers a longer stretch of time and the fixed-effects estimator relies on time variation. The table reports six regressions that all support the existence of a CKC: the coefficients have the “right” signs and magnitudes and are statistically significant at the 0.1% level. [Table 5 omitted] The appendix presents the results of several robustness tests. Table 6 replicates the analysis from Table 4 and 5, this time using Eora as the source for emissions data. The Eora sample contains more developing countries than the other two samples, which introduces additional variation in the dependent variable. The income variables and time dummies capture only a small fraction of this variation. The coefficients have the “right” signs, but are not statistically significant, even after excluding potential outliers (quantitative outlier tests could support the exclusion of observations from Belarus, Moldova, and Ethiopia). The lack of statistical significance stems in part from the high correlation between the log of income and the log of income squared. When either variable is included alone, its regression coefficient becomes statistically significant and indicates a positive relationship between income and emissions (regressions not reported). Table 7 adds six small countries that were excluded from the main estimation sample, meaning it uses data for all 64 countries covered by TECO2. The results are basically the same as in Table 4 and need no further commenting. Table 8 moves from the three-year non-overlapping averages to annual observations. Exploiting the high-frequency variation does improve the precision of the coefficient estimates, and the coefficient on the log of income squared turns up statistically significant. Changes to the size of the coefficients are minor. Overall TECO2 suggests that emissions monotonically increase with income, for the database produces no evidence of turning points inside the sample range, neither for PB emissions nor for CB emissions. [Tables 6-8 omitted] In the case of CB emissions, the regression coefficients vary with the source data (compare the columns 4–6 in Table 4 and Table 5). In the case of PB emissions, the coefficients hardly change. Yet even small changes in the coefficients generate large changes in the turning points (e.g., compare the columns 1–3 and 4–6 in Table 5) because the turning points are calculated as an exponential function of the ratio of the regression coefficients. Given this non-linearity, an innocuous switch of the source for emissions data has dramatic implications for the turning points. Therefore, the exact quantitative implications of the CKC analysis are to be interpreted with caution. Robust quantitative interpretations would presume a level of precision that no statistical analysis can deliver. The implied turning points, whether inside the sample range or outside, are higher for CB emissions than for PB emissions—this qualitative finding is robust and holds across all specifications.

Summing Up

Our econometric analysis yields three conclusions. First, the evidence in support of a CKC pattern for PB emissions is fragile at best. Only the OECD-ICIO-2015 database generates the inverted-U-shaped pattern. In any case, global economic development along the CKCs would not be compatible with the IPCC (2018) pathway consistent with keeping global warming below 1.5 °C. If China developed along the path of the production-based CKC, it would exhaust a third of the global carbon budget before even reaching the turning point.18 The production-based inverted U-shaped CKC is, in other words, not a relevant framework for climate change mitigation. Second, our results suggest that economic growth has not decoupled from CB emissions.19 Some of the OECD countries have managed to some extent to delink their production systems from CO2 emissions by relocating and outsourcing carbon-intensive production activities to the low-income countries. The generally used production-based GHG emissions data ignore the highly fragmented nature of global production chains (and networks) and are unable to reveal the ultimate driver of increasing CO2 emissions: consumption growth (Rosa and Dietz 2012; Knight and Schor 2014; Mir and Storm 2016). Corroborating evidence is provided by Jorgenson (2014) who finds that in North America, Europe, and Oceania, increases in human well-being (measured as life expectancy) are associated with a rising carbon intensity of well-being. Third, and most importantly, what the statistical analysis shows is that to avoid environmental catastrophe, the future must be different from the past. However, the dominant “green growth” approaches remain squarely within the realm of “business-as-usual” economics, proposing solutions which rely on technological fixes on the supply side and voluntary or “nudged” behavior change on the demand side, and which are bound to extend current unsustainable production, consumption and emission patterns into the future. The belief that any of this half-hearted tinkering will lead to drastic cuts in CO2 emissions in the future is altogether too reminiscent of Saint Augustine’s “Oh Lord, make me pure, but not yet.” If past performance is relevant for future outcomes, our results should put to bed the complacency concerning the possibility of “green growth.” We have to stop the self-deception.

#### Even under the most optimistic projections sustainability fails---only the alt solves

Ahmed, 20 – (Nafeez Ahmed is an award-winning journalist, academic systems theorist, and bestselling author and change strategist, "Capitalism Will Ruin the Earth By 2050, Scientists Say," 10-21-2020, https://www.vice.com/en/article/v7m48d/capitalism-will-ruin-the-earth-by-2050-scientists-say) nL

A spate of new scientific research starkly lays out the choice humankind faces in coming decades: **By 2050**, we could retain high levels of GDP, at the price of a world wracked by **minerals and materials shortages**, **catastrophic climate change**, and a **stuttering clean energy transition** —paving the way for a slowly **crumbling civilization.** Or, we could ditch the GDP fetish and enter a world of abundance, with energy consumption safely contained within planetary boundaries, and high-tech economies that support jobs, health and education for everyone without costing the earth. On the first option, **scientists backed by the European Union**’s Horizon 2020 research and innovation program have concluded that **capitalism-as-we-know-it cannot support a successful clean energy transition**. Not only that, but capitalism is on track to lead the world into mineral shortages and supply bottlenecks that could cut short efforts to decarbonize transport systems, ***guaranteeing dangerous climate change***. The new [study](https://www.sciencedirect.com/science/article/pii/S2211467X20300961) published in the journal Energy Strategy Reviews finds that electrifying our cars, trucks and trains so that they run on renewable energy is only viable if we reduce the **endlessly growing** levels of consumption in industrial societies. That, effectively, means fundamentally transforming the very sinews of capitalism. The good news is that separate research published in September proves that such an economic transformation is perfectly feasible while still maintaining a good quality of life for people all over the world. Modeling the world The transportation study is based on a highly sophisticated ‘integrated assessment model’ (IAM) that brings together a vast amount of empirical data. Known as the MEDEAS-World model, it incorporates feedback relations between global and regional economies; renewable, fossil fuel energy flows and energy infrastructure; technology developments and costs; minerals and land requirements; climate change and water; and many other sectors. Earlier this year in February, the EU-team [released](https://pubs.rsc.org/en/content/articlelanding/2020/EE/C9EE02627D#!divAbstract) a detailed explanation of how the model works in Energy & Environmental Science, a journal published by the Royal Society of Chemistry in the UK. The model points to a **perfect storm** of converging problems. The model reveals that fossil fuel energy sources are approaching **“biophysical constraints”** related to “Energy Return on Investment” (EROI)—an efficiency ratio based on the quantity of energy needed to extract a certain amount of energy from any given resource. Oil, gas and coal, including unconventional sources, are experiencing a combination of increasing costs and declining returns, indicating an overall decline in EROI. This in turn could reach a point where their continued extraction becomes too costly to sustain. Unfortunately, the MEDEAS model shows that **renewable energies do not** necessarily **solve this problem**, due to several limitations. These include issues like **the intermittency issue**: wind energy only works in areas where the wind blows, and depending on seasons, for instance. **Renewables also require more land** to produce equivalent quantities of energy compared to fossil fuels; **and** **they are still dependent on a large supply of minerals and materials** to produce renewable power plants and related infrastructure. An EV revolution to avert energy and climate disaster In their new paper, the team behind the MEDEAS model apply this framework specifically to the analysis of transportation, which relies overwhelmingly on liquid fuels largely derived from oil. The scientists argue that although not widely recognized, “Most global oil extraction forecasts predict stagnation in the 2020s decade.” This is due to the stagnation of conventional oil production since around 2006, and the ensuing reliance on more expensive unconventional fuels which are also likely to decline within coming decades. Therefore, transitioning to renewable energy systems will be essential not just to combat climate change, but to evade an energy crisis. In particular, the study confirms the importance of shifting to battery electric vehicles for private and public transport, describing it as “the best option” for energy savings and potential greenhouse gas emission reductions. **But there is a problem**: if we continue growing our economies at current rates, it will require a level of minerals and materials that the Earth will not be able to provide. This is the case even if heavy materials are replaced with light alternatives. For instance, the automobile industry is replacing steel components of the electric motor, battery and vehicle body with wrought aluminum, magnesium and titanium, or other composite materials such as carbon fibre reinforced plastic. Yet “these materials tend to require more energy and have a higher global warming potential in the production stage than the heavier materials they replace.” **Endless growth will generate minerals scarcity within decades** The EV transition is, in short, a massive industrial project. Electrification of roads and rail will require upgraded smart grids, complex routes connected to high power lines, and regular battery-swap stations. The paper explores several scenarios to explore how such a transition would take place. In a continuing GDP growth scenario, the authors note that the economy begins to stagnate “due to peak oil limits at around 2025-2040,” but GDP is able to continue growing thanks to the EV transition. This shows that the reduction in liquid fuels in transportation can play a powerful role in avoiding “energy shortages in the economy as a whole.” But then the economy hits the limits of mineral and material production to sustain this electric transition—in just three decades. And this is even with high levels of minerals recycling. By 2050, in this scenario, the EV transition will “require higher amounts of copper, lithium and manganese than current reserves. For the cases of copper and manganese the depletion is mainly due to the demand from the rest of the economy,” but most lithium demand “is for EV batteries,” and this alone “**depletes its estimated global reserves**.” Mineral depletion takes place **even with “a very high increase in recycling rates”** in a continuing GDP growth scenario. In one such scenario, the authors apply what they consider to be realistic upper level recycling rates of 57 percent, 30 percent and 74 percent to copper, lithium and manganese respectively. These are based on **extremely optimistic** projections of recycling capabilities relative to their costs. But still they find that even these high recycling rates wouldn’t prevent depletion of all current estimated reserves by 2050. The conclusion corroborates findings of other studies, estimating an expected bottleneck for lithium by 2042-2045 and for manganese by 2038-2050. Actual bottlenecks could come even earlier because **existing studies**—including the MEDEAS model—**don’t account for** material requirements needed for internal wiring, the EV motor, EV chargers, building and maintaining the grid to connect and charge EV batteries, the catenaries to electrify the railways, as well as [inherent difficulties](https://www.resourcepanel.org/reports/metal-recycling) in recycling metals. **Endless growth cannot avoid dangerous climate change** The continuing GDP growth scenario also guarantees that the world fails to meet the Paris Agreement targets for a safe limit of global average temperatures of 1.5 degrees Celsius. The model shows that although dependence on fossil fuels is greatly reduced in the transportation sector, the drive for continuing GDP growth means that **other economic sectors** continue to **intensify their dependence** on oil, gas and coal consumption. Therefore, while greenhouse gas emissions go down in the transportation sector, “the shortage of liquid fuels is delayed for some years and the economy grows more” in other sectors: “**The final result** is that in total, **GHG** [greenhouse gas] emissions **do not decrease** as intended by the transport decarbonization policies, and even could increase in absolute terms… Since GDP tends to grow because the current economic system is based on this objective, a constant increase in energy demand is almost impossible to avoid.” This means that **global average temperatures would continue to rise** well over 1.5C, tipping over into the danger zone that guarantees catastrophic impacts such as the **destruction of most of the world’s coral reefs**, **increased crop failures**, **accelerating destructive extreme weather events**, and so on. **Letting go of growth** On the other hand, the authors find that the only scenario in which the world is able to cut greenhouse gas emissions by 80 percent in the transportation sector by 2050 involves “a radical shift towards light electric vehicles, shift of road freight to electric train, ambitious recycling mineral levels, drastic reductions in the demand for transportation (especially for those more polluting such as aviation) and a significant decrease in overall economic activity.” All this will require what the authors describe as “**a profound change in the dominant economic paradigm**”—**namely, capitalism**. In other words, the only way to avoid catastrophic climate change is by shifting to a new social and economic framework called “degrowth”—that is, where current “growth-oriented economies evolve towards a new system that fulfills human needs without the necessity for continuous growth.” While these would meet ambitious decarbonization targets in line with the 1.5–2°C limit, the authors point out that unfortunately **these policy options generally fall** **“outside the political and economic options of the moment.”** Indeed, the new paper has its detractors. Auke Hoekstra, a researcher at Eindhoven University of Technology’s Department of Mechanical Engineering, [argued](https://twitter.com/AukeHoekstra/status/1305582671578509314) in a Twitter thread that the study wrongly assumes a battery size 10 times higher than they need to be for electric trucks, citing the Tesla Semi as an example. This results in overestimating the extent of projected mineral requirements, he explained. But according to study co-author Iñigo Capellán Pérez—an industrial engineer at the Group for Energy, Economics, and System Dynamics of the University of Valladolid, Spain— Hoekstra’s criticism is too “simplistic” as he assumes levels of technical performance “which have not been reached” and which rely on “very specific wheels and an aerodynamic tractor unit that is not allowed in the EU.” Pérez also told me that Tesla’s claims about the technical performance of its electric trucks do not stand up to [independent analysis](https://pubs.acs.org/doi/10.1021/acsenergylett.7b00432). In fact, after the exchange with Hoekstra, Pérez’s team began plugging in some of the alternative figures into the MEDEAS model to see if the overall verdict still stood up. So far, he told me, the results were “not so far” from the initial findings. He pointed out that their modelling approach is focused on assessing technologies based on current knowledge of technical performance and their anticipated limits. Technological developments which are too uncertain and unlikely to hold much promise are therefore excluded. The model also looks at potential costs. If viable technologies have “huge costs, **how can we think that these can be spread over the world**, where **let's not forget still hundreds of millions of people do not have access to electricity**—where are these trucks going to even recharge?” Quibbling over these uncertainties raises important data points, but doesn’t invalidate the model’s overall policy implications, he said. Prosperity—without growth The biggest policy implication, it seems, is that to successfully decarbonize our transportation systems, **we will need to shift to a new sustainable economic model quite different to the current form of capitalism** which requires continuous growth just to avoid economic collapse. And that will mean prioritizing [meeting human needs and well-being](https://www.newyorker.com/magazine/2020/02/10/can-we-have-prosperity-without-growth) with a much lower material footprint on the planet than we currently have in place today. A major new study by scientists at the University of Leeds School of Earth and Environment, University of Lausanne Faculty of Geosciences (Switzerland), Yale School of Environment, and International Institute for Applied Systems Analysis in Austria, proves **unequivocally** that **such a post-capitalist transition is entirely workable.**

#### Ag collapse---short term and turns

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

#### Capitalist tech innovation causes nuclear war and WMD terrorism — extinction, BUT degrowth solves.

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The spiral of insecurity and securitization

Overall, due to the combination of democratized violence capacities and totalitarian state powers that it would create, the FIR would likely generate a reinforcing spiral of insecurity and securitization that produces a qualitatively new kind of techno-authoritarianism on a global scale. To understand how this may come about, it is first important to recognize that even if the FIR enables the global economy to grow while stabilizing the climate at 1.5 or 2 degrees C (a highly optimistic assumption), this would still (according to one study) leave 16 to 29 per cent of the world’s population (mostly in the Global South) vulnerable to lethal climate impacts (Byers et al., 2018). Technological advance could certainly improve adaptation capacities even amidst such environmental changes, but poverty and deprivation will remain difficult to reverse, and deep grievances felt towards the Global North – due to its primary responsibility in creating the problem whose consequences are primarily suffered in the Global South – will make militant and/or terrorist violence a likely response. Second, we can see that the increasing dependence of the global economy on FIR technologies would create an exponential expansion of possible bio and cyber attack vectors. In conjunction with steady advances in technologies of securitization and rising fear among policy makers and populations, it may only require a relatively ‘minimal’ attack (e.g. something comparable to 9/11, rather than the kind of million or even billion casualty attack feared by some bioterror experts) to catalyze a further threshold of intensified global securitization. What might this threshold entail? Abstractly, it could be understood as a shift from a predominant ‘liberal’ security apparatus to an ‘authoritarian’ mode that establishes a permanent ‘state of emergency’ on a global scale (Opitz, 2011). While we can only speculate on what this might look like in practice, especially as technologies of securitization advance, it would likely involve a conjoined transformation in and integration of both technological-surveillance and institutional-legal assemblages, with the former being intensified and extended while the latter sheds all pretext of democratic oversight to become an increasingly absolutist form of sovereign authority on a global scale. Surveillance would reach from the planetary to the molecular scale through a network of satellites, distributed environmental sensors, and AI-facilitated data collection and processing techniques; military force mobilization capacities of nearly absolute speed and global reach could be created through a combination of space-based and networked AI-robotic weapons systems; and the right of the planetary sovereign to detain individuals, mobilize force without legal pretext, and constrict the mobility of people and goods to more tightly regulated territories, would be enshrined. While such an apparatus may seem far-fetched, philosopher and futurist Nick Bostrom envisions a similarly totalitarian global surveillance system as the necessary prerequisite of global security in an age of democratized weapons of mass destruction (Bostrom, 2018). And he notes that ‘thanks to the falling price of cameras, data transmission, storage, and computing, and the rapid advances in AI-enabled content analysis, [it] may soon become both technologically feasible and affordable’ (Bostrom, 2018, p. 25). In sum, while techno-authoritarian trends are already evident in the US and China, FIR technologies would further enhance their capabilities while ‘democratizing’ WMD capacities among non-state actors (Blum and Wittes, 2015). This would incentivize states to extend and deepen surveillance as far as possible while making democratic populations more willing to accept intensified securitization, therefore making it difficult to avoid an authoritarian global security apparatus.

Conclusions

To return to the question that opened this essay: can global capitalism solve the earth system crisis? I have shown that the answer is an ambiguous maybe: the FIR may enable economic growth to decouple sufficiently rapidly from CO2 emissions and broader environmental impacts to stabilize the earth system, though these technological solutions would then intensify risks in the domains of biosecurity, cybersecurity, and state surveillance, thereby unleashing a spiral of insecurity and securitization that will push global capitalism towards a new kind of techno-authoritarianism. It is thus worth showing, in a way that differs from, yet complements the arguments of degrowth advocates, that even if global capitalism can succeed in stabilizing the earth system in a context of endless growth, then it would likely create security threats and totalitarian dangers that would undermine the desirability of such a system. This conclusion reinforces the need for a set of global policies that break decisively from the growth-oriented status quo. On one hand, to dampen these technological trends and improve the prospects of earth system stabilization, the pursuit of GDP growth should be replaced by alternative goals based on new metrics (e.g. the Genuine Progress Indicator or Index of Sustainable Economic Welfare) that more accurately represent social welfare (Kallis, 2018). The European Commission’s Beyond GDP project shows that steps are being taken in this direction, though they should go further by explicitly ending reliance on growth by placing hard caps on material-energy throughput while restructuring economies so that livelihoods are not dependent on increasing GDP (Hickel, 2019; O’Neill et al., 2018). On the other hand, many FIR technologies (especially open source synthetic biology) offer great promise for improving human welfare through advances in sustainable energy, agriculture, and medicine. Thus, transitioning beyond growth should not necessarily entail abandoning these technologies, and strong global regimes for regulating and monitoring their use would therefore be necessary. However, rather than simply strengthening existing regimes like the Biological Weapons Convention (Charlet, 2018) or relying on private sectorled initiatives to regulate emerging risks ‘without impeding the capacity of research to deliver innovation and economic growth’ (Schwab, 2017, p. 90), more far-reaching changes are needed to enhance democratic control over the pace and direction of technological innovation, thereby counterbalancing the influence of multinational firms and militaries. In particular, ‘citizens assemblies’ should be empowered to debate the relative benefits and risks posed by FIR technologies (from synthetic biology to IoT, nanotechnology, and AI) and set mandates regarding investment levels and priorities, the direction of research, and the pace of deployment, while also having the right to ‘relinquish’ certain technological trajectories if their risks are perceived to outweigh the benefits.5 Overall, a ‘post-growth’ economy based on more democratized ownership of common wealth, reduced overall material-energetic throughput, decelerated and democratically controlled technological innovation, and prioritization of production for meeting essential human needs rather than profit (Hickel, 2019; Kallis, 2018; Raworth, 2017), has the potential to create a global political-economy that meets all human needs within planetary boundaries without shifting problems into the realms of biosecurity, cybersecurity, and state securitization. While the obstacles it confronts are of course formidable, the alternatives may be ecological collapse and civilizational breakdown (if the FIR fails to decouple economic growth from environmental impacts) or global techno-authoritarianism (if it succeeds).

#### The LIO is doomed---backlash and technology destroy the foundations of order

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This task was complicated by the Cold War, but “the free world” (as Americans then called the noncommunist countries) continued to develop along Wilsonian lines. Inevitable compromises, such as U.S. support for ruthless dictators and military rulers in many parts of the world, were seen as regrettable necessities imposed by the need to fight the much greater evil of Soviet communism. When the Berlin Wall fell, in 1989, it seemed that the opportunity for a Wilsonian world order had finally come. The former Soviet empire could be reconstructed along Wilsonian lines, and the West could embrace Wilsonian principles more consistently now that the Soviet threat had disappeared. Self-determination, the rule of law between and within countries, liberal economics, and the protection of human rights: the “new world order” that both the George H. W. Bush and the Clinton administrations worked to create was very much in the Wilsonian mold.

Today, however, the most important fact in world politics is that this noble effort has failed. The next stage in world history will not unfold along Wilsonian lines. The nations of the earth will continue to seek some kind of political order, because they must. And human rights activists and others will continue to work toward their goals. But the dream of a universal order, grounded in law, that secures peace between countries and democracy inside them will figure less and less in the work of world leaders.

To state this truth is not to welcome it. There are many advantages to a Wilsonian world order, even when that order is partial and incomplete. Many analysts, some associated with the presidential campaign of former U.S. Vice President Joe Biden, think they can put Humpty Dumpty together again. One wishes them every success. But the centrifugal forces tearing at the Wilsonian order are so deeply rooted in the nature of the contemporary world that not even the end of the Trump era can revive the Wilsonian project in its most ambitious form. Although Wilsonian ideals will not disappear and there will be a continuing influence of Wilsonian thought on U.S. foreign policies, the halcyon days of the post–Cold War era, when American presidents organized their foreign policies around the principles of liberal internationalism, are unlikely to return anytime soon.

THE ORDER OF THINGS

Wilsonianism is only one version of a rules-based world order among many. The Westphalian system, which emerged in Europe after the Thirty Years’ War ended in 1648, and the Congress system, which arose in the wake of the Napoleonic Wars of the early nineteenth century, were both rules-based and even law-based; some of the foundational ideas of international law date from those eras. And the Holy Roman Empire—a transnational collection of territories that stretched from France into modern-day Poland and from Hamburg to Milan—was an international system that foreshadowed the European Union, with highly complex rules governing everything from trade to sovereign inheritance among princely houses.

As for human rights, by the early twentieth century, the pre-Wilsonian European system had been moving for a century in the direction of putting egregious violations of human rights onto the international agenda. Then, as now, it was chiefly weak countries whose oppressive behavior attracted the most attention. The genocidal murder of Ottoman Christian minorities at the hands of Ottoman troops and irregular forces in the late nineteenth and early twentieth centuries received substantially more attention than atrocities carried out around the same time by Russian forces against rebellious Muslim peoples in the Caucasus. No delegation of European powers came to Washington to discuss the treatment of Native Americans or to make representations concerning the status of African Americans. Nevertheless, the pre-Wilsonian European order had moved significantly in the direction of elevating human rights to the level of diplomacy.

Wilson, therefore, was not introducing the ideas of world order and human rights to a collection of previously anarchic states and unenlightened polities. Rather, his quest was to reform an existing international order whose defects had been conclusively demonstrated by the horrors of World War I. In the pre-Wilsonian order, established dynastic rulers were generally regarded as legitimate, and interventions such as the 1849 Russian invasion of Hungary, which restored Habsburg rule, were considered lawful. Except in the most glaring instances, states were more or less free to treat their citizens or subjects as they wished, and although governments were expected to observe the accepted principles of public international law, no supranational body was charged with the enforcement of these standards. The preservation of the balance of power was invoked as a goal to guide states; war, although regrettable, was seen as a legitimate element of the system. From Wilson’s standpoint, these were fatal flaws that made future conflagrations inevitable. To redress them, he sought to build an order in which states would accept enforceable legal restrictions on their behavior at home and their international conduct.

That never quite materialized, but until recent years, the U.S.-led postwar order resembled Wilson’s vision in important respects. And, it should be noted, that vision is not equally dead everywhere. Although Wilson was an American, his view of world order was first and foremost developed as a method for managing international politics in Europe, and it is in Europe where Wilson’s ideas have had their greatest success and where their prospects continue to look strongest. His ideas were treated with bitter and cynical contempt by most European statesmen when he first proposed them, but they later became the fundamental basis of the European order, enshrined in the laws and practices of the EU. Arguably, no ruler since Charlemagne has made as deep an impression on the European political order as the much-mocked Presbyterian from the Shenandoah Valley.

THE ARC OF HISTORY

Beyond Europe, the prospects for the Wilsonian order are bleak. The reasons behind its demise, however, are different from what many assume. Critics of the Wilsonian approach to foreign affairs often decry what they see as its idealism. In fact, as Wilson demonstrated during the negotiations over the Treaty of Versailles, he was perfectly capable of the most cynical realpolitik when it suited him. The real problem of Wilsonianism is not a naive faith in good intentions but a simplistic view of the historical process, especially when it comes to the impact of technological progress on human social order. Wilson’s problem was not that he was a prig but that he was a Whig.

Like early-twentieth-century progressives generally and many American intellectuals to this day, Wilson was a liberal determinist of the Anglo-Saxon school; he shared the optimism of what the scholar Herbert Butterfield called “the Whig historians,” the Victorian-era British thinkers who saw human history as a narrative of inexorable progress and betterment. Wilson believed that the so-called ordered liberty that characterized the Anglo-American countries had opened a path to permanent prosperity and peace. This belief represents a sort of Anglo-Saxon Hegelianism and holds that the mix of free markets, free government, and the rule of law that developed in the United Kingdom and the United States is inevitably transforming the rest of the world—and that as this process continues, the world will slowly and for the most part voluntarily converge on the values that made the Anglo-Saxon world as wealthy, attractive, and free as it has become.

Wilson was the devout son of a minister, deeply steeped in Calvinist teachings about predestination and the utter sovereignty of God, and he believed that the arc of progress was fated. The future would fulfill biblical prophecies of a coming millennium: a thousand-year reign of peace and prosperity before the final consummation of human existence, when a returning Christ would unite heaven and earth. (Today’s Wilsonians have given this determinism a secular twist: in their eyes, liberalism will rule the future and bring humanity to “the end of history” as a result of human nature rather than divine purpose.)

Wilson believed that the defeat of imperial Germany in World War I and the collapse of the Austro-Hungarian, Russian, and Ottoman empires meant that the hour of a universal League of Nations had finally arrived. In 1945, American leaders ranging from Eleanor Roosevelt and Henry Wallace on the left to Wendell Willkie and Thomas Dewey on the right would interpret the fall of Germany and Japan in much the same way. In the early 1990s, leading U.S. foreign policymakers and commentators saw the fall of the Soviet Union through the same deterministic prism: as a signal that the time had come for a truly global and truly liberal world order. On all three occasions, Wilsonian order builders seemed to be in sight of their goal. But each time, like Ulysses, they were blown off course by contrary winds.

TECHNICAL DIFFICULTIES

Today, those winds are gaining strength. Anyone hoping to reinvigorate the flagging Wilsonian project must contend with a number of obstacles. The most obvious is the return of ideology-fueled geopolitics. China, Russia, and a number of smaller powers aligned with them—Iran, for example—correctly see Wilsonian ideals as a deadly threat to their domestic arrangements. Earlier in the post–Cold War period, U.S. primacy was so thorough that those countries attempted to downplay or disguise their opposition to the prevailing pro-democracy consensus. Beginning in U.S. President Barack Obama’s second term, however, and continuing through the Trump era, they have become less inhibited. Seeing Wilsonianism as a cover for American and, to some degree, EU ambitions, Beijing and Moscow have grown increasingly bold about contesting Wilsonian ideas and initiatives inside international institutions such as the UN and on the ground in places from Syria to the South China Sea.

These powers’ opposition to the Wilsonian order is corrosive in several ways. It raises the risks and costs for Wilsonian powers to intervene in conflicts beyond their own borders. Consider, for example, how Iranian and Russian support for the Assad regime in Syria has helped prevent the United States and European countries from getting more directly involved in that country’s civil war. The presence of great powers in the anti-Wilsonian coalition also provides shelter and assistance to smaller powers that otherwise might not choose to resist the status quo. Finally, the membership of countries such as China and Russia in international institutions makes it more difficult for those institutions to operate in support of Wilsonian norms: take, for example, Chinese and Russian vetoes in the UN Security Council, the election of anti-Wilsonian representatives to various UN bodies, and the opposition by countries such as Hungary and Poland to EU measures intended to promote the rule of law.

Meanwhile, the torrent of technological innovation and change known as “the information revolution” creates obstacles for Wilsonian goals within countries and in the international system. The irony is that Wilsonians often believe that technological progress will make the world more governable and politics more rational—even if it also adds to the danger of war by making it so much more destructive. Wilson himself believed just that, as did the postwar order builders and the liberals who sought to extend the U.S.-led order after the Cold War. Each time, however, this faith in technological change was misplaced. As seen most recently with the rise of the Internet, although new technologies often contribute to the spread of liberal ideas and practices, they can also undermine democratic systems and aid authoritarian regimes.

Today, as new technologies disrupt entire industries, and as social media upends the news media and election campaigning, politics is becoming more turbulent and polarized in many countries. That makes the victory of populist and antiestablishment candidates from both the left and the right more likely in many places. It also makes it harder for national leaders to pursue the compromises that international cooperation inevitably requires and increases the chances that incoming governments will refuse to be bound by the acts of their predecessors.

The information revolution is destabilizing international life in other ways that make it harder for rules-based international institutions to cope. Take, for example, the issue of arms control, a central concern of Wilsonian foreign policy since World War I and one that grew even more important following the development of nuclear weapons. Wilsonians prioritize arms control not just because nuclear warfare could destroy the human race but also because, even if unused, nuclear weapons or their equivalent put the Wilsonian dream of a completely rules-based, law-bound international order out of reach. Weapons of mass destruction guarantee exactly the kind of state sovereignty that Wilsonians think is incompatible with humanity’s long-term security. One cannot easily stage a humanitarian intervention against a nuclear power.

The fight against proliferation has had its successes, and the spread of nuclear weapons has been delayed—but it has not stopped, and the fight is getting harder over time. In the 1940s, it took the world’s richest nation and a consortium of leading scientists to assemble the first nuclear weapon. Today, second- and third-rate scientific establishments in low-income countries can manage the feat. That does not mean that the fight against proliferation should be abandoned. It is merely a reminder that not all diseases have cures.

What is more, the technological progress that underlies the information revolution significantly exacerbates the problem of arms control. The development of cyberweapons and the potential of biological agents to inflict strategic damage on adversaries—graphically demonstrated by the COVID-19 pandemic—serve as warnings that new tools of warfare will be significantly more difficult to monitor or control than nuclear technology. Effective arms control in these fields may well not be possible. The science is changing too quickly, the research behind them is too hard to detect, and too many of the key technologies cannot be banned outright because they also have beneficial civilian applications.

In addition, economic incentives that did not exist in the Cold War are now pushing arms races in new fields. Nuclear weapons and long-range missile technology were extremely expensive and brought few benefits to the civilian economy. Biological and technological research, by contrast, are critical for any country or company that hopes to remain competitive in the twenty-first century. An uncontrollable, multipolar arms race across a range of cutting-edge technologies is on the horizon, and it will undercut hopes for a revived Wilsonian order.

IT’S NOT FOR EVERYBODY

One of the central assumptions behind the quest for a Wilsonian order is the belief that as countries develop, they become more similar to already developed countries and will eventually converge on the liberal capitalist model that shapes North America and western Europe. The Wilsonian project requires a high degree of convergence to succeed; the member states of a Wilsonian order must be democratic, and they must be willing and able to conduct their international relations within liberal multilateral institutions.

At least for the medium term, the belief in convergence can no longer be sustained. Today, China, India, Russia, and Turkey all seem less likely to converge on liberal democracy than they did in 1990. These countries and many others have developed economically and technologically not in order to become more like the West but rather to achieve a deeper independence from the West and to pursue civilizational and political goals of their own.

In truth, Wilsonianism is a particularly European solution to a particularly European set of problems. Since the fall of the Roman Empire, Europe has been divided into peer and near-peer competitors. War was the constant condition of Europe for much of its history, and Europe’s global dominance in the nineteenth century and early twentieth century can be attributed in no small part to the long contest for supremacy between France and the United Kingdom, which promoted developments in finance, state organization, industrial techniques, and the art of war that made European states fierce and ferocious competitors.

With the specter of great-power war constantly hanging over them, European states developed a more intricate system of diplomacy and international politics than did countries in other parts of the world. Well-developed international institutions and doctrines of legitimacy existed in Europe well before Wilson sailed across the Atlantic to pitch the League of Nations, which was in essence an upgraded version of preexisting European forms of international governance. Although it would take another devastating world war to ensure that Germany, as well as its Western neighbors, would adhere to the rules of a new system, Europe was already prepared for the establishment of a Wilsonian order.

But Europe’s experience has not been the global norm. Although China has been periodically invaded by nomads, and there were periods in its history when several independent Chinese states struggled for power, China has been a single entity for most of its history. The idea of a single legitimate state with no true international peers is as deeply embedded in the political culture of China as the idea of a multistate system grounded in mutual recognition is embedded in that of Europe. There have been clashes among Chinese, Japanese, and Koreans, but until the late nineteenth century, interstate conflict was rare.

In human history as a whole, enduring civilizational states seem more typical than the European pattern of rivalry among peer states. Early modern India was dominated by the Mughal Empire. Between the sixteenth century and the nineteenth century, the Ottoman and Persian Empires dominated what is now known as the Middle East. And the Incas and the Aztecs knew no true rivals in their regions. War seems universal or nearly so among human cultures, but the European pattern, in which an escalating cycle of war forced a mobilization and the development of technological, political, and bureaucratic resources to ensure the survival of the state, does not seem to have characterized international life in the rest of the world.

For states and peoples in much of the world, the problem of modern history that needed to be solved was not the recurrence of great-power conflict. The problem, instead, was figuring out how to drive European powers away, which involved a wrenching cultural and economic adjustment in order to harness natural and industrial resources. Europe’s internecine quarrels struck non-Europeans not as an existential civilizational challenge to be solved but as a welcome opportunity to achieve independence.

Postcolonial and non-Western states often joined international institutions as a way to recover and enhance their sovereignty, not to surrender it, and their chief interest in international law was to protect weak states from strong ones, not to limit the power of national leaders to consolidate their authority. Unlike their European counterparts, these states did not have formative political experiences of tyrannical regimes suppressing dissent and drafting helpless populations into the service of colonial conquest. Their experiences, instead, involved a humiliating consciousness of the inability of local authorities and elites to protect their subjects and citizens from the arrogant actions and decrees of foreign powers. After colonialism formally ended and nascent countries began to assert control over their new territories, the classic problems of governance in the postcolonial world remained weak states and compromised sovereignty.

Even within Europe, differences in historical experiences help explain varying levels of commitment to Wilsonian ideals. Countries such as France, Germany, Italy, and the Netherlands came to the EU understanding that they could meet their basic national goals only by pooling their sovereignty. For many former Warsaw Pact members, however, the motive for joining Western clubs such as the EU and NATO was to regain their lost sovereignty. They did not share the feelings of guilt and remorse over the colonial past—and, in Germany, over the Holocaust—that led many in western Europe to embrace the idea of a new approach to international affairs, and they felt no qualms about taking full advantage of the privileges of EU and NATO membership without feeling in any way bound by those organizations’ stated tenets, which many regarded as hypocritical boilerplate.

EXPERT TEXPERT

The recent rise of populist movements across the West has revealed another danger to the Wilsonian project. If the United States could elect Donald Trump as president in 2016, what might it do in the future? What might the electorates in other important countries do? And if the Wilsonian order has become so controversial in the West, what are its prospects in the rest of the world?

Wilson lived in an era when democratic governance faced problems that many feared were insurmountable. The Industrial Revolution had divided American society, creating unprecedented levels of inequality. Titanic corporations and trusts had acquired immense political power and were quite selfishly exploiting that power to resist all challenges to their economic interests. At that time, the richest man in the United States, John D. Rockefeller, had a fortune greater than the annual budget of the federal government. By contrast, in 2020, the wealthiest American, Jeff Bezos, had a net worth equal to about three percent of budgeted federal expenditures.

Yet from the standpoint of Wilson and his fellow progressives, the solution to these problems could not be simply to vest power in the voters. At the time, most Americans still had an eighth-grade education or less, and a wave of migration from Europe had filled the country’s burgeoning cities with millions of voters who could not speak English, were often illiterate, and routinely voted for corrupt urban machine politicians.

The progressives’ answer to this problem was to support the creation of an apolitical expert class of managers and administrators. The progressives sought to build an administrative state that would curb the excessive power of the rich and redress the moral and political deficiencies of the poor. (Prohibition was an important part of Wilson’s electoral program, and during World War I and afterward, he moved aggressively to arrest and in some cases deport socialists and other radicals.) Through measures such as improved education, strict limits on immigration, and eugenic birth-control policies, the progressives hoped to create better-educated and more responsible voters who would reliably support the technocratic state.

A century later, elements of this progressive thinking remain critical to Wilsonian governance in the United States and elsewhere, but public support is less readily forthcoming than in the past. The Internet and social media have undermined respect for all forms of expertise. Ordinary citizens today are significantly better educated and feel less need to rely on expert guidance. And events including the U.S. invasion of Iraq in 2003, the 2008 financial crisis, and the inept government responses during the 2020 pandemic have seriously reduced confidence in experts and technocrats, whom many people have come to see as forming a nefarious “deep state.”

International institutions face an even greater crisis of confidence. Voters skeptical of the value of technocratic rule by fellow citizens are even more skeptical of foreign technocrats with suspiciously cosmopolitan views. Just as the inhabitants of European colonial territories preferred home rule (even when badly administered) to rule by colonial civil servants (even when competent), many people in the West and in the postcolonial world are likely to reject even the best-intentioned plans of global institutions.

Meanwhile, in developed countries, problems such as the loss of manufacturing jobs, the stagnation or decline of wages, persistent poverty among minority groups, and the opioid epidemic have resisted technocratic solutions. And when it comes to international challenges such as climate change and mass migration, there is little evidence that the cumbersome institutions of global governance and the quarrelsome countries that run them will produce the kind of cheap, elegant solutions that could inspire public trust.

WHAT IT MEANS FOR BIDEN

For all these reasons, the movement away from the Wilsonian order is likely to continue, and world politics will increasingly be carried out along non-Wilsonian and in some cases even anti-Wilsonian lines. Institutions such as NATO, the UN, and the World Trade Organization may well survive (bureaucratic tenacity should never be discounted), but they will be less able and perhaps less willing to fulfill even their original purposes, much less take on new challenges. Meanwhile, the international order will increasingly be shaped by states that are on diverging paths. This does not mean an inevitable future of civilizational clashes, but it does mean that global institutions will have to accommodate a much wider range of views and values than they have in the past.

There is hope that many of the gains of the Wilsonian order can be preserved and perhaps in a few areas even extended. But fixating on past glories will not help develop the ideas and policies needed in an increasingly dangerous time. Non-Wilsonian orders have existed both in Europe and in other parts of the world in the past, and the nations of the world will likely need to draw on these examples as they seek to cobble together some kind of framework for stability and, if possible, peace under contemporary conditions.

For U.S. policymakers, the developing crisis of the Wilsonian order worldwide presents vexing problems that are likely to preoccupy presidential administrations for decades to come. One problem is that many career officials and powerful voices in Congress, civil society organizations, and the press deeply believe not only that a Wilsonian foreign policy is a good and useful thing for the United States but also that it is the only path to peace and security and even to the survival of civilization and humanity. They will continue to fight for their cause, conducting trench warfare inside the bureaucracy and employing congressional oversight powers and steady leaks to sympathetic press outlets to keep the flame alive.

Those factions will be hemmed in by the fact that any internationalist coalition in American foreign policy must rely to a significant degree on Wilsonian voters. But a generation of overreach and poor political judgment has significantly reduced the credibility of Wilsonian ideas among the American electorate. Neither President George W. Bush’s nation-building disaster in Iraq nor Obama’s humanitarian-intervention fiasco in Libya struck most Americans as successful, and there is little public enthusiasm for democracy building abroad.

#### Peer review consensus of 835 studies say success cherry picks data---no political will for innovation.

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

A strange sort of faith lies at the core of mainstream climate advocacy—a largely unexamined belief that the very system that got us into this mess is the one that will get us out of it. For a community putatively committed to scientific empiricism, this is an extraordinary conviction. Despite reams of increasingly apocalyptic research, and despite 25 years of largely fruitless international climate negotiations, carbon emissions have continued to rise, and temperatures along with them. We are at nearly 1.2 degrees Celsius of warming already—more than 2 degrees Fahrenheit over preindustrial averages—and three-tenths of a degree away from blowing the Paris accord’s aspiration to limit warming to a still-calamitous 1.5 degrees Celsius. Scientists now expect us to hit that threshold in about 10 years, and large swaths of the Arctic have been in actual flames for two summers running, but most governments with the option to do so are still feeding the beast that got us here.

Even with the grim opportunity presented by the Covid-19 pandemic, which slowed the economy so much that growth in fossil fuel production dropped an almost unprecedented 7 percent last year, governments—ours very much included—have so far dumped much more stimulus spending into high-carbon industries than into renewable energy. It’s as if our economic system, and the politics it breeds, will not allow us to diverge from the straight path to self-obliteration.

The faith nonetheless persists: The market will provide. It has not done so yet, but renewables are perhaps finally cheap enough—cheaper at last than conventional energy sources—that the transition is now inevitable. So the credo goes. The change that is coming will be largely technological: a bold new era of “green growth.” Modern societies erected on dirty coal and oil can be jacked up and shifted to cleaner forms of energy like an old house in need of a new foundation. Government may have a larger role in this transition than neoliberal dogma has recently allowed, but its primary task will still be to encourage innovation and feed the markets by shepherding the resulting growth.

It is no coincidence that some version of this faith, so all-pervasive now that it does not register as a piety, has been reshaping the planet for almost precisely as long as fossil energy—first coal, then oil—has been altering the atmosphere. Capitalism is guided by a carbon creed, an ecstatic vision of a market that chugs along eternally, needing only new inputs—the earth itself, commodified as minerals, or water, housing, health care, or almost any living thing—to spew out wealth that can be shoveled back into the machine, converting more and more of the biosphere into zeros in a digital account: more fleshless, magical money that can be invested once again. If appetites are bottomless, and apparently they are, shouldn’t growth be endless too?

The market’s grip on the political imagination so effectively blinds us to alternatives that we are unable fully to grasp that this is the basic script that the new administration is following. Even the Green New Deal does not substantively diverge from it. The climate crisis, an existential threat to planetary life, must be sold to Wall Street and the public at large as a growth opportunity. On January 31, John Kerry, acting as Biden’s new climate envoy, enthused to CNN’s Fareed Zakaria about “literally millions of jobs” that would soon be created, about all the “new products coming online,” and about oil companies’ newfound passion for “carbon capture and storage and so forth.” The private sector, he said, “has already made the decision that there is money to be made here, that’s capitalism, and they are investing in that future.” If that makes you nervous, it shouldn’t, Kerry insisted. The changes ahead would be like the analog-to-digital shift of the 1990s, only better: “the important point, Fareed, for people to really focus on is it’s a very exciting economic transition.”

If Kerry struck a cheerier tone than that of the doomsaying consensus in the scientific community, it wasn’t just a question of polishing a turd. “Green growth” is mainstream climate discourse. A “green transition” that does not significantly alter existing economic structures—or their vast inequities—is still, for most climate advocates, the only imaginable way forward. Kerry was speaking a made-for-TV version of the sole language available to him—one that in its most basic assumptions excludes the possibility of fundamental social transformation, and of any heresy that casts doubt on the Great God Growth. The one thing all those thousands of scientists agree on is our only hope—that the economic structures that mediate our relation to the planet must be profoundly altered—is the one thing that Kerry and Biden are quite careful not to consider at all.

In climate policy jargon, the crucial concept is “decoupling.” The notion lies deep in the hidden heart of the “sustainable development goals” held dear by international bodies such as the United Nations and the World Bank: Economic growth can be safely divorced from the ecological damage that it has heretofore almost universally wreaked. If the train of capital appears to be hurtling us toward the abyss, we can cut the engine loose and cruise someplace more comfortable: same train, same speed, different destination. Like millions of clean-tech jobs and a crisis-induced transition magically unlocking unimaginable wealth, it is an attractive and reassuring idea. The only problem is that there is next to no evidence that anything analogous has ever occurred, or that it is likely to occur in the future.

Examples of successful decoupling tend to involve shifts in the location rather than the nature of industrial production: Rich countries green their economies by offshoring the manufacture of the goods they consume to China and countries in the global south, which they can then chastise for their lax emissions standards. But Earth’s atmosphere is not divided by national boundaries. Greenhouse gases cause the same degree of global warming no matter where they are produced, and to the extent that this kind of decoupling is a meaningful measure of anything, it is only of the colonial relations that still set the terms for the shell game of global capital.

What policy wonks call “absolute decoupling”—the only kind that would do the climate any good—turns out to be a fantasy akin to a perpetual motion machine, a chimera of growth unhindered by material constraints. One recent analysis of 835 peer-reviewed articles on the subject found that the kind of massive and speedy reductions in emissions that would be necessary to halt global warming “cannot be achieved through observed decoupling rates.” The mechanism on which mainstream climate policy is betting the future of the species, and on which the possibility of green growth rests, appears to be a fiction.

This fiction is nonetheless fundamental to the very math used by international climate institutions. In 2018, the Intergovernmental Panel on Climate Change’s benchmark Special Report on Global Warming of 1.5oC—which announced in no uncertain terms that global emissions must be decreased by nearly half by 2030 and reach net zero by 2050 to avoid cataclysm at an almost unthinkable scale—set out a number of possible scenarios for policymakers to consider. It relied on algorithmic models linking greenhouse gas emissions and their climate impacts to various socioeconomic “pathways.” Whatever other variables they accounted for, though, all of the scenarios envisioned by the IPCC assumed the continuation of economic growth comparable to the past half-century’s. Even as they acknowledged levels of atmospheric carbon unseen in the last three million years, they were unable to conceive of an economy that does not perpetually expand. Fredric Jameson’s oft-cited dictum that it is easier to imagine the end of the world than the end of capitalism was baked into the actual modeling.

At the same time, all but one of the ­IPCC’s scenarios that envision us successfully limiting warming to 1.5 degrees Celsius rely on the use of technology to remove carbon from the atmosphere after the fact. (The one exception involves converting an area more than half the size of the United States to forest. None of the scenarios imagines that we can reach the 1.5 degrees Celsius target by cutting emissions alone.) But the technology in question is at this point largely speculative. “No proposed technology is close to deployment at scale,” the report’s authors concede, and “there is substantial uncertainty” about possible “adverse effects” on the environment. The international body, in other words, is more willing to gamble on potentially destructive technologies that do not currently exist than to even run the math on a more substantive economic transformation.

A version of this same wager animates the Biden climate plan, which, as Canada, the European Union, the U.K., and South Korea all have, commits to “net-zero emissions no later than 2050.” (China plans to reach the same goal by 2060.) This sounds like great news, and is without doubt worlds better than the status quo ante of no ambitions at all. But “net zero” is a slippery notion. It does not mean zero at all. To avoid exceeding 1.5 degrees Celsius of warming, emissions need to fall 7.6 percent every year for the next 10 years. Even with the pandemic-induced slowdown, global emissions shrank only 6.4 percent in 2020. Since, as Biden reassured a nervous oil industry during the campaign, “We’re not getting rid of fossil fuels for a long time,” net-zero calculations assume some degree of “overshoot”—i.e., they stipulate that we’re not going to be able to cut emissions fast enough, and that we’ll therefore have to rely on those same untested carbon removal technologies to eventually bring us to zero.

But a planet is not a balance sheet. The climate has tipping points—the collapse of the Antarctic and Greenland ice sheets and the Himalayan glaciers, the deterioration of Atlantic Ocean currents, the melting of the permafrost, the transition of the Amazon from rain forest to savannah. We are perilously close to hitting some of them already: In February, 31 people were killed and 165 went missing when a chunk of a Himalayan glacier broke off, releasing an explosive burst of meltwater and debris. In the most nightmarish scenario, which could be tripped with less than 2 degrees Celsius (3.6 degrees Fahrenheit) of warming, those tipping points could begin to trigger one another and cascade, locking us in, as one widely cited study put it, to “conditions that would be inhospitable to current human societies and to many other contemporary species.” Without major emissions cuts, we may reach 2 degrees Celsius of warming before 2050.

That’s a heavy risk to bet against, but there it is, pulsing away inside the net-zero promises that not only politicians but corporate boards have been proudly rolling out. Over the last two years, more and more corporations in fossil fuel–intensive industries—BP, Shell, Maersk, GM, Ford, Volkswagen, at least a dozen major airlines—have made similar pledges. Shell’s plan alone would require tree planting over an area nearly the size of Brazil. By the estimate of the NGO ActionAid, “there is simply not enough available land on the planet to accommodate all of the combined corporate and government ‘net zero’ plans” for offsets and carbon-sinking tree plantations. To save this planet, it appears we’ll need another one. This is what currently counts as pragmatism.

#### Literature consensus disagrees

Hausknost 19—(Assistant Professor at the Institute for Social Change and Sustainability at WU, Vienna University of Economics and Business ). 11-21-19. Daniel Hausknost. “Tackling the political economy of transformative change,” <https://www.cusp.ac.uk/themes/p/blog-dh-transformative-change/>.

Myth number one is the widespread belief in the feasibility of an absolute long-term decoupling of global environmental pressures from economic activity in a growth-oriented economy. It’s the myth of green growth. Decoupling an economy that is addicted to growth from its material and energetic base is impossible. I am part of a larger team of researchers that is currently undertaking a systematic review of the empirical evidence of absolute decoupling around the world. We assessed more than 800 publications from the past 20 years and found no evidence of the possibility of long-term and substantial absolute decoupling within the existing economic model. Those instances of decoupling that can be observed (like the UK or Germany in past years) result mainly from deindustrialisation and the outsourcing of energy-intensive industrial production to other countries. However, if we take the consumption of goods and services into account, we come to realise that absolute decoupling is not happening—at least not at a significant and meaningful level. Decouple we must, however, but this will arguably require a politics of sufficiency to complement efficiency, meaning that the absolute levels of consumption at least in the rich countries must decrease quite considerably. The outlook on a politics of sufficiency and on a degrowing consumption

#### There’s a paradigm shift now towards the alt.

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Change from below Many analysts are taking notice of this paradigm change. Paul McCulley, a business professor at Georgetown, told the New York Times earlier this week, “Having the tools of economic stabilization work a whole lot more through the fiscal channel and a whole lot less through the monetary channel is a profound, pro-democracy policy mix.” In plainer language: It’s better to have elected representatives rather than unelected bankers making the call on how public money is spent. Some media commentators are seeing the shift, but they’re missing the real reasons for why it’s happening. Times opinion writer Neil Irwin, for instance, characterizes it as a battle between “pointy-headed technocrats” and lawmakers, or as the headline of his article earlier this week put it, “Move over, nerds. It’s the politicians’ economy now.” Without the insights that come from a class analysis of the situation, Irwin and other commentators in the bourgeois press continue to look only at the differences among those at the top of society to explain social change. The truth, however, is that the pressure now being applied to neoliberal ideology is the result of class struggle from below. Since the last recession, working-class action has been steadily building and gaining strength. The first sparks came in the Occupy Wall Street movement that emerged in the wake of the financial crisis. There were the two Bernie Sanders campaigns for president as well as that of Elizabeth Warren, which inserted explicitly social democratic demands like Medicare for All into public conversation. The trade union movement has begun to reverse its decades-long decline, with new organizing efforts like the campaign by Alabama Amazon workers showing that more and more workers are looking to collective action as the way to improve their lives. The Black Lives Matter national uprising, with its demand to defund policing and militarization and redirect funds toward human needs, has melded together the fights to end racism and economic inequality. Opinion polls have shown interest in the ideas of socialism gaining steam for several years already, showing up also in the fact that left-wing organizations like Democratic Socialists of America and the Communist Party USA have seen explosive growth. The 2018 and 2020 elections were further proof, as the caucus of progressive legislators swelled. Bold women of color leaders like Reps. Alexandria Ocasio-Cortez, Ayanna Pressley, Ilhan Omar, and Pramila Jayapal now lead the charge in Washington on everything from the Green New Deal to the Fight for $15 and more. The mass death and destruction experienced in the past year because of coronavirus have only accelerated the trend of people questioning the status quo and looking for alternatives. The pandemic has accelerated class struggle trends that were already becoming apparent. Increasingly, millions are questioning capitalism, as shown by this message spray-painted onto a wall in Toronto. | C.J. Atkins / People’s World All this simmering of organized working-class activity and political growth—driven by the material conditions workers and oppressed people find themselves living in—is having an impact at the national level of policy and debate. In Marxist terms, changes in the economic foundation of society are affecting mass consciousness and therefore prodding change in the superstructure—the legal, political, and philosophical ideas of our times. Old ideologies like neoliberal capitalism are under pressure from new ones arising out of class struggle. Those new ideas are not yet fully formed, though, and the forces pushing them are not yet strong enough to assert their power at all times. The new is still in conflict with the old, and the outcomes are uneven. Allies (like politicians) will at times waver. Victories will be real, but incomplete (like the dropping of the $15 minimum wage from the ARA). Defeats are not unavoidable. As Frederick Engels wrote, “History makes itself in such a way that the final result always arises from conflicts…there are innumerable intersecting forces.” So the American Rescue Plan, despite whatever we didn’t get out of it, is a big win for the working class. The people have been demanding a change in how our economy operates and whom it benefits. Organization and unity are making it happen—the 2020 election was proof of that as well.

#### Global buy in is coming---appeals to feasibility are propaganda.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## FTC DA

### UQ---2NC

#### Recent streamlining is improving resource allocation

Lindsay Kryzak 21, FTC Office of Public Affairs, “FTC Authorizes Investigations into Key Enforcement Priorities,” FTC, 7/1/21, https://www.ftc.gov/news-events/press-releases/2021/07/ftc-authorizes-investigations-key-enforcement-priorities

The Federal Trade Commission voted to approve a series of resolutions authorizing investigations into key law enforcement priorities for the next decade. Specifically, the resolutions direct agency staff to use “compulsory process,” such as subpoenas, to investigate seven specific enforcement priorities. Priority targets include repeat offenders; technology companies and digital platforms; and healthcare businesses such as pharmaceutical companies, pharmacy benefits managers, and hospitals. The agency is also prioritizing investigations into harms against workers and small businesses, along with harms related to the COVID-19 pandemic. Finally, at a time when merger filings are surging, the agency is ramping up enforcement against illegal mergers, both proposed and consummated.

In remarks delivered during the open meeting, Chair Lina M. Khan noted that the resolutions approved today represent an important step in rethinking the work of the FTC. Instituting new cross-agency, investigatory resolutions will promote a more holistic use of the FTC’s enforcement authorities to stop bad actors across markets.

“The reforms are designed to ensure that our staff can comprehensively investigate unlawful business practices across the economy,” said Chair Khan. “They will help relieve unnecessary burdens on staff and cut back delays and ‘red tape’ bureaucracy when it comes to advancing our Commission’s law enforcement priorities. This is particularly important given that we are in the midst of a massive merger boom.”

Compulsory process refers to the issuance of demands for documents and testimony, through the use of civil investigative demands and subpoena. The FTC Act authorizes the Commission to use compulsory process in its investigations. Compulsory process requires the recipient to produce information, and these orders are enforceable by courts. The Commission has routinely adopted compulsory process resolutions on a wide range of topics. Many of these resolutions cover specific industries, like the automobile industry or the postsecondary education industry, while others involve business practices that cut across sectors, like privacy or the targeting of older Americans.

The actions taken today will broaden the ability for FTC investigators and prosecutors to obtain evidence in critical investigations on key areas where the FTC’s work can make the most impact. Each omnibus authorizes investigations into any competition or consumer protection conduct violations under the FTC Act. The omnibuses will also allow staff to use compulsory process to investigate both proposed mergers and consummated mergers. Individual Commissioners will continue to be required to sign compulsory process documents prior to issuance. With these in place, the FTC can better utilize its limited resources and move forward in earnest to fix the market structures that allow the worst predators to proliferate.

#### BUT, it’s narrow

Cat Zakrzewski 21, technology policy reporter, tracking Washington's efforts to regulate Silicon Valley companies, “Will Lina Khan bring a reckoning to Silicon Valley? She’ll face major challenges,” Washington Post, 6/17/21, https://www.washingtonpost.com/technology/2021/06/17/lina-khan-ftc-actions/

It seems likely the agency will see its funding grow under Khan, especially after the Senate passed legislation that would overhaul merger filing fees to provide more financing to antitrust enforcers. House lawmakers have introduced a similar proposal, which is less controversial than some of the other tech competition bills.

M&A action doesn’t thump---link uniqueness is NOT about M&A lawsuits but actual litigation that EXPANDS THE SCOPE of antitrust which the aff definitely does

#### They’ve repealed burdensome provisions to streamline the process of approving M&A.

Betsy Lordan 21, FTC Office of Public Affairs, “FTC Rescinds 1995 Policy Statement that Limited the Agency’s Ability to Deter Problematic Mergers,” FTC, 7/21/21, https://www.ftc.gov/news-events/press-releases/2021/07/ftc-rescinds-1995-policy-statement-limited-agencys-ability-deter

The Federal Trade Commission voted in an open Commission meeting to rescind a 1995 policy statement that made it more difficult and burdensome to deter problematic mergers and acquisitions. The 1995 Policy Statement on Prior Approval and Prior Notice Provisions ended the Commission’s longstanding practice of requiring parties that proposed unlawful mergers to receive prior approval and give prior notice for future transactions. By rescinding this policy statement, the FTC regains a valuable law enforcement tool.

Prior to 1995, the Commission required all companies that had violated the law in a previous merger to obtain prior approval by the FTC for any future transaction in at least the same product and geographic market for which a violation was alleged. In 1995, the Commission decided to do away with the requirement, based on the presumption that the Hart-Scott-Rodino premerger notification requirements would suffice. The resulting policy statement required prior approval and prior notice provisions only when there was a “credible risk” of an unlawful merger, with no regard for market conditions or a company’s prior actions.

Since the 1995 Policy Statement was implemented, the Commission has been forced to re-review the same transaction on numerous occasions at considerable expense. The FTC twice litigated (and won) legal challenges to Staples’ acquisition of Office Depot. Other industries involving FTC re-review of the same deal include gasoline retailing and wholesaling, gasoline import terminaling, hot oil used to process aluminum, and industrial chemicals. Just last week parties to a transaction involving the same pipelines in Utah abandoned a transaction after a lengthy Commission review, where the Commission had previously rejected the same combination.

“Since the FTC substantially reduced using these prior approval provisions, the agency has encountered numerous examples of companies repeatedly proposing the same or similar deals in the same market, despite the fact that the Commission had earlier determined that those deals were problematic. Companies have also in several cases sought to buy back assets that the Commission ordered those same companies to divest,” said FTC Chair Lina M. Khan during an open Commission meeting. “Without a prior approval provision, the Commission must initiate a whole new investigation and then go into court to block the deal anew. This additional burden drains the already strapped resources of the Commission.”

The FTC is significantly under-resourced and its staff count remains roughly 50 percent less than it was in 1980, at a time when the economy was many times smaller in size than it is now. Today, as the Commission is handling a surge in merger filings, reversing the misconceived 1995 policy will stop repeat offenders – and the illegal mergers they propose that siphon resources and staff – while preserving competition in the markets.

BUT the AFF clearly wrecks FTC enforcement because it opens them up to an entirely new sector to enforce against

#### They’re firmly committed not to push statutory limits

Rogers et al. 21, Cathy Anne McMorris Rodgers is an American politician who is the U.S. Representative for Washington's 5th congressional district; Janice Danoff Schakowsky is an American politician who has served as the U.S. Representative from Illinois's 9th congressional district since 1999; Lori Ann Loureiro Trahan is an American businesswoman and politician who serves as the U.S. Representative for Massachusetts's 3rd congressional district; Lina Khan is Chair of the FTC; Rebecca Slaughter is Commissioner at the FTC, “Transforming the FTC: Legislation to Modernize Consumer Protection,” Committee on Energy and Commerce, 6/28/21, https://energycommerce.house.gov/committee-activity/hearings/hearing-on-transforming-the-ftc-legislation-to-modernize-consumer

Cathy Anne McMorris Rogers (4:00:11): I look forward to further conversations with you because I am concerned about rumors of the FTC acting outside of Congress and issuing a rule on privacy. And with that, I'll yield back.

Jan Schakowsky (4:00:25): Congresswoman Trahan. It's your five minutes.

Lori Trahan (4:00:32): Thank you Madam Chair, and Chair Khan, and fellow commissioners, thank you for your patience and for being here today discuss how this essential agency can better protect our consumers. President Biden's most recent executive order promoting competition in the American economy encouraged the commission to exercise the FTC's statutory rulemaking authority in regards to, and I quote, unfair data collection and surveillance practices that may damage competition, consumer autonomy, and consumer privacy. Now, in October 2020, Google Ads updated its policy to restrict the serving of high fat sugar, salt, food, and/or non alcoholic beverages advertising for minors under 18 in the United Kingdom, and in the European Union, but has refused to make similar changes here in the United States. A recent policy change by Facebook is a step in the right direction, but it's far from perfect when you consider that a May 2021 study by the Tech Transparency Project found that Facebook allows advertisers to target ads for electronic cigarettes, pill parties, and extreme weight loss product products to children as young as 13 across the US. Plainly, Facebook and Google are using troves of personal data belonging to teens and adults to target harmful advertisements in ways that are not transparent to users. So Chair Khan, would you consider these examples of the types of surveillance practices that may damage consumer autonomy and consumer privacy?

Lina Khan (4:02:05): Absolutely, Congresswoman.

Lori Trahan (4:02:06): Thank you for that. And Commissioner Slaughter. If the commission were to begin rulemaking today to protect consumers, including our children, from surveillance advertising, what would be the process under the Commission's existing Mag-Moss authority? And would the commission face difficulties? If you could speak to that it would be great.

Rebecca Kelly Slaughter (4:02:30): Thank you, Congressman. It's a great question. And I want to start by responding to suggestion from the ranking member of the committee that the Commission might act without Congress or outside of congressionally delegated authority. I want to be very clear: the commission cannot, should not, and will not, with my support, act outside of congressionally delegated authority. But we absolutely should look at the authority Congress has delegated to us, and it has specifically delegated to us rulemaking authority under Section 18 of the FTC Act, which is referred to as Mag-Moss, to promulgate rules to address unfair and deceptive acts or practices that are prevalent in interstate commerce. And so data abuses could fall very much into that category. Rulemaking under Section 18, to answer your question briefly, looks like APA rulemaking, but with much, much more process. So we can't begin with a notice of proposed rulemaking - we have to begin with an advance notice of proposed rulemaking that asks questions about the issues that we will consider. We have to notify Congress before we do that. We have to do then in a notice of proposed rulemaking identify any issues of material fact that are disputed, and again, notify Congress. And if there are issues of material fact, the statute requires us to have an informal hearing to adjudicate them. So it is a very process-intensive statute that requires lots of, and provides opportunity, for lots of participation. It is absolutely burdensome to the commission to do it. I think it's worth it for us to try. But we should make no mistake that it would not be a quick or fast effort.

there’s no reason why any of these thumpers are in the area of FRAUD---i.e even if they win that FTC overstretch takes out our internal link bc the FTC still has resources to enforce fraud in the squo which is our argument---our evidence says that FTC FRAUD enforcement isn’t a question of resources but rather capabilities i.e. the ability to use rule 13b as a mechanism to prevent fraud which the AFF destroys

### 2NC---Link

#### Expand Link---‘Expanding the scope’ is unique and distinct from AFF empirics---it’s the riskiest move possible for competition bureaucrats.

David A. Hyman & William E. Kovacic 14, Hyman is H. Ross & Helen Workman Chair in Law and Professor of Medicine, University of Illinois, and former special Counsel at the Federal Trade Commission; Kovacic is Global Competition Professor of Law and Policy, The George Washington University Law School, “Can’t Anyone Here Play This Game - Judging the FTC’s Critics The FTC at 100: Centennial Commemorations and Proposals for Progress: Essays,” George Washington Law Review, vol. 83, no. 6, 2015/2014, pp. 1948–1978

3. Blindness to Program and Political Risk

The ABA Commission set out three basic guidelines for the FTC's future antitrust work:

(1) Forsake trivia in favor of economically significant matters;123

(2) Emphasize cases involving complex, unsettled questions of competition economics and law, and leave per se cases to the DOJ;124 and

(3) Replace voluntary commitments with binding, compulsory orders. 12 5

Each of these changes certainly sounds sensible, particularly when taken one at a time. After all, who could be against the forsaking of trivia? But, each change involved a shift from a safer law enforcement strategy to a riskier one. The pursuit of economically significant matters galvanizes tougher opposition in litigation and motivates firms to seek out legislative assistance in backing down the agency. Focusing on complex and unsettled areas of the law involves greater litigation risk (because the cases are on the edges of existing doctrine) and exposes the agency more broadly to claims that it is engaged in unprecedented enforcement or sheer adventurism. The pursuit of tougher remedies arouses a stronger defense by respondents and, again, increases efforts to enlist Congress to discipline the FTC.

Although the ABA Commission noted the importance of political support and a vigorous chairman who would "resist pressures from Congress, the Executive Branch, or the business community," 1 26 it paid almost no attention to the predictable consequences of having the FTC occupy the risk-heavy end of the spectrum of all possible enforcement matters. The political science literature before 1969 had emphasized the political dangers inherent in the Commission's expansive norms-creation mandate and its broad information-gathering and reporting powers.1 27 For example, Pendleton Herring's study in the mid-1930s about the political hazards facing economic regulatory bod-ies said the agency's mandate placed it in "a precarious position" from the start:

The parties coming within [the FTC's] jurisdiction were often very powerful. The more important the business, the wider its ramifications, and the more numerous its allies and subsidiaries, the closer it came within the commission's responsibility. To review the firms with which this agency has had official contacts, especially in its early years, is to go down the roster of big business in this country. Making political enemies was soon found to be an incident in the routine of administration. The discharging of official duties meant interfering with business and often "big business."128 Had it read and absorbed the teaching of the available political science literature, the ABA panel would have had to confront deeper, harder questions about the causes of the FTC's performance. The panel missed (or underestimated) the big issue of politics. Like many blue ribbon studies of government performance, the ABA Report was long on demands for bold action and short on practical suggestions about how to cope with the crushing political backlash that boldness can breed.129

B. The Posner Dissent

Posner argued that the FTC would not be able to deliver on the ABA Commission's ambitious agenda because the FTC's leaders and staff lacked the necessary incentives to do so. 130 In his view, FTC Commissioners deliberately avoided confrontation with powerful eco- nomic interests that could frustrate reappointment or deny the board member a suitable landing place in the private sector upon leaving the agency.131 Similarly, FTC staff saw little upside (and considerable downside) to being overly aggressive in enforcing the law.1a2

Posner's assessment was certainly plausible. Government service disproportionately attracts people who plan to stay, and keeping your head down is an excellent way of doing that. "Don't make waves" becomes the default strategy of the lifers, and those who are tempera-mentally unsuited to that approach either self-select out, or are ac- tively encouraged to depart. 33

But matters are not so simple. Regulators that create or adminis- ter a program that threatens major commercial interests can leave government and monetize their expertise by guiding firms through the regulatory shoals.1 34 The prosecution of big cases attracts media at- tention and raises the prominence of the officials who set them in mo- tion. This publicity often translates into attractive offers for post- government employment. Posner also overlooked the emergence of attractive career paths for aggressive enforcement officials outside the private sector. A reputation for toughness would prove to be an asset, not a barrier, for those aspiring to join university faculties, think tanks, or advocacy groups that wanted to add high visibility officials to their ranks.

III. SOME LESSONS AND A FEW MODEST SUGGESTIONS

People like morality tales. The conventional morality tale in- spired by the ABA Report goes like this: In 1969, the FTC had a long history of existence, but almost nothing else to recommend it.1" The ABA Report accurately diagnosed the problems and laid out a clear agenda for the FTC to redeem itself.136 The FTC followed the recom- mendations in the ABA Report, and the agency was saved. All hail the ABA Commission, and the wisdom of those who served onit.13

Of course, life is more complicated. Unambiguous morality tales are more common in children's books than in real life. 38 A close reading of the record indicates that the pre-1969 FTC was not as aw-ful, and the ABA Report was not as good, as the conventional wisdom would indicate.1 39 We consider the lessons that should be drawn and offer four "modest suggestions that may make a small difference" the next time we encounter a similar situation.140

A. Be Careful What You Demand (Or Wish For)

The ABA Commission wanted the FTC to be a fierce and aggressive enforcer/regulator, and it generated a detailed list of all the things the agency had to do to justify its continued existence.141 The FTC responded aggressively to the challenge-but in so doing, it became significantly overextended.

In other work, we consider a number of factors that appear to be associated with good agency performance.14 2 One of the most important factors is whether the agency has the capacity and capability to perform the tasks that it has been given (or for which it has assumed responsibility).143 An agency that is overextended will find itself engaged in a constant process of regulatory triage-meaning it is unlikely to do a good job on any of the tasks within its portfolio of responsibilities. It is one thing to launch a single bet-the-agency case and entirely another to launch a half-dozen of those cases and an equal number of significant rulemaking projects simultaneously-let alone staff each case and rulemaking project so as to maximize the likelihood of good outcomes across the entire portfolio.144

The ABA Commission set a high bar for the FTC to clear if it was to remain in business-and the FTC responded with the enforcement equivalent of building and launching an armada of 1,000 ships.145 Little thought was given by the ABA Commission (or by top FTC management) as to whether the agency was up to the task of waging the functional equivalent of multiple land wars in Asia. 146 In particular, the ABA Commission gave no attention to the time it would take the agency to build the highly skilled teams of professionals it would need to perform the ambitious agenda it had recommended. There should have been an express caution that building this capability would take time. Instead, the ABA Report's "one last chance" admonitionl47 led the FTC to take on a daunting agenda before it had the ability to deliver. This consequence arguably is one of the ABA Commission's most unfortunate legacies. The remarkable thing is that the FTC managed to do as well as it did-notwithstanding the Herculean list of labors handed to it by the ABA Commission.

B. Leadership Incentives Matter

Posner did not think the FTC leadership would ever be able to rouse itself from its stupor.14 8 He also could not envision a set of in- centives that would motivate the FTC to become an activist presence on the regulatory scene. 149 As detailed above, Posner's assessment on both of these issues was wrong.150

But, it does not follow that the FTC's leadership (or the leader- ship of any other agency) is subject to an optimal set of incentives. Agency leadership always faces a choice between consumption and investment-and the stakes are systematically skewed toward con- sumption (in the form of launching new high-profile cases) by the short duration of any given leader's tenure.'51 As one of us noted in another article, the case-centric approach to evaluating agency per- formance-which is what the ABA Commission effectively embraced and encouraged-has a critical vice:

It accords no credit to long-term capital investments. It gives decisive weight to the initiation of new cases. This incentive system can warp the judgment of incumbent political appoin- tees who typically serve terms of only a few years. The per- ceived imperative to create new cases can create a serious mismatch between commitments and capabilities, as the si- rens of credit-claiming beckon today's manager to overlook the costs that improvident case selection might impose on the agency in the future, well after the incumbent manager has departed. It is a common aphorism in Washington that agency leaders should begin by picking the low-hanging fruit.... What is missing in the lexicon of Washington poli- cymaking is an exhortation to plant the trees that, in future years, yield the fruit.1 52 [FOOTNOTE 152 BEGINS] 152 Kovacic,supra note 144, at 922; see also Kovacic, supra note 151, at 189 ("[A] short-term perspective may incline the manager to launch headline-grabbing initiatives with inadequate regard for the matter's underlying merits or the ultimate cost to the agency, in resources and reputation, in litigating the case. If the case goes badly, the manager responsible for the take-off rarely is held to account for the crash landing. He can hope the passage of time will dim memories of his involvement, he can blame intervening agents for their poor execution of his good idea, or he can shrug his shoulders and say he was making the best of the fundamentally bad situation that policymakers encounter in the nation's capital."); Timothy J. Muris, Principlesf or a Successful Competition Agency, 72 U. CHi. L. REV. 165, 166 (2005) ("An agency head garners great attention by beginning 'bold' initiatives and suing big companies. When the bill comes due for the hard work of turning initiatives into successful regulation and proving big cases in court, these agency heads are often gone from the public stage. Their successors are left either to trim excessive proposals or even to default, with possible damage to agency reputation. The departed agency heads, if anyone in the Washington establishment now cares about their views, can always blame failure on faulty implementation by their successors."). [FOOTNOTE 152 ENDS]

Thus, if anything, the ABA Commission's "do something" recommendations encouraged (and hyper-charged) precisely the wrong incentives.

C. Don't Forget About Politics

Perhaps the largest failing of the ABA Commission was its failure to anticipate the political risks associated with its recommendations. Academics and do-gooders will enthusiastically lecture all and sundry about how the government exists to promote the general public interest-but decades of research on political economy make it clear that there is not much of a constituency for that mission.153 Indeed, an agency that seeks to promote the general public interest is an agency without any constituency.1 54

Thus, the ABA Commission wound up and sent into battle an agency without any real constituency or political backing, to wage war against a large and politically powerful collection of firms in every sector of the economy. There is no question that the FTC was unlucky, in that many of its most enthusiastic supporters were being voted out of office at the same time the FTC was picking fights with everyone and their brother.155 But, luck aside, if you were trying to create a "coalition of the willing" determined to clip the wings of the FTC, you would be hard-pressed to pick a better strategy than the one selected by the ABA Commission.15 6

Although the members of the ABA Commission were politically connected insiders, they completely failed to anticipate the firestorm that would engulf the FTC as a direct result of the agency's adoption of the ABA Report's recommendations. 157 Had they been more insightful about the predictable consequences, they might have been considerably more measured and circumspect in their marching orders.158

#### Even without actual backlash---the fear of potential backlash causes the FTC to regulate conservatively, which triggers the impacts.

Kathleen Watson 16, researcher at New America's Open Technology Institute, “The Federal Trade Commission Doesn’t Need Congress’ “Disruption”,” New America, 8/18/16, https://www.newamerica.org/oti/blog/federal-trade-commission-doesnt-need-congress-disruption/

The FTC Robust Elderly Protections and Organizational Requirements to Track Scams (REPORTS) Act (H.R. 5098) would create more roadblocks for the FTC. This bill would require the FTC to submit a forward-looking report to Congress each December that outlines any policies the agency might implement, rulemakings it might issue, and non-regulatory guidelines it might develop over the next year, along with dates and timelines of these future actions. This bill would create a Congressional oversight regime of unprecedented magnitude, allowing Congress to act as a back-seat driver to the FTC and stall politically disfavored actions in their nascent state. If the REPORTS Act became law, the FTC may be less likely to take actions that would protect consumers for fear of retaliation from Congress. In such a case, Congress’ interference could harm the consumers and businesses that rely on the FTC to police unfair and deceptive market behaviors. This bill leaves too many questions unanswered regarding the ways it would be carried out and must be stopped.

#### \*Even if the plan itself doesn’t result in FTC overstretch, it greenlights the FTC to expand its enforcement activities into new areas in the future

Ty Perkins 21, reporter at Broadband Breakfast, “FTC Divided Over Increasing Agency Jurisdiction at Congressional Hearing,” Broadband Breakfast, 7/29/21, https://broadbandbreakfast.com/2021/07/ftc-divided-over-increasing-agency-jurisdiction-at-congressional-hearing/

Critics of Expanding FTC Authority

Earlier this month, the FTC held an open meeting of which Commissioner Noah Phillips was a critic. The FTC voted on several measures, including rescinding a rule that limited the agency’s enforcement powers, and allowed time for public comment after the vote had been taken. Phillips said he believes that allowing the public to comment after the vote has signaled a departure from public accountability.

“On July 1, without input from the public, we adopted rules to enable us to promulgate regulations with less objectivity, less oversight, and less public input,” Phillips said. “The Commission majority is reducing what it calls red-tape on the commission to impose more red-tape on American businesses—large and small.”

He added that regulating big technology companies, such as Facebook and Google, is work best suited for Congress, not an independent government agency with less democratic accountability.

“Well-crafted regulation can help consumers and businesses, but poor regulatory design can raise prices, stifle innovation, and reduce consumer choice,” Phillips said.

Phillips’ Republican counterpart on the Commission, Christine Wilson, joined in his critique, fearing that increasing the FTC’s jurisdiction could lead to FTC overreach in the future.

#### The link alone turns the case:

#### 1) IMPLEMENTATION---it guts the AFF at every stage

William E. Kovacic 15, Global Competition Professor of Law and Policy, George Washington University Law School and Non-executive Director, United Kingdom Competition and Markets Authority, “Creating a Respected Brand: How Regulatory Agencies Signal Quality Essay,” George Mason Law Review, vol. 22, no. 2, 2015/2014, pp. 237–258

One determinant of a government agency's effectiveness is its reputation, or "brand." Much like a commercial enterprise, an agency develops a brand that signals quality to various observers. A good reputation can help the agency recruit skilled personnel, gain deference from courts, build credibility with business managers, and build popular support that can yield larger budgets and enhancements to its powers. An agency with a strong brand stands a greater chance of being effective than one with a weak brand.

This Essay considers how branding can affect the performance of the Federal Trade Commission ("FTC") and other agencies responsible for economic regulation. It analyzes how investments in building a good brand enable the regulatory agency to signal quality to various observers- insiders such as agency staff and outsiders such as businesses, consumer groups, courts, and legislators. Part I of this Essay defines the concept of a brand for public agencies. Part II then discusses why an agency's brand can be important to its effectiveness and identifies what types of agency activi- ties either enhance or degrade an agency's brand.

The examination of agency branding has several purposes. One aim is to improve our understanding of how public agencies build a reputation, and to study the role of reputation in determining effectiveness. A closely related goal is to give public officials a better understanding of how they should approach the task of deciding what their agencies must do to pros- per.

A further aim is to underscore the impact of institutional design and managerial incentives on agency performance and to illuminate how design choices and incentive schemes influence the development of a well- respected, coherent agency brand. Various design choices-for example, whether to give the competition agency a single function or a multi-purpose substantive mandate, whether to govern the agency by a single executive or by a board, whether to integrate the tasks of prosecution and adjudication in a single body or to unbundle them among distinct entities-affect the capacity of the agency to enhance the quality of its brand. Incentives that give incumbent leaders reason to make investments in long-term agency capacity and quality have the same effects.

I. BRANDS AND PUBLIC INSTITUTIONS

Public institutions, such as competition or consumer protection agencies, build reputations or "brands" that the agency's own employees and external observers associate with the agency.' Brands perform two functions for the public agency. The first function is informational.2 A good brand conveys a good sense of what an agency does. It communicates, at least in a general way, the scope of the agency's responsibilities and the aims that motivate the agency in the exercise of its powers.

A brand also signals institutional quality. For an agency such as the FTC, the foundations for a good brand are sound substantive programs (e.g., cases, regulations, reports), sound procedures (e.g., meaningful dis- closure of information, rigorous testing of evidence, regular assessment of outcomes), strong capabilities (e.g., deep expertise in economics and law), and a healthy culture (e.g., thoughtfulness, integrity, courage, and a commitment to continuous improvement).' For several reasons, explained below, a strong brand is a valuable asset for a regulatory agency.

A. Deference from Judges

Courts form views about the quality of public agencies-especially if the same court reviews a number of agency decisions over time and develops a general sense of how well the agency functions.4 An agency with a good reputation is more likely to gain the benefit of doubt from a reviewing tribunal than an agency with a weak reputation.' Where judges exercise the discretion inherent in statutory interpretation, they are likely to account for, at least to some degree, the agency's reputation for doing strong substantive work and using sound methods to make policy.'

B. Deference from Legislators

A good brand can help the agency persuade legislators to approve gen- erous budgets and to provide desired expansions of the agency's authority.

Respect from legislators (and other budgetary gatekeepers) can yield needed increases in resources. Perceived improvements in the FTC's performance in the first half of the 1970s inspired Congress to boost the Commission's budget and powers dramatically.7

C. Deference from Other Public Regulators

A good brand can enhance the power of advocacy before other gov- ernment bodies-such as national ministries and local public authorities- that make regulatory decisions that affect the quality of competition. An agency with a reputation for extensive expertise is more likely to be seen as a valuable source of guidance than an agency believed to have little idea of what it is doing. This consideration is especially important to the FTC in seeking to fulfill the competition advocacy function embodied in the agen- cy's original charter and applied extensively during the Commission's his- tory.'

D. Respect from and Credibility with Non-Government Groups

A competition agency's effectiveness depends partly on the reputation it develops among various groups beyond the courts, legislatures, minis-tries, and other government policy making institutions. A good brand builds credibility with the general public, advocacy groups, universities, the media, professional societies, trade associations, and individual businesses.'

Among other effects, the agency's reputation within these groups can influence legislators' views about whether the agency deserves greater resources and more authority, or whether various aspects of an agency's work warrant closer congressional oversight."o The FTC's experience from the late 1970s through the early 1980s il- lustrates the importance of branding to an agency's effectiveness. In the late 1960s, two influential studies of the FTC concluded that the agency had performed poorly for most of its history." One blue-ribbon committee recommended that Congress should dismantle the FTC and allocate its functions to other government bodies if the agency did not undertake immediate, drastic reforms. 2 Congress endorsed this view, and the FTC responded with an ambitious program of competition and consumer protection initiatives."

Two problems accompanied the FTC's new agenda. First, the agency did not account for the political consequences of challenging a large and powerful collection of firms and entire commercial sectors through a mix of ambitious antitrust and consumer protection initiatives. The Commission's programs galvanized strong, bipartisan political opposition that would threaten its very existence by the end of the 1970s and into the early 1980s.1' Second, the agency experienced a severe mismatch between its program commitments and its capacity to deliver. Many high-profile initiatives suffered because the agency could not mobilize the top-quality talent to implement them successfully.

Well before Ronald Reagan became president in January 1981, the FTC's brand had disintegrated in the eyes of various significant external observers. In March 1978, the Washington Post-a key barometer of liberal political sensibilities-scorned the FTC for proposing to restrict television advertising directed toward children.'" A Post editorial called the proposal "a preposterous intervention that would turn the agency into a great national nanny."17 The ridicule from a left-of-center publication ordinarily disposed to favor, rather than oppose, regulatory intervention meant that it was open season on the FTC." In 1979, during legislative debates about measures to curb the FTC's powers, one prominent member of the House of Representatives called the agency "a king-sized cancer on our economy. . .. [A] rogue agency gone insane."" On the day before the 1980 presidential election, Vice President Walter Mondale attacked the FTC for pursuing a case that sought to break up the four leading U.S. cereal producers into smaller firms.20 Mondale informed a political rally in Battle Creek, Michigan (Kellogg's headquarters) that "it is inconceivable to me and to many independ- ent experts that divestiture would be pursued. Neither President Carter nor I would support such an action."2' Mondale added that, if reelected, he and Carter "certainly would" support legislation to bar the FTC from obtaining a divestiture remedy.22 In a number of instances, the courts also made statements that suggested a low regard for the agency's substantive analysis or its way of doing business.23

#### 2) AVOIDANCE---businesses will dodge illegitimate regs

Svirsky et al. 21, Larisa Svirsky, College of Public Health and Center for Bioethics, The Ohio State University; Dana Howard, College of Public Health and Center for Bioethics, The Ohio State University; Micah L. Berman, College of Public Health and Center for Bioethics, The Ohio State University, “E-Cigarettes and the Multiple Responsibilities of the FDA,” The American Journal of Bioethics, vol. 0, no. 0, Taylor & Francis, 04/19/2021, pp. 1–10

People, upon hearing guidance from the FDA, are not mere recipients of information from any source whatsoever. They are agents being advised by a federal institution purportedly responsible for helping to keep them safe and otherwise promote public health. This role the FDA plays as an advisor again weighs in favor of a cautious approach. When a government agency issues advice and then later reverses its position—even if those changes are justified by new scientific discoveries—it can undermine public trust over time.3 That is why the Office of the Surgeon General, starting with its first report on smoking and health in 1964, has been consistently conservative in its conclusions, sometimes to the frustration of public health advocates (U.S. Department of Health and Human Services 2014). The Surgeon General’s Reports are consequently seen as a trusted source, while, in contrast, the public has arguably “lost faith” in the federal government’s dietary guidelines, which have changed repeatedly over time in response to both evolving science and industry influence (National Academies of Sciences, Engineering, and Medicine 2017). The FDA is more highly trusted than other government agencies and public institutes in part because of its reputation (developed mainly outside of the tobacco regulatory context) for “citizen protection,” “vigilance against risks,” and “commitment to scientific principles of assessment.”4 (Carpenter 2010) A growing body of research establishes that such “organizational trust” is, in turn, “a key determinant of how well risk communications are processed and received by the public.”5 [FOOTNOTE 5 BEGINS] 5 An agency’s reputation for quality and reliability has important practical consequences. As former Federal Trade Commission Chairman William Kovacic writes, “A good reputation can help the agency recruit skilled personnel, gain deference from courts, build credibility with business managers, and build popular support that can yield larger budgets and enhancements to its powers.” (Kovacic 2015) All of these outcomes enhance an agency’s ability to fulfill its mission. [FOOTNOTE 5 ENDS] (Osman et al. 2018)

### A2: No Spillover

#### Doesn’t matter---their own card says that the FTC can enforce fraud which means the FTC is key

Spencer Weber Waller 05, Professor of Law and Director of the Institute for Consumer Antitrust Studies at the Loyola University Chicago School of Law, “In Search of Economic Justice: Considering Competition and Consumer Protection Law”, Loyola University Chicago Law Journal, 36 Loy. U. Chi. L.J. 631, Winter 2005, Lexis >Blucas

Despite this more comprehensive mission, the FTC is organized in a way that tends to emphasize the separation of these fields, rather than the common elements of the agency's mission. The FTC has a Bureau of Competition and a separate Bureau of Consumer Protection, with a Bureau of Economics to support the work of both endeavors. The Bureau of Competition ("BC") primarily engages in the investigation and enforcement of mergers and complex civil antitrust cases with a recent emphasis on intellectual property and health care issues. The Bureau of Consumer Protection ("BCP") primarily investigates and challenges outright fraudulent conduct. 9 The FTC website details recent BCP activity involving Internet sales, telemarketing, false health and fitness claims, identity theft and similar issues. 10 These are all very different issues from the day-to-day focus of the competition staff. This basic split is further mirrored in the Bureau of Economics ("BE"), where the staff tends to specialize in either competition or consumer protection. Any crossover of staff and cooperation occurs primarily in competition advocacy before legislatures or regulatory agencies, and not in case selection and investigation.

## Adv 1

### 1NR – Warming

#### U.S. action alone fails

I&I 21, Issues & Insights Editorial Board, “There’s Nothing The U.S. Can Do To Affect Global Temperature”, Issues & Insights, 9/7/21, https://issuesinsights.com/2021/09/07/theres-nothing-the-u-s-can-do-to-affect-global-temperature/

“We simulated the environmental impact of eliminating greenhouse gas emissions from the United States completely,” Dayaratna said in testimony.

“Simulation results indicate that if all carbon dioxide, methane, and nitrous oxide emissions were to be eliminated from the United States completely, the result in terms of temperature reductions would be less than 0.2 degrees Celsius, 0.03 degrees Celsius, and 0.02 degrees Celsius, respectively. These temperature reductions would also be accompanied by minuscule changes in sea level rise (less than 2-centimeter reduction).”

This isn’t hard to understand when it’s put next to the fact that more than half of the world’s human greenhouse gas emissions are produced by 25 cities, all but two of them in China, none of them in the U.S.

It’s truly asinine to believe that Washington and our state lawmakers can do anything about greenhouse gas emissions when China and India have been busy building hundreds of coal plants and that, as of last year, 350 coal-fired power plants were under construction worldwide. China – which, we must point out, produces most of the solar panels installed in the West in factories powered by that country’s “mountain” of coal – is not going to yield to John Kerry’s embarrassing begging that it cut emissions. Beijing will do only what it wishes.

### 1NC - Food Security

#### Food disputes are nonviolent.

Barrett 13, Deputy Dean and Dean of Academic Affairs of the College of Business, Stephen B. and Janice G. Ashley Professor of Applied Economics and Management, and an International Professor of Agriculture, all at the Charles H. Dyson School of Applied Economics and Management, as well as a Professor in the Department of Economics and a Fellow of the David R. Atkinson Center for a Sustainable Future, all at Cornell University. (Christopher B., “Food Security and Sociopolitical Stability,” 26 September 2013, Google Books)

The simplest definition of sociopolitical stability is the absence of coordinated human activities that cause widespread disruption of daily life for local populations. Note that this excludes violent personal crimes, such as murder, and natural disasters. But this definition encompasses a continuum of activities that we can array according to the magnitude of their human consequences, from nonviolent riots or large-scale political protests and work stoppages at one end, through violent versions of such organized actions, to guerilla movements and terrorism by state and non-state actors, to outright civil war, and finally to interstate war at the other. Boulding (1978) defined peace as the absence of war and emphasized that peace does not require the resolution of all conflicts within or among nations, merely that such conflict remain nonviolent. As used here and in the rest of this volume, stability is an even more Utopian state than mere peace. For example, many of the food riots of the past several years proved extremely disruptive to the populations affected—and threatening to governments—but did not turn violent, at least in the sense of causing deaths. We consider such events moments of instability, even though peace prevailed.

This sort of hierarchical ordering is instructive, as it underscores two fundamental points made directly or indirectly by multiple contributors to this volume. First, not all instability is bad. When peaceful, structured, political, legal, and economic conflict occurs where the probability of large-scale conflict is negligible, mobilization against state policy is not automatically negative. Indeed, nonviolent social protest movements can be important forces for productive change. Social movements often push states to adopt policies that ultimately enhance both food security and sociopolitical stability by offering some redress for longstanding structural grievances that might otherwise lead to violence, even war.

This leads directly to the second fundamental point: the greatest dangers come not from lower-level instability associated with protests, riots, and work stoppages, but rather from violence at scale, especially in the form of organized civil or interstate war. Preserving peace is far more important, in human, economic, and geostrategic terms, than is maintaining stability. Indeed, a certain level of nonviolent instability can help to secure a stable peace if it compels the state to take actions that preempt the intensification and spread of deeper structural grievances—actions it would not choose without pressure. Riots are dangerous to local populations primarily insofar as they enable an opposition to build larger, more durable coalitions for violent political struggle against a regime. State and private actions can defuse more threatening and dangerous guerilla movements, terrorism, and civil or interstate war. Underappreciation of the central place of preventive and responsive action in mediating the relationship between food security and sociopolitical stability is perhaps the greatest deficiency of recent debates, which tend to treat the sociopolitical risks of food insecurity as driven largely by exogenous forcing variables such as climate or global market prices.

### 1NR – Circumvention

#### Clarifying the scope and meaning of vague language doesn’t solve---courts ignore, Congress backs down, it’s already very clear.

Crane ‘21 [Daniel A Crane. Frederick Paul Furth, Sr. Professor of Law, University of Michigan. I am very grateful for many helpful comments from Tom Arthur, Jonathan Baker, Steve Calkins, Dale Collins, Eleanor Fox, Rebecca Haw, Hiba Hafiz, Jack Kirkwood, Bob Lande, Christopher Leslie, Alan Meese, Steve Ross, Danny Sokol, and other participants at the University of Florida Summer Antitrust Workshop. "ANTITRUST ANTITEXTUALISM." https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4952&context=ndlr]

This Article has shown that, historically, the judiciary has treated the antitrust statutes as broad delegations to the courts to create a pragmatic common law of competition, even when the statutes plainly said something more specifically prohibitory. What, then, are the strategies available to a reformist Congress seeking to rein in business power through remedial antitrust legislation?

The one strategy that does not seem especially promising is simply writing clearer statutes. The antitrust statutes that the courts wrote down in favor of big business did not suffer from a lack of clarity or, if they did, not in the textual implications the courts chose to ignore. Strikingly, the courts continue to insist that the antitrust statutes are indeterminate delegations of common-law power, even while admitting in candor that they have simply chosen to ignore the statutes’ plain meaning in favor of a common method of deciding antitrust cases. For instance, in Professional Engineers, Justice Stevens remarked for the Court that “the language of § 1 of the Sherman Act . . . cannot mean what it says” and therefore that Congress must not have intended “the text of the Sherman Act to delineate the full meaning of the statute or its application in concrete situations,” thus justifying the courts in shaping the “statute’s broad mandate by drawing on common-law tradition.”255 Given over a century’s tradition of interpreting antitrust statutes as invitations to continue a common-law process whatever else is suggested by the statute’s text, it is difficult to see how simply accumulating stern new language in new texts would lead to a different result.

#### Courts ignore the law---clarity, congressional intent, and precedent are all irrelevant

Crane 21 [Daniel A Crane. Frederick Paul Furth, Sr. Professor of Law, University of Michigan. I am very grateful for many helpful comments from Tom Arthur, Jonathan Baker, Steve Calkins, Dale Collins, Eleanor Fox, Rebecca Haw, Hiba Hafiz, Jack Kirkwood, Bob Lande, Christopher Leslie, Alan Meese, Steve Ross, Danny Sokol, and other participants at the University of Florida Summer Antitrust Workshop. "ANTITRUST ANTITEXTUALISM." https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4952&context=ndlr]

Judges and scholars frequently describe antitrust as a common-law system predicated on open-textured statutes, but that description fails to capture a historically persistent phenomenon: judicial disregard of the plain meaning of the statutory texts and manifest purposes of Congress. This pattern of judicial nullification is not evenly distributed: when the courts have deviated from the plain meaning or congressional purpose, they have uniformly done so to limit the reach of antitrust liability or curtail the labor exemption to the benefit of industrial interests. This phenomenon cannot be explained solely or even primarily as a tug-of-war between a progressive Congress and conservative courts. The judges responsible for these decisions were far from uniformly conservative, Congress has not mobilized to overturn the judicial precedents, nor, despite opportunities to do so, have the courts constitutionalized their holdings to prevent congressional overriding. Antitrust antitextualism is best understood as an implicit political arrangement in which Congress writes broad statutes expressing anti-bigness republican idealism, and then the courts read down the statutes pragmatically to accommodate competing demands for efficiency and industrial progress.

### 1NR – Solvency

#### Enforcement is impossible---clandestine techniques can’t be detected.

Treacy and Latham ’20 [Pat; Alex; 2020; Senior Partner, Bristows LLP; Trainee Solicitor, Bristows LLP; 602 European Competition Law Review; “Blockchain and competition law,” https://www.bristows.com/app/uploads/2021/01/2020.12-ECLR-Blockchain-and-competition-law.pdf]

Public open blockchains present a problem for law enforcement due to the evidentiary quality of the records held within them. In conventional record keeping, records have a physical signature and date and are placed in proximity to other records like them, this means that the perpetrator of an act is identified as soon as the practice is recognised. With blockchain determining the genuineness of the author, and therefore the legal entity to pursue, enforcement is challenging as there is no explicit and stable link between a transacting user and a real world legal entity. 48 There have been efforts to implement tracking services on large blockchains,49 however, asisthe case with the many digital technologies, clandestine techniques can often develop in concert or faster than the efforts to detect them.50 Furthermore, blockchain platforms cannot simply be closed or shut down as the decentralised nature of blockchain means that there is no central entity to target and therefore enforceable remedies are challenging.

#### Everyone is anonymous and you can’t turn it off – even if attribution is perfect, it solves nothing

Kapanazde 21 [Lika, Master of Laws, Comparative Private and International Law at New Vision University. "The Challenges of Blockchain Technology to Antitrust Law." https://openscience.ge/handle/1/2670]

Anticompetitive practices that violate antitrust laws are usually detected and then stopped and sanctioned by the public authorities. However, doing so in relation to the blockchain technology is tricky, as identities of the perpetrators are anonymous, it is impossible to determine the relevant jurisdiction and remedy the anticompetitive practices due to the immutability of the blockchain.

Antitrust authorities have no ability to detect anticompetitive practices as well as the identification of users who engage in those practices, due to the privacy and pseudonymity of the users.98 If new technologies develop, that enable tracking such practices and perpetrators by the public authorities, it would significantly affect the cornerstone “values” of the blockchain and change the nature of it. Therefore, it is highly unlikely, to implement such technologies on the blockchain. Besides, inherent nature of the blockchain creates a real barrier to antitrust enforcement authorities to remedy, delete or stop anticompetitive practices, since the network is distributed, and no one is in control, but at the same time everybody is, except for the authorities themselves.99 Even if authorities will have a power to track the practices and determine the identities of the perpetrators, they will not be able to stop such practices. Immutability of blockchain ensures, that platform will continue to function (as long as the people who interact with it pay the transaction fees charged by miners who support the blockchain) and there is no server to shut down the blockchain, even if authorities impose strict regulation or penalties on the original parties who developed or promoted such blockchain.100 In other words, if anticompetitive practices are implemented on a blockchain and public authorities detect them, authorities will not be able to stop it and blockchain will continue to perform the transactions.

#### Antitrust enforcement is impossible – geography, identification, and scope

Catalani & Tucker 18 [Christian Catalini: MIT Sloan School of Management, MIT Cryptoeconomics Lab and NBER (catalini@mit.edu). Catherine Tucker: MIT Sloan School of Management, MIT Cryptoeconomics Lab and NBER (cetucker@mit.edu). "Antitrust and Costless Verification: An Optimistic and a Pessimistic View of the Implications of Blockchain Technology." https://ide.mit.edu/sites/default/files/publications/SSRN-id3199453.pdf]

Given this optimism about the effects of blockchain technology on the need for antitrust enforcement, it may be surprising to think that blockchain may also pose huge difficulties for antitrust authorities should there ever need to be enforcement. In the same way the decentralized nature of blockchain technology allows for network effects to emerge without assigning market power to a platform operator, the absence of a central entity could constitute a challenge for antitrust. Intellectually and practically, antitrust enforcement is designed to tackle instances where market power has been centralized, and consequently has not been set up for cases where there are explicit rules designed to ensure decentralization.

Typically antitrust authorities try to stop entrenched firms from using their market power to harm consumer welfare; in parallel they also maintain guidelines for horizontal and vertical mergers, analyze proposed mergers and block actions that might allow merged firms to use their resulting market power to hurt consumer welfare. In both of these cases, there is a clear notion of a firm (or perhaps, in the case of a cartel, a consortium of firms) which can be the focus of an investigation, and which will be a target for potential fines and prosecution. Blockchain technology is different because it removes the need for a firm to manage the transactions that occur on a digital platform. Indeed, the entire premise of a permissionless blockchain-based platform is that it has merit because it is completely decentralized and does not need a single entity to sponsor it or any actual firm or third-party to support its operations. Whereas the market is nascent and currently no cryptocurrency or blockchain project has reached any meaningful market power, at scale some of the projects will have enough market share to influence prices and consumer welfare. If the suppliers of resources (e.g. miners in an ecosystem like Bitcoin, data storage providers in a decentralized storage network like Filecoin or Sia) use their control over key inputs to shape competition on a decentralized marketplace in their favor, it will be difficult for antitrust to intervene, as many of these suppliers could be small, hard to identify and geographically dispersed. Similar tensions have already materialized within the Bitcoin ecosystem between miners and the developers of consumer-facing applications (e.g. payments, digital wallets etc), since the two sides have conflicting incentives regarding how to scale the Bitcoin network to support more transactions per second.8

1NC - Warming

#### No internal link to warming AND there are massive alt causes – i.e. every other country that engages in blockchain

#### U.S. action alone fails

I&I 21, Issues & Insights Editorial Board, “There’s Nothing The U.S. Can Do To Affect Global Temperature”, Issues & Insights, 9/7/21, https://issuesinsights.com/2021/09/07/theres-nothing-the-u-s-can-do-to-affect-global-temperature/

“We simulated the environmental impact of eliminating greenhouse gas emissions from the United States completely,” Dayaratna said in testimony.

“Simulation results indicate that if all carbon dioxide, methane, and nitrous oxide emissions were to be eliminated from the United States completely, the result in terms of temperature reductions would be less than 0.2 degrees Celsius, 0.03 degrees Celsius, and 0.02 degrees Celsius, respectively. These temperature reductions would also be accompanied by minuscule changes in sea level rise (less than 2-centimeter reduction).”

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It’s truly asinine to believe that Washington and our state lawmakers can do anything about greenhouse gas emissions when China and India have been busy building hundreds of coal plants and that, as of last year, 350 coal-fired power plants were under construction worldwide. China – which, we must point out, produces most of the solar panels installed in the West in factories powered by that country’s “mountain” of coal – is not going to yield to John Kerry’s embarrassing begging that it cut emissions. Beijing will do only what it wishes.

## Adv 2

### A2: US-China War---2NC

#### Risk of military escalation is overblown.

Shifrinson 2/8/19 [Joshua Shifrinson is an assistant professor of international relations at Boston University. The ‘new Cold War’ with China is way overblown. Here’s why. February 8, 2019. https://www.washingtonpost.com/news/monkey-cage/wp/2019/02/08/there-isnt-a-new-cold-war-with-china-for-these-4-reasons/?noredirect=on&utm\_term=.f8ca8195c4e4]

Is a new Cold War looming — or already present — between the United States and China? Many analysts argue that a combination of geopolitics, ideology and competing visions of “global order” are driving the two countries toward emulating the Soviet-U.S. rivalry that dominated world politics from 1947 through 1990. But such concerns are overblown. Here are four big reasons why. 1. The historical backdrops of the two relationships are very different When the Cold War began, the U.S.-Soviet relationship was fragile and tenuous. Bilateral diplomatic relations were barely a decade old, U.S. intervention in the Russian Revolution was a recent memory, and the Soviet Union had called for the overthrow of capitalist governments into the 1940s. Despite their Grand Alliance against Nazi Germany, the two countries shared few meaningful diplomatic, economic or institutional links. In 2019, the situation between the United States and China is very different. Since the 1970s, diplomatic interactions, institutional ties and economic flows have all exploded. Although each side has criticized the other for domestic interference (such as U.S. demands for journalist access to Tibet and China’s espionage against U.S. corporations), these issues did not prevent cooperation on a host of other issues. Yes, there were tensions over the past decade, but these occurred against a generally cooperative backdrop. 2. Geography and powers’ nuclear postures suggest East Asia is more stable than Cold War-era Europe The Cold War was shaped by an intense arms race, nuclear posturing and crises, especially in continental Europe. Given Europe’s political geography, the United States feared a “bolt from the blue” attack would allow the Soviet Union to conquer the continent. Accordingly, the United States prepared to defend Europe with conventional forces, and to deter Soviet aggrandizement using nuclear weapons. Unsurprisingly, the Soviet Union also feared that the United States might attack and wanted to deter U.S. adventurism. Concerns that the other superpower might use force and that crises could quickly escalate colored Cold War politics. Today, the United States and China spend proportionally far less on their militaries than the United States and the Soviet Union did. Though an arms race may be emerging, U.S. and Chinese nuclear postures are not nearly as large or threatening: Arsenals remain far below the size and scope witnessed in the Cold War, and are kept at a lower state of alert. As for geography, East Asia is not primed for tensions akin to those in Cold War Europe. China can threaten to coerce its neighbors, but the water barriers separating China from most of Asia’s strategically important states make outright conquest significantly harder. Of course, as scholars such as Caitlin Talmadge and Avery Goldstein note, crises may still erupt, and each side may face pressures to escalate. Unlike the Cold War, however, U.S.-Chinese confrontations occur at sea with relatively limited forces and without clear territorial boundaries. This suggests there are countervailing factors that may give the two sides room to negotiate — and limit the speed with which a crisis unfolds.

#### It won’t occur accidentally either.

Thompson 17 – Timothy Heath, a senior international defense research analyst at the RAND Corporation. William R. Thompson, Political Science Professor at Indiana University. [U.S.-China Tensions Are Unlikely to Lead to War, https://www.rand.org/blog/2017/05/us-china-tensions-are-unlikely-to-lead-to-war.html]

Graham Allison's April 12 article, “How America and China Could Stumble to War,” explores how misperceptions and bureaucratic dysfunction could accelerate a militarized crisis involving the United States and China into an unwanted war. However, the article fails to persuade because it neglects the key political and geostrategic conditions that make war plausible in the first place. Without those conditions in place, the risk that a crisis could accidentally escalate into war becomes far lower. The U.S.-China relationship today may be trending towards greater tension, but the relative stability and overall low level of hostility make the prospect of an accidental escalation to war extremely unlikely.

In a series of scenarios centered around the South China Sea, Taiwan and the East China Sea, Allison explored how well-established flashpoints involving China and the United States and its allies could spiral into unwanted war. Allison’s article argues that given the context of strategic rivalry between a rising power and a status-quo power, organizational and bureaucratic misjudgments increase the likelihood of unintended escalation. According to Allison, “the underlying stress created by China’s disruptive rise creates conditions in which accidental, otherwise inconsequential events could trigger a large-scale conflict.” This argument appears persuasive on its surface, in no small part because it evokes insights from some of Allison’s groundbreaking work on the organizational pathologies that made the Cuban Missile Crisis so dangerous.

However, Allison ultimately fails to persuade because he fails to specify the political and strategic conditions that make war plausible in the first place. Allison’s analysis implies that the United States and China are in a situation analogous to that of the Soviet Union and the United States in the early 1960s. In the Cold War example, the two countries faced each other on a near-war footing and engaged in a bitter geostrategic and ideological struggle for supremacy. The two countries experienced a series of militarized crises and fought each other repeatedly through proxy wars. It was this broader context that made issues of misjudgment so dangerous in a crisis.

By contrast, the U.S.-China relationship today operates at a much lower level of hostility and threat. China and the United States may be experiencing an increase in tensions, but the two countries remain far from the bitter, acrimonious rivalry that defined the U.S.-Soviet relationship in the early 1960s. Neither Washington nor Beijing regards the other as its principal enemy. Today’s rivals may view each other warily as competitors and threats on some issues, but they also view each other as important trade partners and partners on some shared concerns, such as North Korea, as the recent summit between President Donald Trump and Chinese president Xi Jinping illustrated. The behavior of their respective militaries underscores the relatively restrained rivalry. The military competition between China and the United States may be growing, but it operates at a far lower level of intensity than the relentless arms racing that typified the U.S.-Soviet standoff. And unlike their Cold War counterparts, U.S. and Chinese militaries are not postured to fight each other in major wars. Moreover, polls show that the people of the two countries regard each other with mixed views—a considerable contrast from the hostile sentiment expressed by the U.S. and Soviet publics for each other. Lacking both preparations for major war and a constituency for conflict, leaders and bureaucracies in both countries have less incentive to misjudge crisis situations in favor of unwarranted escalation.

To the contrary, political leaders and bureaucracies currently face a strong incentive to find ways of defusing crises in a manner that avoids unwanted escalation. This inclination manifested itself in the EP-3 airplane collision off Hainan Island in 2001, and in subsequent incidents involving U.S. and Chinese ships and aircraft, such as the harassment of the USNS Impeccable in 2009. This does not mean that there is no risk, however. Indeed, the potential for a dangerous militarized crisis may be growing. Moreover, key political and geostrategic developments could shift the incentives for leaders in favor of more escalatory options in a crisis and thereby make Allison’s scenarios more plausible. Past precedents offer some insight into the types of developments that would most likely propel the U.S.-China relationship into a hostile, competitive one featuring an elevated risk of conflict.

The most important driver, as Allison recognizes, would be a growing parity between China and the United States as economic, technological and geostrategic leaders of the international system. The United States and China feature an increasing parity in the size of their economies, but the United States retains a considerable lead in virtually every other dimension of national power. The current U.S.-China rivalry is a regional one centered on the Asia-Pacific region, but it retains the considerable potential of escalating into a global, systemic competition down the road. A second important driver would be the mobilization of public opinion behind the view that the other country is a primary source of threat, thereby providing a stronger constituency for escalatory policies. A related development would be the formal designation by leaders in both capitals of the other country as a primary hostile threat and likely foe. These developments would most likely be fueled by a growing array of intractable disputes, and further accelerated by a serious militarized crisis. The cumulative effect would be the exacerbation of an antagonistic competitive rivalry, repeated and volatile militarized crisis, and heightened risk that any flashpoint could escalate rapidly to war—a relationship that would resemble the U.S.-Soviet relationship in the early 1960s.

Yet even if the relationship evolved towards a more hostile form of rivalry, unique features of the contemporary world suggest lessons drawn from the past may have limited applicability. Economic interdependence in the twenty-first century is much different and far more complex than in it was in the past. So is the lethality of weaponry available to the major powers. In the sixteenth century, armies fought with pikes, swords and primitive guns. In the twenty-first century, it is possible to eliminate all life on the planet in a full-bore nuclear exchange. These features likely affect the willingness of leaders to escalate in a crisis in a manner far differently than in past rivalries.

More broadly, Allison’s analysis about the “Thucydides Trap” may be criticized for exaggerating the risks of war. In his claims to identify a high propensity for war between “rising” and “ruling” countries, he fails to clarify those terms, and does not distinguish the more dangerous from the less volatile types of rivalries. Contests for supremacy over land regions, for example, have historically proven the most conflict-prone, while competition for supremacy over maritime regions has, by contrast, tended to be less lethal. Rivalries also wax and wane over time, with varying levels of risks of war. A more careful review of rivalries and their variety, duration and patterns of interaction suggests that although most wars involve rivalries, many rivals avoid going to war.