# Texas R4 Neg Doc

# 1NC vs Kentucky Blockchain Aff

## Off-Case

### 1

#### “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 of the private sector

#### Vote neg:

#### 1---limits and ground---the number of potential subsets is infinite---any industry, production, single company, individuals could be included, which undermines clash; only big affs have link uniqueness

#### 2---precision---has the intent to define, exclude, AND is in legislative context

### 2

#### ‘Prohibiting’ a practice requires per se illegality.

Lee Mendelsohn 6, Director at Edward Nathan, “KIPA Conduct Amounts to Price Fixing”, Business Day (South Africa), 6/12/2006, Lexis

The first step in any competition law analysis is to define the relevant market. There are two components to an analysis of the relevant market, namely the relevant product market and the geographic market.

The relevant product market consists of those products and services that operate as a competitive constraint on the behaviour of the suppliers of those products and/or services.

The relevant product market is determined by ascertaining whether a small but significant non-transient increase in pricing of the product in question would cause buyers to substitute the product with another product or would cause suppliers of other products to begin producing the product in question.

The relevant geographic market is determined by ascertaining whether a small but significant non-transient increase in pricing of the product in question would cause buyers to purchase the product from other geographic areas, alternatively suppliers of the product in other geographic areas to supply those products into the area in question.

For the purposes of this case study, we are instructed to accept that each medical speciality constitutes a relevant product market and that the relevant geographic market for each of them is Kleindorpie.

The Competition Act provides that "an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if … it involves … directly or indirectly fixing a purchase or selling price or any other trading condition".

An "agreement" is defined as including a contract, arrangement or understanding, whether or not legally enforceable. The term agreement is very widely defined. A "horizontal relationship" is defined as a "relationship between competitors".

The prohibition on the fixing of a purchase or selling price or any other trading condition is one of the so-called "per se" prohibitions which are included in our Competition Act. The prohibition is automatic and absolute and the fixing of prices or other trading condition cannot be justified on the basis of any technological, efficiency or other procompetitive gains that could outweigh the potential anticompetitive effect of the fixing of the price or trading condition. If the capitation plan of KIPA falls within the restrictive horizontal practice prohibiting price fixing and the fixing of other trading conditions, such practice will be a contravention of the act.

#### Limits---many standards, requiring distinct answers, make the topic unmanageable.

#### Ground---fringe standards dodge links and allow bidirectional permissiveness.

### 3

Regulations 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

#### Only the CP alone balances competition with consumer safety and systemic risk – that’s impossible under antitrust law – the impact is financial fraud

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]

Regulators making blockchain competition policy must confront three key challenges: (1) weighing the benefits of increased competition against threats to safety and soundness; (2) determining what is an acceptable degree of market decentralization; and (3) deciding how to handle standardization, open access, and non-discrimination issues on blockchain networks. How financial regulators meet these challenges will determine in large part whether blockchain technology will disrupt financial markets.

1. Competition v. Safety & Soundness. There will be instances, especially in the financial sector, where regulators will need to consider how much competition is desirable and if “excessive” competition might compromise other important policy goals, particularly consumer safety and systemic soundness. A boom in derivatives trading facilitated by public blockchain-based exchanges might lower prices for entering these contracts but create regulatory headaches for the SEC and CFTC in their efforts to limit systemic risk.203 A similar logic may apply to financial fraud. A spike in ICOs, for example, may appear beneficial from a competition standpoint but also might open the door to widespread fraud that could stress the regulatory agencies’ enforcement capabilities.204

Antitrust courts and enforcement agencies typically reject safety and soundness justifications for restraints on competition. In its 1978 decision in National Society of Professional Engineers v. United States, the U.S. Supreme Court stated that a party’s attempt to justify a competitive restraint based on “the potential threat that competition poses to the public safety” amounted to “nothing less than a frontal assault on the basic policy of the Sherman Act.”205 That case involved a challenge to the National Society of Professional Engineers’ canon of ethics, which barred members from participating in competitive bidding for their services.206 Under the canon, members agreed not to negotiate or “even to discuss the question of fees” until after being chosen for a particular job.207 If a prospective client insisted on receiving pricing information, the canon mandated that the member withdraw from consideration for the contract. 208 This policy made it difficult, or even impossible, for potential clients to compare prices for engineering services. The Court had no trouble determining that the agreement, on its face, was a restraint of trade under section 1 of the Sherman Act.209 The Society, however, asserted that the restraint was justified because, in its absence, engineers would be tempted to make low bids on jobs and “do inferior work with consequent risk to public safety and health.”210

#### Fraud funds terrorists.

Frank S. Perri 10. Frank S. Perri, J.D., CFE, CPA. "The Fraud-Terror Link:". No Publication. xx-xx-xxxx. https://www.fraud-magazine.com/article.aspx?id=4294967888

The threat of terrorism has become the principal security concern in the United States since 9/11. Some might perceive that fraud isn’t linked to terrorism because white-collar crime issues are more the province of organized crime, but that perception is misguided. Terrorists derive funding from a variety of criminal activities ranging in scale and sophistication – from low-level crime to organized narcotics smuggling and fraud. CFEs need to know the latest links between fraud and terror.

Credit card fraud, wire fraud, mortgage fraud, charitable donation fraud, insurance fraud, identity theft, money laundering, immigration fraud, and tax evasion are just some of the types of fraud commonly used to fund terrorist cells. Such groups will also use shell companies to receive and distribute illicit funds. On the surface, these companies might engage in legitimate activities to establish a positive reputation in the business community.

Financing is required not just to fund specific terrorist operations but to meet the broader organizational costs of developing and maintaining a terrorist organization and to create an enabling environment necessary to sustain their activities. The direct costs of mounting individual attacks have been relatively low considering the damage they can yield.

“Part of the problem is that it takes so little to finance an operation,” said Gary LaFree, director of the University of Maryland’s National Consortium for the Study of Terrorism and Responses to Terrorism.2 For example, the 2005 London bombings cost about $15,600.3 The 2000 bombing of the USS Cole is estimated to have cost between $5,000 and $10,000.4 Al-Qaida’s entire 9/11 operation cost between $400,000 and $500,000, according to the final report of the National Commission on Terrorist Attacks Upon the United States.5

Terrorist groups require significant funds to create and maintain an infrastructure of organizational support, sustain an ideology of terrorism through propaganda, and finance the ostensibly legitimate activities needed to provide a veil of legitimacy for their shell companies.6 However, don’t think that only large operations are needed for terrorists to carry out attacks; small semi-autonomous cells in many countries are often just as capable of conducting disruptive activities without extensive outside financial help – they just conduct smaller-scale frauds.7

Even though the nexus between fraud and terrorism is undisputed, there’s concern at state and local levels that law enforcement professionals lack specialized knowledge on how to detect the fraud-terror link because they’re more apt to investigate and prosecute violent crimes.8

A critical lack of awareness about terrorists’ links to fraud schemes is undermining the fight against terrorism. Fraud analysis must be central, not peripheral, in understanding the patterns of terrorist behavior.9

#### Causes extinction – nuclear escalation.

Matthew Bunn & Nickolas Roth 17. \*Professor of practice at the Harvard Kennedy School. \*\*Research associate at the Belfer Center’s Project on Managing the Atom at Harvard University and research fellow at the Center for International and Security Studies at the University of Maryland. “The effects of a single terrorist nuclear bomb.” Bulletin of the Atomic Scientists, http://thebulletin.org/effects-single-terrorist-nuclear-bomb11150

The escalating threats between North Korea and the United States make it easy to forget the “nuclear nightmare,” as former US Secretary of Defense William J. Perry put it, that could result even from the use of just a single terrorist nuclear bomb in the heart of a major city. At the risk of repeating the vast literature on the tragedies of Hiroshima and Nagasaki—and the substantial literature surrounding nuclear tests and simulations since then—we attempt to spell out here the likely consequences of the explosion of a single terrorist nuclear bomb on a major city, and its subsequent ripple effects on the rest of the planet. Depending on where and when it was detonated, the blast, fire, initial radiation, and long-term radioactive fallout from such a bomb could leave the heart of a major city a smoldering radioactive ruin, killing tens or hundreds of thousands of people and wounding hundreds of thousands more. Vast areas would have to be evacuated and might be uninhabitable for years. Economic, political, and social aftershocks would ripple throughout the world. A single terrorist nuclear bomb would change history. The country attacked—and the world—would never be the same. The idea of terrorists accomplishing such a thing is, unfortunately, not out of the question; it is far easier to make a crude, unsafe, unreliable nuclear explosive that might fit in the back of a truck than it is to make a safe, reliable weapon of known yield that can be delivered by missile or combat aircraft. Numerous government studies have concluded that it is plausible that a sophisticated terrorist group could make a crude bomb if they got the needed nuclear material. And in the last quarter century, there have been some 20 seizures of stolen, weapons-usable nuclear material, and at least two terrorist groups have made significant efforts to acquire nuclear bombs. Terrorist use of an actual nuclear bomb is a low-probability event—but the immensity of the consequences means that even a small chance is enough to justify an intensive effort to reduce the risk. Fortunately, since the early 1990s, countries around the world have significantly reduced the danger—but it remains very real, and there is more to do to ensure this nightmare never becomes reality. Brighter than a thousand suns. Imagine a crude terrorist nuclear bomb—containing a chunk of highly enriched uranium just under the size of a regulation bowling ball, or a much smaller chunk of plutonium—suddenly detonating inside a delivery van parked in the heart of a major city. Such a terrorist bomb would release as much as 10 kilotons of explosive energy, or the equivalent of 10,000 tons of conventional explosives, a volume of explosives large enough to fill all the cars of a mile-long train. In a millionth of a second, all of that energy would be released inside that small ball of nuclear material, creating temperatures and pressures as high as those at the center of the sun. That furious energy would explode outward, releasing its energy in three main ways: a powerful blast wave; intense heat; and deadly radiation. The ball would expand almost instantly into a fireball the width of four football fields, incinerating essentially everything and everyone within. The heated fireball would rise, sucking in air from below and expanding above, creating the mushroom cloud that has become the symbol of the terror of the nuclear age. The ionized plasma in the fireball would create a localized electromagnetic pulse more powerful than lightning, shorting out communications and electronics nearby—though most would be destroyed by the bomb’s other effects in any case. (Estimates of heat, blast, and radiation effects in this article are drawn primarily from Alex Wellerstein’s “Nukemap,” which itself comes from declassified US government data, such as the 660-page government textbook The Effects of Nuclear Weapons.) At the instant of its detonation, the bomb would also release an intense burst of gamma and neutron radiation which would be lethal for nearly everyone directly exposed within about two-thirds of a mile from the center of the blast. (Those who happened to be shielded by being inside, or having buildings between them and the bomb, would be partly protected—in some cases, reducing their doses by ten times or more.) The nuclear flash from the heat of the fireball would radiate in both visible light and the infrared; it would be “brighter than a thousand suns,” in the words of the title of a book describing the development of nuclear weapons—adapting a phrase from the Hindu epic the Bhagavad-Gita. Anyone who looked directly at the blast would be blinded. The heat from the fireball would ignite fires and horribly burn everyone exposed outside at distances of nearly a mile away. (In the Nagasaki Atomic Bomb Museum, visitors gaze in horror at the bones of a human hand embedded in glass melted by the bomb.) No one has burned a city on that scale in the decades since World War II, so it is difficult to predict the full extent of the fire damage that would occur from the explosion of a nuclear bomb in one of today’s cities. Modern glass, steel, and concrete buildings would presumably be less flammable than the wood-and-rice-paper housing of Hiroshima or Nagasaki in the 1940s—but many questions remain, including exactly how thousands of broken gas lines might contribute to fire damage (as they did in Dresden during World War II). On 9/11, the buildings of the World Trade Center proved to be much more vulnerable to fire damage than had been expected. Ultimately, even a crude terrorist nuclear bomb would carry the possibility that the countless fires touched off by the explosion would coalesce into a devastating firestorm, as occurred at Hiroshima. In a firestorm, the rising column of hot air from the massive fire sucks in the air from all around, creating hurricane-force winds; everything flammable and everything alive within the firestorm would be consumed. The fires and the dust from the blast would make it extremely difficult for either rescuers or survivors to see. The explosion would create a powerful blast wave rushing out in every direction. For more than a quarter-mile all around the blast, the pulse of pressure would be over 20 pounds per square inch above atmospheric pressure (known as “overpressure”), destroying or severely damaging even sturdy buildings. The combination of blast, heat, and radiation would kill virtually everyone in this zone. The blast would be accompanied by winds of many hundreds of miles per hour. The damage from the explosion would extend far beyond this inner zone of almost total death. Out to more than half a mile, the blast would be strong enough to collapse most residential buildings and create a serious danger that office buildings would topple over, killing those inside and those in the path of the rubble. (On the other hand, the office towers of a modern city would tend to block the blast wave in some areas, providing partial protection from the blast, as well as from the heat and radiation.) In that zone, almost anything made of wood would be destroyed: Roofs would cave in, windows would shatter, gas lines would rupture. Telephone poles, street lamps, and utility lines would be severely damaged. Many roads would be blocked by mountains of wreckage. In this zone, many people would be killed or injured in building collapses, or trapped under the rubble; many more would be burned, blinded, or injured by flying debris. In many cases, their charred skin would become ragged and fall off in sheets. The effects of the detonation would act in deadly synergy. The smashed materials of buildings broken by the blast would be far easier for the fires to ignite than intact structures. The effects of radiation would make it far more difficult for burned and injured people to recover. The combination of burns, radiation, and physical injuries would cause far more death and suffering than any one of them would alone. The silent killer. The bomb’s immediate effects would be followed by a slow, lingering killer: radioactive fallout. A bomb detonated at ground level would dig a huge crater, hurling tons of earth and debris thousands of feet into the sky. Sucked into the rising fireball, these particles would mix with the radioactive remainders of the bomb, and over the next few hours or days, the debris would rain down for miles downwind. Depending on weather and wind patterns, the fallout could actually be deadlier and make a far larger area unusable than the blast itself. Acute radiation sickness from the initial radiation pulse and the fallout would likely affect tens of thousands of people. Depending on the dose, they might suffer from vomiting, watery diarrhea, fever, sores, loss of hair, and bone marrow depletion. Some would survive; some would die within days; some would take months to die. Cancer rates among the survivors would rise. Women would be more vulnerable than men—children and infants especially so. Much of the radiation from a nuclear blast is short-lived; radiation levels even a few days after the blast would be far below those in the first hours. For those not killed or terribly wounded by the initial explosion, the best advice would be to take shelter in a basement for at least several days. But many would be too terrified to stay. Thousands of panic-stricken people might receive deadly doses of radiation as they fled from their homes. Some of the radiation will be longer-lived; areas most severely affected would have to be abandoned for many years after the attack. The combination of radioactive fallout and the devastation of nearly all life-sustaining infrastructure over a vast area would mean that hundreds of thousands of people would have to evacuate. Ambulances to nowhere. The explosion would also destroy much of the city’s ability to respond. Hospitals would be leveled, doctors and nurses killed and wounded, ambulances destroyed. (In Hiroshima, 42 of 45 hospitals were destroyed or severely damaged, and 270 of 300 doctors were killed.) Resources that survived outside the zone of destruction would be utterly overwhelmed. Hospitals have no ability to cope with tens or hundreds of thousands of terribly burned and injured people all at once; the United States, for example, has 1,760 burn beds in hospitals nationwide, of which a third are available on any given day. And the problem would not be limited to hospitals; firefighters, for example, would have little ability to cope with thousands of fires raging out of control at once. Fire stations and equipment would be destroyed in the affected area, and firemen killed, along with police and other emergency responders. Some of the first responders may become casualties themselves, from radioactive fallout, fire, and collapsing buildings. Over much of the affected area, communications would be destroyed, by both the physical effects and the electromagnetic pulse from the explosion. Better preparation for such a disaster could save thousands of lives—but ultimately, there is no way any city can genuinely be prepared for a catastrophe on such a historic scale, occurring in a flash, with zero warning. Rescue and recovery attempts would be impeded by the destruction of most of the needed personnel and equipment, and by fire, debris, radiation, fear, lack of communications, and the immense scale of the disaster. The US military and the national guard could provide critically important capabilities—but federal plans assume that “no significant federal response” would be available for 24-to-72 hours. Many of those burned and injured would wait in vain for help, food, or water, perhaps for days. The scale of death and suffering. How many would die in such an event, and how many would be terribly wounded, would depend on where and when the bomb was detonated, what the weather conditions were at the time, how successful the response was in helping the wounded survivors, and more. Many estimates of casualties are based on census data, which reflect where people sleep at night; if the attack occurred in the middle of a workday, the numbers of people crowded into the office towers at the heart of many modern cities would be far higher. The daytime population of Manhattan, for example, is roughly twice its nighttime population; in Midtown on a typical workday, there are an estimated 980,000 people per square mile. A 10-kiloton weapon detonated there might well kill half a million people—not counting those who might die of radiation sickness from the fallout. (These effects were analyzed in great detail in the Rand Corporation’s Considering the Effects of a Catastrophic Terrorist Attack and the British Medical Journal’s “Nuclear terrorism.”) On a typical day, the wind would blow the fallout north, seriously contaminating virtually all of Manhattan above Gramercy Park; people living as far away as Stamford, Connecticut would likely have to evacuate. Seriously injured survivors would greatly outnumber the dead, their suffering magnified by the complete inadequacy of available help. The psychological and social effects—overwhelming sadness, depression, post-traumatic stress disorder, myriad forms of anxiety—would be profound and long-lasting. The scenario we have been describing is a groundburst. An airburst—such as might occur, for example, if terrorists put their bomb in a small aircraft they had purchased or rented—would extend the blast and fire effects over a wider area, killing and injuring even larger numbers of people immediately. But an airburst would not have the same lingering effects from fallout as a groundburst, because the rock and dirt would not be sucked up into the fireball and contaminated. The 10-kiloton blast we have been discussing is likely toward the high end of what terrorists could plausibly achieve with a crude, improvised bomb, but even a 1-kiloton blast would be a catastrophic event, having a deadly radius between one-third and one-half that of a 10-kiloton blast. These hundreds of thousands of people would not be mere statistics, but countless individual stories of loss—parents, children, entire families; all religions; rich and poor alike—killed or horribly mutilated. Human suffering and tragedy on this scale does not have to be imagined; it can be remembered through the stories of the survivors of the US atomic bombings of Hiroshima and Nagasaki, the only times in history when nuclear weapons have been used intentionally against human beings. The pain and suffering caused by those bombings are almost beyond human comprehension; the eloquent testimony of the Hibakusha—the survivors who passed through the atomic fire—should stand as an eternal reminder of the need to prevent nuclear weapons from ever being used in anger again. Global economic disaster. The economic impact of such an attack would be enormous. The effects would reverberate for so far and so long that they are difficult to estimate in all their complexity. Hundreds of thousands of people would be too injured or sick to work for weeks or months. Hundreds of thousands more would evacuate to locations far from their jobs. Many places of employment would have to be abandoned because of the radioactive fallout. Insurance companies would reel under the losses; but at the same time, many insurance policies exclude the effects of nuclear attacks—an item insurers considered beyond their ability to cover—so the owners of thousands of buildings would not have the insurance payments needed to cover the cost of fixing them, thousands of companies would go bankrupt, and banks would be left holding an immense number of mortgages that would never be repaid. Consumer and investor confidence would likely be dramatically affected, as worried people slowed their spending. Enormous new homeland security and military investments would be very likely. If the bomb had come in a shipping container, the targeted country—and possibly others—might stop all containers from entering until it could devise a system for ensuring they could never again be used for such a purpose, throwing a wrench into the gears of global trade for an extended period. (And this might well occur even if a shipping container had not been the means of delivery.) Even the far smaller 9/11 attacks are estimated to have caused economic aftershocks costing almost $1 trillion even excluding the multi-trillion-dollar costs of the wars that ensued. The cost of a terrorist nuclear attack in a major city would likely be many times higher. The most severe effects would be local, but the effects of trade disruptions, reduced economic activity, and more would reverberate around the world. Consequently, while some countries may feel that nuclear terrorism is only a concern for the countries most likely to be targeted—such as the United States—in reality it is a threat to everyone, everywhere. In 2005, then-UN Secretary-General Kofi Annan warned that these global effects would push “tens of millions of people into dire poverty,” creating “a second death toll throughout the developing world.” One recent estimate suggested that a nuclear attack in an urban area would cause a global recession, cutting global Gross Domestic Product by some two percent, and pushing an additional 30 million people in the developing world into extreme poverty. Desperate dilemmas. In short, an act of nuclear terrorism could rip the heart out of a major city, and cause ripple effects throughout the world. The government of the country attacked would face desperate decisions: How to help the city attacked? How to prevent further attacks? How to respond or retaliate? Terrorists—either those who committed the attack or others—would probably claim they had more bombs already hidden in other cities (whether they did or not), and threaten to detonate them unless their demands were met. The fear that this might be true could lead people to flee major cities in a large-scale, uncontrolled evacuation. There is very little ability to support the population of major cities in the surrounding countryside. The potential for widespread havoc and economic chaos is very real. If the detonation took place in the capital of the nation attacked, much of the government might be destroyed. A bomb in Washington, D.C., for example, might kill the President, the Vice President, and many of the members of Congress and the Supreme Court. (Having some plausible national leader survive is a key reason why one cabinet member is always elsewhere on the night of the State of the Union address.) Elaborate, classified plans for “continuity of government” have already been drawn up in a number of countries, but the potential for chaos and confusion—if almost all of a country’s top leaders were killed—would still be enormous. Who, for example, could address the public on what the government would do, and what the public should do, to respond? Could anyone honestly assure the public there would be no further attacks? If they did, who would believe them? In the United States, given the practical impossibility of passing major legislation with Congress in ruins and most of its members dead or seriously injured, some have argued for passing legislation in advance giving the government emergency powers to act—and creating procedures, for example, for legitimately replacing most of the House of Representatives. But to date, no such legislative preparations have been made. In what would inevitably be a desperate effort to prevent further attacks, traditional standards of civil liberties might be jettisoned, at least for a time—particularly when people realized that the fuel for the bomb that had done such damage would easily have fit in a suitcase. Old rules limiting search and surveillance could be among the first to go. The government might well impose martial law as it sought to control the situation, hunt for the perpetrators, and find any additional weapons or nuclear materials they might have. Even the far smaller attacks of 9/11 saw the US government authorizing torture of prisoners and mass electronic surveillance. And what standards of international order and law would still hold sway? The country attacked might well lash out militarily at whatever countries it thought might bear a portion of responsibility. (A terrifying description of the kinds of discussions that might occur appeared in Brian Jenkins’ book, Will Terrorists Go Nuclear?) With the nuclear threshold already crossed in this scenario—at least by terrorists—it is conceivable that some of the resulting conflicts might escalate to nuclear use. International politics could become more brutish and violent, with powerful states taking unilateral action, by force if necessary, in an effort to ensure their security. After 9/11, the United States led the invasions of two sovereign nations, in wars that have since cost hundreds of thousands of lives and trillions of dollars, while plunging a region into chaos. Would the reaction after a far more devastating nuclear attack be any less?

### 4

#### The United States federal government should substantially increase its prohibitions on anticompetitive business practices conducted by nucleus participants at the root layer of blockchains by expanding the scope of its interpretive obligations under customary international law.

#### The CP competes and solves the case---it renders the same conduct equally unlawful, but expands CIL rather than antitrust statute---that signals U.S. adherence to norms of international economic law.

Banks ’12 [Ted; 2012; Scharf President, Compliance & Competition Consultants; Denver Journal of International Law & Policy, “40th Anniversary Edition: The International Law of Antitrust Compliance,” 368]

Introduction

It was not so long ago that the concept of international criminal law was an idea with which lawyers struggled. In 1987, Ved Nanda and M. Cherif Bassiouni put together what may have been the first one-volume compendium of information on antitrust, securities, extradition, tax, and other subjects that made up the developing area of international criminal law. Today, it is well-accepted that there are certain standards of behavior that are the norm in practically all nations, and through national laws and multinational treaties, these principles are entering the realm of customary international law.

Developments in the area of competition law, or antitrust as it is known in some countries, have been particularly dramatic. Countries understand that the encouragement of competition is a key to economic development, and national laws have been enacted where they did not exist before, along with enforcement cooperation agreements among increasing numbers of countries. 1 Enforcement of criminal antitrust laws takes place against both individuals and businesses, 2 and while it is clear that there are situations where business entities must be held responsible for actions of their employees, there are other situations where the intent of the corporation may be contrary to the actions of the employee. Throughout the world, in competition law, as well as in other areas of law, there is a consensus that it is appropriate for companies to adopt compliance and ethics programs to utilize management techniques to foster compliance with law. So, as standards of corporate [\*369] conduct become more universal, they reflect adherence to what is essentially an international law - the international law of competition. At the same time, more national authorities recognize that companies are expected to have compliance programs, and that a bona fide compliance program reflects a corporate intent not to violate the law, and therefore should be a positive factor in how authorities treat such companies, including as a mitigating factor for any penalty that might be imposed based on the ultra vires act by an employee.

It is well accepted that compliance and ethics programs are an expected part of corporate activity, and while no program can always guarantee human behavior, these programs do work to mitigate violations of law. Indeed, it can be said that it is now a standard for companies to have compliance programs or at least some elements of such programs such as codes of conduct. We submit that this growing recognition of the purpose of compliance and ethics programs has reached broad-based acceptance and should now be recognized in the competition law field by the United States and other governments as a standard of international law.

The Concept of Organizational Liability

Under many legal regimes, a corporation cannot be criminally punished for the actions of its employees, and until relatively recently (at least if you consider a century relatively recent), under the common law, a corporation was viewed as a legal fiction, 3 which could not be held liable for the criminal conduct of its employees. In the United States, it was not until 1909, in New York Central & Hudson River Railroad v. United States, 4 that the Supreme Court ruled that because the great majority of business transactions were conducted by corporations, it was time to abandon the "old and exploded doctrine" that a corporation was not indictable. 5 The Court reasoned that, as a matter of public policy, because a corporation could be held civilly liable, criminal liability should also follow. 6

This concept of corporate liability has been extended to the point where the business is often held liable for acts of employees even if the [\*370] company was not aware of the violation, 7 prohibited the conduct that led to the violation, 8 or there was no actual benefit to the corporation through the acts of the employee. 9 So even if none of the three justifications for corporate liability are present, i.e., knowledge, benefit, or authority, corporate liability for the acts of an employee - in addition to the liability of the employee - may still be found. A number of reasons have been given for this approach, but a consistent argument is that this type of liability will have an in terrorem effect on the corporation and force the entity to make certain that employees obey the law. 10 As a practical matter, it also reflects the reality that employees working through a corporation, whether or not their actions are authorized, can cause harm far beyond the abilities of one person. Therefore, according to this line of reasoning, it is appropriate that the entity be punished criminally (and pay civil damages).

The usual rule in the United States and other common law countries is that a corporation is liable for acts of agents and employees acting within the scope of their employment and, in most cases, with the intent to benefit the company. 11 This approach derives from the common law doctrine of respondeat superior, which held that a master is generally liable for the actions of servants, but may escape liability if the servant acts outside the scope of employment (i.e., takes action for [\*371] which there is no actual or apparent authority). 12 The concept of apparent authority, the authority that outsiders would normally assume the agent to possess judging from his or her position in the company and the circumstances surrounding previous instances of conduct, is often the foundation for a finding of corporate liability. 13 Employees are assumed to be acting within the scope of their employment 14 if they are doing acts on the corporation's behalf in the performance of their general line of work. 15 An agent must be "performing acts of the kind which he is authorized to perform, and those acts must be motivated - at least in part - by an intent to benefit the corporation." 16 It is not necessary that the acts actually benefited the corporation, only that they were intended to do so.

The court decisions and statutes that led to these multiple bases for finding enterprise liability grew up in an era where there was recognition of the power of the "faceless" corporation and the need to control its activities. Courts would impute knowledge or intent to the corporation, even where there was no benefit to the enterprise by the wrongful acts of the employee and the activities did not benefit the corporation, although some courts are willing to consider whether the violation was foreseeable. 17 In other situations, liability might be imputed to a corporate officer or director for failure to exert their authority to ensure that the corporation (i.e., acting through employees) did not do wrong. 18

But it is also an inescapable fact of our human existence that people are fallible, and that in some cases people will ignore instructions and do things that they were expressly forbidden to do. By holding a corporation liable for virtually anything that any employee does, a situation of strict liability is created that may, in fact, be outside the scope of many laws that require an intent to violate the law. [\*372] Notwithstanding the desire to control the power of the corporation, there are limits to what it can do. The efforts of the corporation to control the actions of employees are a valid consideration in determining whether the corporation should be held liable for the actions of an employee, as was noted in the instructions to the jury after the trial of Arthur Andersen in connection with the Enron debacle:

If an agent was acting within the scope of his or her employment, the fact that the agent's act was illegal, contrary to the partnership's instructions, or against the partnership's policies does not relieve the partnership of responsibility for the agent's acts. A partnership may be held responsible for the acts its agents performed within the scope of their employment even though the agent's conduct may be contrary to the partnership's actual instructions or contrary to the partnership's stated policies. You may, however, consider the existence of Andersen's policies and instructions, and the diligence of its efforts to enforce any such policies and instructions, in determining whether the firm's agents were acting within the scope of their employment. 19

The key here is "diligence." Was a compliance program something that existed only on paper, 20 or were there indicia of sincerity on the part of the corporation that showed that it legitimately tried to enforce its policy of compliance? The diligence of the corporation in enforcing its policy should be a key factor in determining if it is the kind of program that should entitle the corporation to some measure of mitigation from legal penalties imposed as a result of the actions of an employee that disobeyed the policy. 21

[\*373] Competition law imposes certain standards of behavior that are accepted because of an understanding that society benefits from competition. Therefore, in most cases, cartels are prohibited, as is abuse of market power or dominance. There is a recognition in many areas of law that transparency is beneficial, and thus bribes or secret rebates are prohibited for their disruptive impact on competition, as well as their inherent corruptness.

But how do these standards become accepted? It is not sufficient only to implement national laws and multinational agreements. Enforcement authorities recognize that there must also be private action to enforce policies within corporations and to demonstrate that noncompliance with law will not be tolerated. As will be discussed below, there are benchmarks of what is an "effective" compliance and ethics program that have received broad-based acceptance. Standards of international competition law cannot have their desired impact without international standards and efforts for compliance. Companies need to be able to know that what they do to implement compliance standards does matter so that they will make a diligent effort to prevent cartel behavior from happening. If a company has taken serious action to enforce its standards, such as by discharge of employees who violate the law, 22 this level of corporate compliance, which is expected by enforcement authorities, should be recognized when deciding how to treat corporations, including charging and penalty decisions.

So, there is a combination of factors at work here. Competition law standards are virtually universal in their acceptance. 23 To get those standards to actually be implemented by corporations, there need to be corporate compliance and ethics programs in place. Standards of culpability recognize that factors such as intent, knowledge, and benefit are relevant to findings of corporate liability. A number of countries do specifically encourage compliance and ethics programs, including in the antitrust area. 24 Therefore, this growing, worldwide acceptance, combined with universal necessity, has established an international law not just for antitrust, but for antitrust compliance. The countries that do not formally recognize the value of bona fide compliance programs as relevant to corporate liability, perhaps seduced by the possibility of collecting huge fines from a corporate piggy-bank, are out-of-step with the reality of what is necessary to truly promote the principles of competition law.

#### U.S. commitment prevents the disintegration of international economic law---extinction.

Arcuri ’20 [Alessandra; 2020; Full Professor of Inclusive Global Law and Governance at the Erasmus School of Law, Journal of International Economic Law, “International Economic Law and Disintegration: Beware the Schmittean Moment,” vol. 23]

Introduction

There was a time when national sovereignty was out of fashion. In the nineties, international lawyers were engaged in imaging the global order beyond the nation-state. Theories to make this order possible were proliferating: from Global Administrative Law to global constitutionalism.1 International Economic Law (IEL) played an important role in the journey toward the global order. Our markets could be integrated through an almost brand new organization, the World Trade Organization (WTO). The WTO was created and endowed with a powerful set of new agreements, promoting the harmonization of health and safety law—through the Sanitary and Phytosanitary (SPS) Agreement—and technical regulation—Technical Barriers to Trade (TBT) Agreement—and establishing (relatively uniform) Intellectual Property Rights regimes worldwide (the TRIPS Agreement). The WTO also included a brand new dispute settlement system, considered by many as a manifestation of the rule of law at the international level. Similarly, organizations such as the World Bank and the International Monetary Fund (IMF) were indirectly spreading (de-)regulatory policies throughout the developing world.2 Globalization, nudged by a global technocratic elite, was alive and kicking, back then.

Today we face a crisis of the regime of international economic law and, more broadly, global economic governance. The system appears broken for its incapacity to face some of the most daunting challenges of our time: the widespread and dramatic process of environmental degradation and the unacceptable inequalities between poor and rich. On its face, the phenomenon of far-right populists, partly reflected in Brexit and Trump politics, and spreading across the Atlantic is shaking the system of international economic law, by hailing nationalist policies. The idea that the nation-state may be a desirable source of disintegration of the global (legal) order is gaining traction across the political spectrum. It appears clear that the answer to the legitimacy crisis of the system of international economic law and governance offered by progressives3 resorts also to entrusting the nation state with more political space—a space that allegedly has been unduly constrained by the global economic order.

Not only politicians but also progressive academicians, such as Professor Dani Rodrik, have defended the importance of national sovereignty,4 as one of the necessary paradigms to fix our broken world order. The gist of the reasoning is simple: global institutions went too far in eroding national sovereignty, which is the real basis for democratic liberal regimes. Without the nation-state, environmental, industrial, and redistributive policies cannot be realized. As Rodrik put it: ‘So, I accept that nation-states are a source of disintegration for the global economy.’5

This article critically engages with the idea that the nation-state is a legitimate force of disintegration of the international economic order, with particular attention to trade and investment agreements. There are disparate circumstances, from the realm of food safety regulation to the regulation of capital flows,6 in which it is arguably desirable that domestic institutions (re-)gain more power. Most importantly, the nation-state is today an important site of democracy and, only for that reason, it is worth defending. Yet, in times of raising authoritarianism, it is crucial to reflect on some of the limits of the nation-state and on the necessity to develop alternative paradigms for integrating economies and societies.

This article presents a two-fold critique of the idea that an expansion of national sovereignty is going to achieve a better socio-economic world order per se. The first critique is internal, showing that the nation-state does not possess intrinsic characteristics to facilitate democracy, equality, and sustainability. The second is external and focuses on the necessity to look reflexively at the goals of the system of international economic law, to re-imagine it as capable to address questions of inequality and environmental degradation.

In a more pragmatic fashion, this article posits that more nation-state may be a misleading and possibly dangerous response to today’s daunting challenges. It is misleading in so far as it promises solutions that nation-states alone cannot deliver. It is dangerous in so far as the rhetoric of the nation-state paradoxically facilitates the turn toward an expansion of the ‘rule of exception’ and, eventually, authoritarianism. Above all, in advocating for disintegration through the nation-state, we need to reckon with our haunting past where economic autarchy has been deeply intertwined with the ascent of fascism and Nazism. If today the nation-state may appear as a beacon of democracy, the role of nationalism in generating the nemesis of democracy should not be neglected. In short, and at the risk of oversimplification, ‘America first’ echoes too closely fascist slogans.7

I. A PROGRESSIVE DEFENSE OF THE NATION-STATE AND THE RISK OF A ‘SCHMITTEAN MOMENT’

Let me start by rehashing the two interconnected and equally formidable challenges we are facing today: the question of environmental degradation and the unacceptable level of inequalities whereby a large part of the population in the world lives in poverty (both in developing and developed countries, but still overwhelmingly concentrated in so-called developing countries) vis-à-vis a small elite enjoying incredible wealth. Economic integration that does not deal with these challenges is not only doomed to fail; it is a type of economic integration that we should not aspire to.

It is plausible that Brexit and the disintegrationist economic policy of Trump have been partly enabled by the growing inequalities in the Anglophone nations. It is no brainer that a large fraction of Brexiteers and Trump voters are the ‘left behind.’8 In wealthy countries, the working class often felt left behind by thriving globalization, which has benefited only the elites. The—often labelled—‘populist turn’ rests on the idea that the ‘other’, the ‘foreigner’ has stolen ‘our’ welfare and a more nationalistic policy is needed to protect the losers of the current state of affairs. This is evident from Trump’s slogan ‘Buy American, Hire American.’ It is worrying how this type of nationalism is entrenched in racism and in the othering of the non-American.

However, as mentioned earlier, the case for more nation-state has also been made by ‘progressive’ politicians and intellectuals. Among progressive economists, Dani Rodrik stands out for having defended the nation-state with compelling arguments. Let me quote him at length: ‘When it comes to providing the arrangements that markets rely on, the nation-state remains the only effective actor, the only game in town. Our elites’ and technocrats’ obsession with globalism weakens citizenship where it is most needed—at home—and makes it more difficult to achieve economic prosperity, financial stability, social inclusion, and other desirable objectives.’9 Not only is the nation-state the only game in town, when it comes to issues of redistribution, social security and safety, the nation-state is also desirable because it can deliver institutional diversity which is needed to realize the social contract: ‘Developing nations have different institutional requirements than rich nations. There are, in short, strong arguments against global institutional harmonization.’10 The nation-states can meet different preferences, and ‘[i]nsufficient appreciation of the value of nation-states leads to dead ends.’ Rodrik also concedes that international market liberalization is the offspring of well-functioning nation-states rather than international institutions: ‘Domestic political bargains, more than GATT rules, sustained the openness that came to prevail.’11 Against this background, Rodrik defends ‘economic populism’ in so far as it constitutes a form of resistance to ‘liberal technocrats’ imposing undue restraints on domestic economic policy.12 The rigid focus on price stability in low-inflation environments is a clear example of global or EU-driven policies largely insensitive to the effects on employment and paradoxically even growth.13

Many of Rodrik’s arguments are compelling, such as his critique of the economic profession’s misleading analysis of trade and investment agreements. Some of his reform proposals, such as the strengthening of green industrial policy,14 are arguably desirable. Most crucially, the nation-state may be at present one of the most developed sites of democracy, albeit an imperfect one. When global institutions constrain nation-state policies formed following democratic decision-making, this may legitimately be seen as a threat to democracy. Rodrik’s work has had a wide echo in legal circles, as evidenced by the publication of a book with the goal of reimagining trade and investment law, 15 which is opened by several chapters all commenting—in overwhelmingly positive terms—on Rodrik’s Straight Talks on Trade. The nation-state and, more generally, sovereignty is (re-)gaining traction also among progressive political theorists. In times of economic and existential uncertainties, sovereignty is there to offer protection ‘from unfettered markets and from permanently incumbent austerity’ and it constitutes a ‘refusal of a “liquid society” and of its very solid … inequalities.’16 Some of the most lucid analyses of the current international economic order point at the dramatic consequences of an increase of capitalist power that has incapacitated states to act in defense of its own people.17 The attention on sovereignty is also partly reflected in recently negotiated provisions of new trade and investment agreements, where states are explicitly endowed with a ‘right to regulate.’ Despite the unclear practical implications of such jargon, its symbolic value is unambiguously bearing witness to the shared view that states ought to maintain (or regain) political space. Against this background, Trump’s claims to defend the Ohio steel workers by whatever trade measures it takes may appear more acceptable. Could we then read in this reinvigorated faith in sovereignty a ‘Grotian moment’?18

Without indulging on this question, this article posits that we should beware the ‘risk’ of entering a ‘Schmittean moment’.19 This term is here used to refer to a major shift toward an ideal of unfettered national sovereignty as the chief paradigm to re-orient the international (economic) order. Under such ideal, any international normative benchmark is brushed away by an allegedly more intellectually honest ‘political’ dimension, which can find its realization only in the decisionist state.20 To understand the risk of a ‘Schmittean moment’, it is important to recognize that the move toward more nation-state is partly animated by the legitimate concerns over the existing international legal order; legitimate concerns, which have eloquently been articulated by Schmitt himself.

Carl Schmitt’s work offers a lucid critique of the ‘exclusionary character of liberal universalism.’21 His critique exposes the hypocrisy underpinning many universalisms, most prominently the legal canon of ‘just’ war.22 In fact, it is the very core of the contemporary international legal project that gets questioned: ‘The concept of humanity is an especially useful ideological instrument of imperialist expansion, and in its ethical-humanitarian form, it is a specific vehicle of economic imperialism. Here, one is reminded of a somewhat modified expression of Proudhon’s: whoever invokes humanity wants to cheat.’23 This argument has direct relevance for the domain of international economic law. In an endnote to this claim—discussing the extermination of Indians in North America—Schmitt explains the danger to use certain moral canons as exclusionary devices: ‘As civilization progresses and morality rises, even less harmless things than devouring human flesh could perhaps qualify as deserving to be outlawed in such a manner. Maybe one day, it will be enough if people were unable to pay its debts.’24 This consideration is of extreme actuality in relation to the current international legal order, which seems to have crystallized structures of annihilation of debt states, and their very peoples.25 In decrying how the economical is rescinded by the political, Schmitt unveils the absent ‘presence’ of (mostly American) politics in the economy. In short, Schmitt’s analysis cogently engages with the problem of depoliticization that the international liberal order yields.26 It is at this juncture that the thoughts of Schmitt and Rodrik may intersect. In some sense, Schmitt’s critique resonates with the critique of ‘hyper-globalization’ articulated by Rodrik:27 ‘one type of failure arose from pushing rule making onto supranational domains too far beyond the reach of political debate and control.’28

Before elaborating on this intersection, it is key to rehash some flaws of Schmitt’s analysis. While he has certainly a point in showing how liberal universalism can be used to arbitrarily exert hegemonic power in the name of humanity (and has so been used in such way by the US and other predominantly Western countries), the alternative he implicitly propounds rests on a nostalgia for a mythical past—a golden age based on the jus publicum Europaeum. Regrettably, this age has been golden only for some; the jus publicum Europaeum for all its glory was made of colonial relations, exploitation, and violence. It has also been noted how Schmitt’s historical analysis, which portrays the times of the jus publicum Europaeum as times where war gets domesticated by the modern state eclipses the fact that the ‘development of the modern state apparatus … helped bring about unprecedented capacities for organized state violence, even if such violence was no longer typically unleashed against fellow Europeans.’29 His conception of sovereignty, which finds essential realization only in the ‘unlimited jurisdictional competence’ normalizes the rule of exception. A related trouble with Schmitt’s core normative ideas is the totalizing enemy-friendship antithesis: ‘the distinction of friend and enemy denotes the utmost degree of intensity of a union or separation, of an association or dissociation.’30 This is particular fatal to an ideal of nonviolent international law, as it denies even the aspiration of solidarity beyond borders.31 In other words, Schmitt conceptualization of the international legal order crystallizes nation-state borders in deeper existential structures, leaving no hope for common projects of different communities inhabiting the earth. In exposing the violence of allegedly humanitarian projects, Schmitt is de facto hollowing out the concept humanity, reducing its essence to violence in potentia: ‘the entire life of a human being is a struggle and every human being symbolically a combatant. The friend, enemy, and combat concepts receive their real meaning precisely because they refer to the real possibility of physical killing.’32 In denouncing the hypocrisy of moralism, Schmitt seems to negate the possibility of morality altogether. The Nomos of the earth, starting with the act of appropriation—nehmen (take)—and continuing with dividing the land—nemein (divide)—does not engage with the morality of the first act of appropriation nor with its division. And this is also what Hanna Arendt contests to Schmitt: ‘to remove justice from the content of the law.’33

### 5

#### The current ECA is vague and opened the floodgates to unprecedented challenges – BUT – electoral reform is coming now and *key* to reverse the trend and protect America’s declining democracy

Hesano 1/31 [Hesano, Devon, reporter and contributor, 1/31/2022. "An opening emerges to protect American elections." *The Michigan Daily*, Accessed: 2/2/2022. <https://www.michigandaily.com/opinion/columns/an-opening-emerges-to-protect-american-elections/>]

On Jan. 19, coming off a year of unprecedented attacks on the right to vote by Republican state legislatures throughout the country, congressional Democrats made their last-chance gambit and finally had a vote on carving out an exception for the filibuster for voting rights and election reform legislation. As had been telegraphed for months, the move failed, coming up two votes short of the 50-vote threshold needed. All 50 Senate Republicans were in opposition, joined by centrist Democrats Joe Manchin, D-W.Va., and Kyrsten Sinema, D-Ariz. It was a deflating end to a long and seemingly hopeless effort, capped off with intraparty fighting and a prevailing pessimistic mentality. It also left a choice for congressional Democratic leaders: fold over and move on, or go back to the drawing board in hopes of getting at least something passed to protect an imperiled democracy. Thankfully, it appears some in Congress are beginning to choose the latter. Seemingly just as the filibuster carveout vote failed, reports began to surface of an amplified bipartisan push to reform the Electoral Count Act, which lays out the procedure for counting Electoral College votes, along with the potential for increased funding for the facilitation of elections and measures to ensure the fair counting of votes. There has also been reporting that lawmakers are looking at ways to defend election workers, who had to endure an onslaught of dangerous rhetoric and physical threats of violence. The effort also seems to have real potential for success, with politicians on the ideological scale ranging from Sen. Chris Coons, D-Del. Chris Coons to House Minority Leader Kevin McCarthy R-Calif., who himself voted to overturn the election, expressing at least some sort of optimism and interest in a deal. **These are** all **policies that would make an important difference, and** would **address some of the most important problems facing** our **elections**. The potential to have wide-ranging bipartisan support for such an issue that has sadly turned so contentious is a unique opportunity and one that should gladly be seized. Unfortunately, some Democrats don’t view it as such. Some progressive Democrats have dismissed the effort, either as a distraction from the larger problem or insufficient to address the problems at hand. Sen. Raphael Warnock, D-Ga., when asked about the potential reform, stated, “They are not serious. And this is a diversion in order to prevent us from ensuring that every eligible American has the right to vote.” First, there does seem to be a serious effort at play, especially by senators like Susan Collins R-Maine, who has worked earnestly with Democrats in the past, on infrastructure for example. Second, if Democrats have an all-or-nothing attitude, in a 50–50 Senate, they are going to struggle to get things done for the remainder of this session in Congress. When dealing with the realities of a 50–50 Senate, a bare House majority and a Democratic senator from a state that voted for Trump by more than 35 points, compromise is inevitable and necessary. Additionally, Senate Majority Leader Chuck Schumer claimed the effort simply “says you can rig the elections anyway you want and then we’ll count it accurately.” This too, is the wrong approach. If all voter suppression, intimidation and barriers to the ballot suddenly evaporated, yet those counting and deeming the winner could simply throw out the results, turnout would be irrelevant. The reality is, though voter suppression and barriers to the ballot are real and dangerous, especially for minorities and the underserved, the larger threat to democracy is not actually solved by addressing voter suppression. For example, in the 2020 election, mail-in voting as a result of the pandemic made it easier than ever to vote. Turnout flourished, reaching numbers not seen since at least 1980. Yet, many would admit that the integrity of the election was under attack in ways not seen in the modern political era. **State and local**-level **Republicans** **made attempts to send fraudulent “alternate” electors** and prevent state election results from being certified, and **147** Republican **members of Congress even voted to throw out the will of** millions of **voters** in multiple states, even after the Jan. 6 insurrection had taken place. **This** is all **on top of the sustained push by** then-President **Trump** and his allies **to have** then–Vice President **Pence unilaterally reject slates of electors, a wildly anti-democratic course of action** that, thankfully, Pence did not pursue. If Pence had gone along with Trump, there is no clear telling what would have happened. As written, such a scenario is not explored within the Electoral Count Act, and it is worrisome to imagine how such an event would have unfolded. These threats, among many others, illustrate the most dangerous threats to American democracy. Though discussions are preliminary, there is evidence to suggest that the new bipartisan push would help to greatly thwart these problems. If an avenue is there, **as one appears to be**, congressional Democrats must take it and work to maximize the reforms that could be enacted. Moreover, none of this is to say voting rights cannot and should not be addressed whenever possible, as they clearly should. If Democrats manage to win at least two Senate seats in upcoming midterms, their voting rights and election reform bills will have a real chance of passing, so long as they can hold the House. But as the last few months have shown, that option is closed at the moment, and it would be irresponsible and dangerous not to take whatever electoral reform they can now, a sizable amount at that.

#### The plan is perceived by Republicans as democratic overstepping---the illusion of “consensus” falls apart at game-time. In *practice*, the GOP wants highly-mild approaches

Browdie 21 et al [Megan Browdie is a Partner at The Cooley Law Firm Megan is recognized by Super Lawyers and LMG’s Expert Guides as a “Rising Star” in antitrust and by Who’s Who Legal as a “Future Leader.” Megan was also recognized by the American Bar Association as a Top 40 Young Lawyer, which recognizes lawyers who “exemplify a broad range of high achievement, innovation, vision, leadership, and legal and community service.” At Georgetown University Law Center, Megan was the executive notes editor of the Georgetown Journal of Legal Ethics and interned at the Bureau of Competition at the Federal Trade Commission. Georgetown University Law Center, JD, 2010 - “BIDEN/HARRIS EXPECTED TO DOUBLE DOWN ON ANTITRUST ENFORCEMENT: NO “TRUMP CARD” IN THE DECK” - Concurrences – #1 - Feb 15, 2021 - #E&F – modified for language that may offend - available at (scroll down): https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#abbott,]

VI. DRAMATIC ANTITRUST LEGISLATION UNLIKELY, THOUGH EXPECT SOME LEGISLATIVE MOVEMENT

34. Progressives in Congress are pushing a more aggressive antitrust enforcement agenda. As discussed above, the Subcommittee on Antitrust Law of the House Judiciary Committee recently issued a report calling for the antitrust laws to be updated. The Digital Competition Report proposed several reforms, including “[s]trengthening Section 7 of the Clayton Act, including through restoring presumptions and bright-line rules, restoring the incipiency standard and protection nascent competitors, and strengthening the law on vertical mergers.” The Committee also proposed “[s]trengthening Section 2 of the Sherman Act, including by introducing a prohibition on abuse of dominance and clarifying prohibitions on monopoly leveraging, predatory pricing, denial of essential facilities, refusals to deal, tying, and anticompetitive self-preferencing and product design.” [39]

35. Democrats have also been active on the Senate side. For example, Democratic Senator Klobuchar has also proposed legislation, the Anticompetitive Exclusionary Conduct Prevent Act, that, among other things, would amend the Clayton Act to prohibit “exclusionary conduct,” defined as conduct that “presents an appreciable risk of harming competition” and would create a presumption that conduct is exclusionary if undertaken by a company with a greater than 50% share in the relevant market. [40]

36. While House Republicans released a minority response largely supporting Democrats’ findings, they expressed concerns about sweeping solutions and instead advocated for refinements to current law. [41] For example, regarding nascent competition, the minority response to the Digital Competition Report explained that “Congress should look to reinvigorate the antitrust enforcement agencies’ ability to conduct proper oversight and bring enforcement cases based on potential competition doctrine. This may require legislation restoring the potential competition doctrine to its original Congressional intent while freeing it from its current overly restrictive standards.” The minority response also agreed that “[c]onservatives should consider supporting very limited legislative changes to provide consumers with a data portability standard that is similar to transferring cell phone numbers.”

37. There is also pending legislation introduced by Republicans that would more closely align FTC and DOJ processes (the SMARTER Act) and that would combine the agencies (the One Agency Act).

38. Current leadership at the agencies appear to agree with the Republicans’ more cautious approach. For example, Chairman Joe Simons, while having touted himself as “responsible for overseeing the re-invigoration of the FTC’s non-merger enforcement program” during his tenure as director of the FTC Bureau of Competition under Bush, has pushed back on these “expanded” theories of antitrust harm. For example, he argued in January 2020 that “U.S. antitrust laws are sufficiently robust to handle competition problems as they arise. Over the years, antitrust laws have proven to be very flexible and resilient in enabling enforcers to challenge conduct that harms competition in a broad range of markets. These laws have proved themselves effective even as the economy evolved with technological progress.” [42]

39. Given this disagreement, and that the Democrats, at best, will have a very thin majority in the Senate, we anticipate some modest modifications to the antitrust laws but expect serious pushback to substantial overhauls of the system or laws.

#### US democratic leadership solves multiple existential threats

Kasparov 17 — Garry Kasparov, Chairman of the Human Rights Foundation, former World Chess Champion, 2017 (“Democracy and Human Rights: The Case for U.S. Leadership,” Testimony Before The Subcommittee on Western Hemisphere, Transnational Crime, Civilian Security, Democracy, Human Rights, and Global Women's Issues of the U.S. Senate Committee on Foreign Relations, February 16th, Available Online at https://www.foreign.senate.gov/imo/media/doc/021617\_Kasparov\_%20Testimony.pdf, Accessed 07-13-2017)

The United States and the rest of the free world has an unprecedented advantage in economic and military strength today. What is lacking is the will. The will to make the case to the American people, the will to take risks and invest in the long-term security of the country, and the world. This will require investments in aid, in education, in security that allow countries to attain the stability their people so badly need. Such investment is far more moral and far cheaper than the cycle of terror, war, refugees, and military intervention that results when America leaves a vacuum of power. The best way to help refugees is to prevent them from becoming refugees in the first place. The Soviet Union was an existential threat, and this focused the attention of the world, and the American people. There existential threat today is not found on a map, but it is very real. The forces of the past are making steady progress against the modern world order. Terrorist movements in the Middle East, extremist parties across Europe, a paranoid tyrant in North Korea threatening nuclear blackmail, and, at the center of the web, an aggressive KGB dictator in Russia. They all want to turn the world back to a dark past because their survival is threatened by the values of the free world, epitomized by the United States. And they are thriving as the U.S. has retreated. The global freedom index has declined for ten consecutive years. No one like to talk about the United States as a global policeman, but this is what happens when there is no cop on the beat. American leadership begins at home, right here. America cannot lead the world on democracy and human rights if there is no unity on the meaning and importance of these things. Leadership is required to make that case clearly and powerfully. Right now, Americans are engaged in politics at a level not seen in decades. It is an opportunity for them to rediscover that making America great begins with believing America can be great. The Cold War was won on American values that were shared by both parties and nearly every American. Institutions that were created by a Democrat, Truman, were triumphant forty years later thanks to the courage of a Republican, Reagan. This bipartisan consistency created the decades of strategic stability that is the great strength of democracies. Strong institutions that outlast politicians allow for long-range planning. In contrast, dictators can operate only tactically, not strategically, because they are not constrained by the balance of powers, but cannot afford to think beyond their own survival. This is why a dictator like Putin has an advantage in chaos, the ability to move quickly. This can only be met by strategy, by long-term goals that are based on shared values, not on polls and cable news. The fear of making things worse has paralyzed the United States from trying to make things better. There will always be setbacks, but the United States cannot quit. The spread of democracy is the only proven remedy for nearly every crisis that plagues the world today. War, famine, poverty, terrorism–all are generated and exacerbated by authoritarian regimes. A policy of America First inevitably puts American security last. American leadership is required because there is no one else, and because it is good for America. There is no weapon or wall that is more powerful for security than America being envied, imitated, and admired around the world. Admired not for being perfect, but for having the exceptional courage to always try to be better. Thank you.

### 6

#### 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

## Adv 1 – Blockchain

### 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 – A2: Supply Chain Sustainability

#### This scenario doesn’t have an extinction warrant or impact, and the warrant is grids which

#### Grid is resilient to shocks.

Larson ‘18 Selena Larson, Cyber threat intelligence analyst at Dragos, Inc. [Threats to Electric Grid are Real; Widespread Blackouts are Not, 8-6-2018, https://dragos.com/blog/industry-news/threats-to-electric-grid-are-real-widespread-blackouts-are-not/]

The US electric grid is not about to go down. Though it’s understandable if someone believed that. Over the last few weeks, numerous media reports suggest state-backed hackers have infiltrated the US electric grid and are capable of manipulating the flow of electricity on a grand scale and cause chaos. Threats against industrial sectors including electric utilities, oil and gas, and manufacturing are growing, and it’s reasonable for people to be concerned. But to say hackers have invaded the US electric grid and are prepared to cause blackouts is false. The initial reporting stemmed from a public Department of Homeland Security (DHS) presentation in July on Russian hacking activity targeting US electric utilities. This presentation contained previously-reported information on a group known as Dragonfly by Symantec and which Dragos associates to activity labeled DYMALLOY and ALLANITE. These groups focus on information gathering from industrial control system (ICS) networks and have not demonstrated disruptive or damaging capabilities. While some news reports cite 2015 and 2016 blackouts in Ukraine as evidence of hackers’ disruptive capabilities, DYMALLOY nor ALLANITE were involved in those incidents and it is inaccurate to suggest the DHS’s public presentation and those destructive behaviors are linked. Adversaries have not placed “cyber implants” into the electric grid to cause blackouts; but they are infiltrating business networks – and in some cases, ICS networks – in an effort to steal information and intelligence to potentially gain access to operational systems. Overall, the activity is concerning and represents the prerequisites towards a potential future disruptive event – but evidence to date does not support the claim that such an attack is imminent. The US electric grid is resilient and segmented, and although it makes an interesting plot to an action movie, one or two strains of malware targeting operational networks would not cause widespread blackouts. A destructive incident at one site would require highly-tailored tools and operations and would not effectively scale. Essentially, localized impacts are possible, and asset owners and operators should work to defend their networks from intrusions such as those described by DHS. But scaling up from isolated events to widespread impacts is highly unlikely.

### 1NC – A2: Bees

#### Pollinator collapse does not cause extinction

Dr. Toby Ord 20, Senior Research Fellow in Philosophy at Oxford University, DPhil in Philosophy from the University of Oxford, The Precipice: Existential Risk and the Future of Humanity, Hachette Books, Kindle Edition, p. 118

And while extinction is a useful measure of biodiversity loss, it is not the whole story. It doesn’t capture population reductions or species disappearing locally or regionally. While “only” 1 percent of species have gone extinct on our watch, the toll on biodiversity within each region may be much higher, and this may be what matters most. From the perspective of existential risk, what matters most about biodiversity loss is the loss of ecosystem services. These are services—such as purifying water and air, providing energy and resources, or improving our soil—that plants and animals currently provide for us, but we may find costly or impossible to do ourselves.

A prominent example is the crop pollination performed by honeybees. This is often raised as an existential risk, citing a quotation attributed Einstein that “If the bee disappeared off the surface of the globe then man would only have four years of life left.” This has been thoroughly debunked: it is not true and Einstein didn’t say it.109 In fact, a recent review found that even if honeybees were completely lost—and all other pollinators too—this would only create a 3 to 8 percent reduction in global crop production.110 It would be a great environmental tragedy and a crisis for humanity, but there is no reason to think it is an existential risk.

### 1NC – A2: Arms Control/Miscalc

#### Arms control paradox – either it's not necessary or gets circumvented.

Pant ’18 [Harsh V.; 10-25-2018; International Relations Professor at King’s College London; “Why arms control is doomed to failure,” https://www.livemint.com/Opinion/gdup4GkuqWHozxfXXvj6hM/Opinion--Why-arms-control-is-doomed-to-failure.html]

The global nuclear arms control architecture is crumbling today as it is no longer able to respond to the underlying shift in global power realities. But is the failure of arms control something that should be surprising? Or is it that all arms control must fail?

If arms control is needed in a strategic relationship because the states in question might go to war, it will be impractical for that very reason of need—whereas, if arms control should prove to be available, it will likely be irrelevant. This has been called the arms control paradox. The record of the Cold War shows that both the so-called status quo and revisionist powers, the US and the Soviet Union respectively, were more or less equally responsible for reneging on their arms control promises.

Not only did both of them attempt to gain nuclear superiority during the Cold War despite a plethora of arms control agreements, but they were also equally responsible for encouraging proliferation. As the great powers try to maximize their share of world power, their interests inevitably come into conflict with arms control agreements, making such agreements unravel.

While one can give some credit to arms control for maintaining strategic stability and creating norms of behaviour, the fact remains that even one of the most in-depth agreements in terms of details of provisions, verification measures, and leading to regime strengthening, the Comprehensive Test Ban Treaty, was rejected by the US even when it faced no great power as a rival in the near term. This is significant because if even one of the strongest arms control measures is not deemed worthy of acceptance, then there is some problem with the very idea of arms control rather than its specific provisions.

Indeed, disenchantment with arms control has been growing since the 1980s. After a brief period of détente in the 1970s, the two superpowers again started treating each other as antagonists. This affected all the arms control measures agreed to during détente. The signing of a plethora of arms control agreements during détente was seen as a success of arms control rather than a reflection of the relaxation of tensions during détente. And so, when after détente, the superpowers gave arms control short shrift, there was a lot of disappointment.

Major powers have always viewed arms control measures as a by-product of underlying political realities. There is enough evidence to suggest that while great power attempts at arms control have at best been quite useless, they have deftly used various arms control provisions to constrain the strategic autonomy of other states in the international system.

#### No ‘miscalc’ or ‘accidental’ war.

Brands 20 – Hal Brands, Henry A. Kissinger Distinguished Professor of Global Affairs at the Johns Hopkins School of Advanced International Studies (SAIS), a resident scholar at the American Enterprise Institute. [If America and China go to war, it won’t be an accident, 8-7-20, https://www.aei.org/op-eds/if-america-and-china-go-to-war-it-wont-be-an-accident/]

There is a venerable argument that states can stumble into a major conflict that neither truly desires, and it has been revived as tensions between the two great powers escalate. Nevertheless, history shows that big wars don’t just happen inadvertently.

The accidental war thesis was raised recently by former Prime Minister Kevin Rudd of Australia. Noting the many flashpoints at which U.S. and Chinese interests collide, he argued that there is a growing danger of them “stumbling into conflict.” An accidental collision between ships or planes in the South China Sea, or several other plausible scenarios, could lead to crisis, escalation and war. Just as the great powers of the early 20th century “sleep-walked” into World War I, China and America could blunder their way to disaster today.

World War I is often considered the classic example of an unwanted war: a devastating conflict that none of the participants would have chosen had they known what was coming. During the Cold War, U.S. policymakers worried that crises over Berlin or Cuba could get out of control. There is a body of political science literature devoted to understanding how accidental war can occur.

Yet there is one big problem: It is hard to identify any major wars that came about even though no one wanted them. The trouble in July and August 1914, it turns out, was not that inflexible mobilization schedules and military plans thrust political leaders into conflict. It was that several powers, most notably but not solely Austria-Hungary and Imperial Germany, insisted on pursuing aggressive policies that they knew risked a localized war at best and a continental war at worst. They nearly all believed, moreover, that if war had to come, better it should come sooner rather than later.

A generation after that, Franklin Roosevelt may not have foreseen that slapping an oil embargo on Japan would lead to the aerial assault on Pearl Harbor. But he certainly understood that war was a distinct possibility once the U.S. began strangling the economy of a country that was already pillaging Asia.

Likewise, the Six Day War of 1967 is sometimes treated as an inadvertent conflict. But again, Egyptian leaders were hardly blind to the danger of war when they mobilized forces in the Sinai Peninsula, blockaded Israel’s port on the Red Sea and took other belligerent steps.

The reality, as the historian Marc Trachtenberg has shown, is that countries tend to avoid war when neither really desires it. Yes, leaders do sometimes misjudge how wars will turn out and how destructive they will be. Tensions can gradually ratchet up in a way that makes de-escalation progressively harder.

Yet there is no more monumental decision than to initiate a major conflict. So when countries really do want to avert a showdown, they are generally willing to tack or retreat, even at the cost of some embarrassment.

During the Cold War, there was plenty of superpower brinkmanship, and some hair-raising incidents involving U.S. and Soviet military forces. There were several near misses in the Cuban Missile Crisis alone. But in that case and every other case, the crisis was defused and the superpowers drew back, precisely because they didn’t believe that the stakes merited a nuclear bloodbath.

Accidental war also seems unlikely today. There are plenty of circumstances in which the U.S. and China could find themselves in a crisis: a replay of the EP-3 incident of 2001, when a midair collision led to a diplomatic standoff; or an interaction between the Chinese and Japanese air forces in the East China Sea that unexpectedly turns deadly. But U.S. and Chinese policymakers know that a war could very well become an extremely grave affair. If both sides truly seek to avoid one, they will probably find a way of doing so.

This isn’t the same thing as saying that a Chinese-American war won’t happen. Conflict tends to occur when one party decides that war, or actions risking war, is preferable to living with the status quo or backing down in a crisis. That could happen all too easily.

If China concludes that Taiwan is distancing itself too far from the mainland politically, as the balance of power shifts in Beijing’s favor militarily, then it might decide that war is better than letting the dream of reunification slip away. If Chinese leaders worry that their domestic legitimacy is slipping, they might behave more belligerently in a crisis, for fear that war is less dangerous than humiliation.

Beijing might even gamble that the U.S. would stay out of a short, sharp war with Japan over the Senkaku Islands or the Philippines over Scarborough Shoal, and that gamble might not pay off.

But in any of these cases, Beijing would be making a deliberate choice to seek key objectives through the use of coercion or force, with the knowledge that a larger conflict is a real possibility. If a U.S.-China war results from such a choice, it could hardly be called an accident.

Why does this matter? Because it bears on the best way of avoiding war in the Pacific. Establishing memorandums of understanding on how military forces operating in close proximity should conduct themselves, creating mechanisms for communication in a crisis, and other steps to encourage de-escalation is helpful.

What is critical, however, is maintaining the military balance of power, and the perception of U.S. commitment, that makes it less likely that Chinese leaders could imagine a war in the region going their way.

## Adv 2 – FTC

### 1NC – Squo Solves

#### Concentrated permissionless OR permissioned blockchains can be resolved using existing antitrust law

Pike and Capobianco ’20 [Chris; Gabriele; 2020; Partner and Managing Director (Head of Digital Markets) at Fideres, an economics firm that focuses on antitrust litigation exclusively from the complainant-side and an associate at the Centre for Competition Policy at the University of East Anglia; Junior Competition Expert at the Competition Division; OECD Blockchain Policy Series; “Antitrust and the trust machine,” https://www.oecd.org/daf/competition/antitrust-and-the-trust-machine-2020.pdf]

A more likely concern is that validation of a permission-less blockchain may over time lose its decentralised nature and instead become highly concentrated. In that case, the co-ordination problems on setting prices that we identified might become significantly less challenging. A validator with a high share of validation capacity, for instance, one that employs thousands of validators in order to operate what is known as a ‘mining-pool’ might then be able to change protocols to raise prices, either unilaterally, or through co-ordination with a small number of other validators. Competition agencies may therefore wish to keep an eye on the degree of concentration of validation capacity on any permission-less blockchains that would hold market power if they were centrally controlled.

In addition, this loss of its highly decentralised nature would mean that a permission-less blockchain with a concentrated list of validators starts to resemble a permissioned blockchain with a small list of validators. Fortunately, however, in such circumstances the blockchain’s highly concentrated nature would also make identification and enforcement against the small number of validators easier, as is already the case for the permissioned blockchains to which we now turn.

3.2 Market power and enforcement against permissioned blockchains

Like firms with a traditional corporate structure, permissioned blockchains are operated by a single, well defined, centralised entity (or consortia of entities) that has developed the protocols that govern its actions. These therefore embody the traditional paradox that firms that compete in markets are governed by hierarchical command and control (non-market) mechanisms.8

This means these blockchains are perfectly capable of exercising any market power that they have. Indeed we might expect that there would be particularly strong network effects in the increasing number of ‘industry’ blockchains that are being formed by consortia of upstream and downstream firms that serve a certain market (see for instance those in shipping or diamonds) or that serve a broader set of markets (for example in the case of Libra).

In contrast to permission-less blockchains there should not be the same enforcement challenges in these cases. This is because there is both a centralised governing entity and a list of permissioned validators, and so it is therefore clear where a competition agency would need to direct any enforcement action that it needs to take. Such action might be required in a host of familiar situations, which we consider in the following sections.

### 1NC – Turn

#### The plan derails FTC credibility

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.

### 1NC – A2: Spyware

#### No internal link to the spyware scenario, it already exists and coop already happens, no reason the FTC is key to any of it

#### No spyware impact, but no chance of deepening global agreement on norms either

Wolfgang Kleinwächter 21, International Communication Policy and Regulation in the Department for Media and Information Studies at the University of Aarhus, 1/8/21, “Internet Governance Outlook 2021: Digital Cacaphony in a Splintering Cyberspace,” https://circleid.com/posts/20210108-internet-governance-outlook-2021-digital-cacaphony/

One thing is for sure: 2021 will probably see little global consensus. The digital cacophony will become louder. Driven by local needs, governments tend to prioritize the development of national policies. Although all sides recognize that national solutions need a functioning global information infrastructure in an interconnected world, the appetite to intensify mutual beneficial global cooperation, compromise, and find consensus is very low.

On the other hand, there is a more or less a silent agreement that the protection of the public core of the Internet—that is, the functioning of the global mechanisms for the management of root servers, domain names and IP addresses—is in the interest of all sides. It seems that some Internet Governance battles of the past are over. ICANN is not anymore in the line of geo-political fire. Its technical service is needed by everybody.

What ICANN is doing is called now by ICANNs CEO & President Göran Marby “Technical Internet Governance” (TIG). ICANN is afraid to get pulled into a new round of political arm-twisting. Marby’s more neutral “TIG language” goes back to the Internet Governance definition and the consensus of the WSIS Tunis Agenda from 2005, which differentiated between the “development” and the “use” of the Internet. The political Internet Governance problems, which emerged in the last 15 years, are more related to the “use” of the Internet, less to its “development.” And the pandemic has shown that regardless of the different national Corona approaches, the seamless and silent functioning of the Internet was a great gift for everybody to reduce the damage that came with Covid-19.

Insofar, we can see an interesting contradiction: On the lower layer—the “development” or “TIG”-Layer—the Internet remains unfragmented. On the upper layer—the “use” or “IG”-Layer—a special variant of Internet fragmentation, now labeled as “Internet Bifurcation,” is growing. Nevertheless, there are interlinkages between the two layers. Technical issues do have political implications and political problems have a technical component. It will be interesting to watch how the interplay between technology and policy will evolve in the years to come. In any case, 2021 will be a year where the digital cards on the cybertable will be reshuffled.

#### No cyber impact – attribution, restraint, and capabilities.

Lewis ’20 [James Andrew; 8/17/20; senior vice president and director of the Strategic Technologies Program at the Center for Strategic and International Studies; "Dismissing Cyber Catastrophe," https://www.csis.org/analysis/dismissing-cyber-catastrophe]

More importantly, there are powerful strategic constraints on those who have the ability to launch catastrophe attacks. We have more than two decades of experience with the use of cyber techniques and operations for coercive and criminal purposes and have a clear understanding of motives, capabilities, and intentions. We can be guided by the methods of the Strategic Bombing Survey, which used interviews and observation (rather than hypotheses) to determine effect. These methods apply equally to cyberattacks. The conclusions we can draw from this are:

Nonstate actors and most states lack the capability to launch attacks that cause physical damage at any level, much less a catastrophe. There have been regular predictions every year for over a decade that nonstate actors will acquire these high-end cyber capabilities in two or three years in what has become a cycle of repetition. The monetary return is negligible, which dissuades the skilled cybercriminals (mostly Russian speaking) who might have the necessary skills. One mystery is why these groups have not been used as mercenaries, and this may reflect either a degree of control by the Russian state (if it has forbidden mercenary acts) or a degree of caution by criminals.

There is enough uncertainty among potential attackers about the United States’ ability to attribute that they are unwilling to risk massive retaliation in response to a catastrophic attack. (They are perfectly willing to take the risk of attribution for espionage and coercive cyber actions.)

No one has ever died from a cyberattack, and only a handful of these attacks have produced physical damage. A cyberattack is not a nuclear weapon, and it is intellectually lazy to equate them to nuclear weapons. Using a tactical nuclear weapon against an urban center would produce several hundred thousand casualties, while a strategic nuclear exchange would cause tens of millions of casualties and immense physical destruction. These are catastrophes that some hack cannot duplicate. The shadow of nuclear war distorts discussion of cyber warfare.

State use of cyber operations is consistent with their broad national strategies and interests. Their primary emphasis is on espionage and political coercion. The United States has opponents and is in conflict with them, but they have no interest in launching a catastrophic cyberattack since it would certainly produce an equally catastrophic retaliation. Their goal is to stay below the “use-of-force” threshold and undertake damaging cyber actions against the United States, not start a war.

This has implications for the discussion of inadvertent escalation, something that has also never occurred. The concern over escalation deserves a longer discussion, as there are both technological and strategic constraints that shape and limit risk in cyber operations, and the absence of inadvertent escalation suggests a high degree of control for cyber capabilities by advanced states. Attackers, particularly among the United States’ major opponents for whom cyber is just one of the tools for confrontation, seek to avoid actions that could trigger escalation.

The United States has two opponents (China and Russia) who are capable of damaging cyberattacks. Russia has demonstrated its attack skills on the Ukrainian power grid, but neither Russia nor China would be well served by a similar attack on the United States. Iran is improving and may reach the point where it could use cyberattacks to cause major damage, but it would only do so when it has decided to engage in a major armed conflict with the United States. Iran might attack targets outside the United States and its allies with less risk and continues to experiment with cyberattacks against Israeli critical infrastructure. North Korea has not yet developed this kind of capability.

### 1NC – Human Rights

#### The human rights scenario is nonsense, it asserts a hypothetical that democracies could attempt to lobby authoritarian regimes to stop their abuses which is based in historical failure AND gives no reason why blockchain is key to it

### 1NC – AI

#### No impact to superintelligence, nano, or grey goo

Edward Moore Geist 15, MacArthur Nuclear Security Fellow at Stanford University’s Center for International Security and Cooperation, 8/9/15, “Is artificial intelligence really an existential threat to humanity?,” <http://thebulletin.org/artificial-intelligence-really-existential-threat-humanity8577>

Superintelligence: Paths, Dangers, Strategies is an astonishing book with an alarming thesis: Intelligent machines are “quite possibly the most important and most daunting challenge humanity has ever faced.” In it, Oxford University philosopher Nick **Bostrom**, who has built his reputation on the study of “existential risk,” argues forcefully that **a**rtificial **i**ntelligence might be the most apocalyptic technology of all. With intellectual powers beyond human comprehension, he prognosticates, self-improving **a**rtificial **i**ntelligences could effortlessly enslave or destroy Homo sapiens if they so wished. While he expresses skepticism that such machines can be controlled, Bostrom claims that if we program the right “human-friendly” values into them, they will continue to uphold these virtues, no matter how powerful the machines become. These views have found an eager audience. In August 2014, PayPal cofounder and electric car magnate Elon Musk tweeted “Worth reading Superintelligence by **Bostrom**. We need to be super careful with AI. Potentially more dangerous than nukes.” Bill Gates declared, “I agree with Elon Musk and some others on this and don’t understand why some people are not concerned.” More ominously, legendary astrophysicist Stephen Hawking concurred: “I think the development of full artificial intelligence could spell the end of the human race.” Proving his concern went beyond mere rhetoric, Musk donated $10 million to the Future of Life Institute “to support research aimed at keeping AI beneficial for humanity.” Superintelligence is propounding a **solution that will not work** to a **problem that** probably **does not exist**, but Bostrom and Musk are right that now is the time to take the ethical and policy implications of artificial intelligence seriously. The extraordinary claim that machines can become so intelligent as to gain demonic powers requires **extraordinary evidence**, particularly since artificial intelligence (AI) researchers have struggled to create machines that show much evidence of intelligence at all. While these investigators’ ultimate goals have varied since the emergence of the discipline in the mid-1950s, the fundamental aim of AI has always been to create machines that demonstrate intelligent behavior, whether to better understand human cognition or to solve practical problems. Some AI researchers even tried to create the self-improving reasoning machines Bostrom fears. Through decades of bitter experience, however, they learned not only that creating intelligence is more difficult than they initially expected, but also that it grows increasingly harder the smarter one tries to become. Bostrom’s concept of “superintelligence,” which he defines as “any intellect that greatly exceeds the cognitive performance of humans in virtually all domains of interest,” builds upon similar **discredited assumptions about the nature of thought** that the pioneers of AI held decades ago. A summary of Bostrom’s arguments, contextualized in the history of artificial intelligence, demonstrates how this is so. In the 1950s, the founders of the field of artificial intelligence assumed that the discovery of a few fundamental insights would make machines smarter than people within a few decades. By the 1980s, however, they discovered fundamental limitations that show that there will always be diminishing returns to additional processing power and data. Although these technical hurdles pose no barrier to the creation of human-level AI, they will likely **forestall the sudden emergence of an unstoppable “superintelligence**.” The risks of self-improving intelligent machines are **grossly exaggerated** and ought not serve as a **distraction from the existential risks we already face**, especially given that the limited AI technology we already have is poised to make threats like those posed by nuclear weapons even more pressing than they currently are. Disturbingly, little or no technical progress beyond that demonstrated by self-driving cars is necessary for artificial intelligence to have potentially devastating, cascading economic, strategic, and political effects. While policymakers ought not lose sleep over the technically implausible menace of “superintelligence,” they have every reason to be worried about emerging AI applications such as the Defense Advanced Research Projects Agency’s submarine-hunting drones, which threaten to upend longstanding geostrategic assumptions in the near future. Unfortunately, Superintelligence offers little insight into how to confront these pressing challenges.

# 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

#### 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.

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

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

#### Carbon bubble, peak oil.

Jeremy Rifkin 19. Honorary Doctorate in Economics at Hasselt University. Recipient of the 13th annual German Sustainability Award in December 2020. BS in Economics at UPenn – Wharton School. Founder of People’s Bicentennial Commission. The Green New Deal: Why the Fossil Fuel Civilization Will Collapse By 2028, and the Bold Economic Plan to Save Life on Earth. St Martin’s Press. P7-8. Google Book. //shree]

The Carbon Tracker Initiative, a London-based think tank serving the energy industry, reports that the steep decline in the price of generating solar and wind energy “will inevitably lead to trillions of dollars of stranded assets across the corporate sector and hit petro-states that fail to reinvent themselves,” while “putting trillions at risk for unsavvy investors oblivious to the speed of the unfolding energy transition.”19 “Stranded assets” are all the fossil fuels that will remain in the ground because of falling demand as well as the abandonment of pipelines, ocean platforms, storage facilities, energy generation plants, backup power plants, petrochemical processing facilities, and industries tightly coupled to the fossil fuel culture. Behind the scenes, a seismic struggle is taking place as four of the principal sectors responsible for global warming—the Information and Communications Technology (ICT)/telecommunications sector, the power and electric utility sector, the mobility and logistics sector, and the buildings sector—are beginning to decouple from the fossil fuel industry in favor of adopting the cheaper new green energies. The result is that within the fossil fuel industry, “around $100 trillion of assets could be ‘carbon stranded.’”20 The carbon bubble is the largest economic bubble in history. And studies and reports over the past twenty-four months—from within the global financial community, the insurance sector, global trade organizations, national governments, and many of the leading consulting agencies in the energy industry, the transportation sector, and the real estate sector—suggest that the imminent collapse of the fossil fuel industrial civilization could occur sometime between 2023 and 2030, as key sectors decouple from fossil fuels and rely on ever-cheaper solar, wind, and other renewable energies and accompanying zero-carbon technologies.21 The United States, currently the leading oil-producing nation, will be caught in the crosshairs between the plummeting price of solar and wind and the fallout from peak oil demand and accumulating stranded assets in the oil industry.22

#### 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.

#### Commons develop break-through innovation. Focus on competition causes them to be commercialized for profit.

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

Modern industrial culture has placed such a premium on “innovation” — fueled in large part by an endless quest for competitive advantage — that innovation is often seen as an absolute good in itself. In such a world, its general goal is to help businesses prevail against competitors in the marketplace, improve return on investment, and entice consumers to buy an endless stream of “new and improved” products. By contrast, the commons as a system of provisioning is often considered backward, premodern, or tribal — ways of producing things that are seen as static, stodgy, and not innovative. This is a gross caricature if not untruth because many commoners are extremely capable of adapting to changing needs, including the need to reduce one’s ecological footprint. In a commons, there is no imperative to constantly expand production and profit, and so creativity can be focused on what really matters — ameliorating quality, durability, resilience, and holistic stability. Innovation need not be linked to boosting market sales and ignoring planetary health. Countless commons exhibit the pattern of Creatively Adapt & Renew as part of their everyday activity. As Eric von Hippel shows in his book Democratizing Innovation, all sorts of practitioner-communities — bicyclists, hang-gliders, skiers, extreme sports buffs — have developed breakthrough ideas that were later commercialized by conventional businesses.26 Indigenous peoples, too — long considered fixed and traditional in their ways — have shown immense creativity over the centuries in co-creating robust ecosystems through seed-breeding and animal domestication. The fertile soil in the Amazon region known as terra preta do indio — “dark earth of the Indians” — writes political economist James Boyce, “is not a random anomaly, but rather a deliberate creation of Indigenous farmers who long ago practiced ‘slash-and-char’ agroforestry in the region. A noteworthy feature of terra preta is its remarkable capacity for self-regeneration, which scientists attribute to soil microorganisms.”27 Such practices can also be seen in the creation of gravity-fed acequia irrigation in the upper Rio Grande valley, which transformed the semi-arid region into a rich landscape of wetlands, cultivated fields, and riparian corridors that allowed many animal species to flourish. The ETC Group, an organization that studies technological innovation, has called such creativity “Indigenous innovation” and “cooperative innovation”28 because Indigenous peoples have made countless ethnobotanical and ecological discoveries that transnational corporations have later sought to appropriate for free and privatize (“biopiracy”). Commoners survive through creative adaptation and renewal. It is in their blood. They habitually have to make do with what is available and improvise. Among peasants and poor people in India, there is a word for such innovation — jugaad — the Indian practice of slapdash innovation from whatever is at hand.29 Creative adaptation, in truth, is a part of the human condition. Struggle and need induce creativity as a matter of survival.

#### 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.

Marietje Schaake 11-10, International Policy Director at Stanford University’s Cyber Policy Center, Senior Advisor for Tech & Geopolitics at Eurasia Group, President of the Cyberpeace Institute, “We Need a New Global Standard to Curb Intrusive Spyware”, Financial Times, 11/10/2021, Lexis

After more than a decade, democratic governments are finally waking up to the hazards of commercial spyware. Recent media coverage has exposed how authoritarian regimes are using NSO Group’s Pegasus software to spy on journalists and politicians. The EU has now tightened its rules on the export of surveillance technology, and the US Department of Commerce last week determined that Israel-based NSO Group and three other hacking companies were “engaging in activities that are contrary to the national security or foreign policy interests of the United States”. However, these modest steps do not go far enough: what’s needed is a global standard to reign in technologies that violate the rights to privacy, free assembly as well as free expression.

From ~~crippling~~ [devastating] ransomware to questionable neural algorithms which use AI to identify suspicious non-verbal activity, to face and emotion-detecting technologies, there is a proliferation of software applications which conflict with liberal democratic values.

Traditionally, export controls are imposed on products that threaten national security, such as those that could boost the manufacture of nuclear weapons. The EU has recently extended its export regime to include spyware technologies, and added human rights violations as a criterion for potential harm. But since the NSO Group is based outside the EU, it lies outside Brussels’ jurisdiction. Without a wider international agreement, options for curbing these companies are limited.

The absence of global restrictions brings further credibility risks: how can liberal democracies lobby against human rights abuses by authoritarian regimes, when they are in effect permitting the development and marketing of digital weapons?

While restricting exports may help prevent the flow of intrusive technologies from democracies to dictatorships, imports and domestic uses remain unaddressed. The Pegasus Project revealed how, in the heart of the EU, Hungarian prime minister Viktor Orban has deployed commercial surveillance systems to target the few remaining independent media outlets within his own country.

Even some democratic states, such as the Netherlands, are guilty of procuring hacking and surveillance systems, but do not disclose which ones. Undoubtedly, they will claim these are only ever used to track down the most serious criminal and terror suspects. Yet this lends credibility and capital to an exceedingly harmful industry. If democracies are serious about curbing surveillance, they should exercise greater transparency and lead by example.

More than ad hoc measures or restrictions applied to individual companies, the US should partner with the EU and other willing countries to set a new international standard for the use of, and trade in, spyware. This would be a tangible outcome for President Biden’s upcoming Summit for Democracy, a US-led virtual meeting in early December aimed at preventing authoritarianism, fighting corruption, and promoting human rights.

Beyond spyware, a variety of other technologies deserve greater scrutiny and regulation. Illegitimate mass surveillance systems, facial recognition software and tools used for illegal cyber operations are traded across borders to facilitate repression, conflict, and instability. Poor cyber security is now a source of systematic risk which threatens national resilience. Greater co-ordination is necessary to ensure that technologies which are currently legal do not provide the means for widespread rights violations.

Moreover, an international agreement between democratic states against malicious uses of technology will help set multilateral norms. UN human rights experts this week raised the alarm once more about how tech companies serve as modern-day “mercenaries”. “Private actors provide a wide range of military and security services in cyber space, including data collection, intelligence and surveillance,” they warned.

In the future, a licensing requirement should be the default for tech companies that contravene the human rights standard of democratic states. This would ensure better controls of end use and exports. Regulation would also allow for mapping of how software is being deployed, and enable greater transparency. Equally, companies should strengthen their own risk-management. The very credibility of democracies is at stake when tech companies can undermine global security unhindered.

#### That solidifies global inequality by replacing political violence with legal violence---that subordinates effective domestic systems to predatory rule of law models.

Ugo Mattei 3, Alfred and Hanna Fromm Professor of International and Comparative Law, ¶ U.C. Hastings; Professore Ordinario di Diritto Civile, Università di Torino A Theory of Imperial Law: A Study on U.S. Hegemony and the Latin Resistance, ic.ucsc.edu/~rlipsch/pol160A/Mattei.pdf

This essay attempts to develop a theory of imperial law that is able to explain postCold War changes in the general process of Americanization in legal thinking. My claim is that “imperial law” is now a dominant layer of world-wide legal systems.1 Imperial law is produced, in the interest of international capital, by a variety of both public and private institutions, all sharing a gap in legitimacy, sometimes called the “democratic deficit.” Imperial law is shaped by a spectacular process of exaggeration, aimed at building consent for the purpose of hegemonic domination. Imperial law subordinates local legal arrangements world-wide, reproducing on the global scale the same phenomenon of legal dualism that thus far has characterized the law of developing countries. Predatory economic globalization is the vehicle, the all-mighty ally, and the beneficiary of imperial law. Ironically, despite its absolute lack of democratic legitimacy, imperial law imposes as a natural necessity, by means of discursive practices branded “democracy and the rule of law,” a reactive legal philosophy that outlaws redistribution of wealth based on social solidarity.2 At the core of imperial law there is U.S. law, as transformed and adapted after the Reagan-Thatcher revolution, in the process of infiltrating the huge periphery left open after the end of the Cold War. A study of imperial law requires a careful discussion of the factors of penetration of U.S. legal consciousness world-wide, as well as a careful distinction between the context of production and the context of reception3 of the variety of institutional arrangements that make imperial law. Factors of resistance need to be fully appreciated as well.

I. AMERICAN LAW: FROM LEADERSHIP TO DOMINANCE The years following the Second World War have shown a dramatic change in the pattern of world hegemony in the law. Leading legal ideas, once produced in Continental Civilian Europe and exported through the periphery of the world, are now for the first time produced in a common law jurisdiction: the United States.4 There is little question that the present world dominance of the United States has been economic, military, and political first, and legal only in a more recent moment, so that a ready explanation of legal hegemony can be found with a simple Marxist explanation of law as a superstructure of the economy.5 Nevertheless, the question of the relationship between legal, political, and economic hegemony is not likely to be correctly addressed within a cause-and-effect paradigm.6 Ultimately, addressing this question is a very important area of basic jurisprudential research because it reveals some general aspects about the nature of law as a device of global governance.

Observing historical patterns of legal hegemony allows us to critique the distinction between two main patterns of governance through the law (and of legal transplants).7 Scholars of legal transplants have traditionally distinguished two patterns. The first is law as dominance without hegemony, in which the legal system is ultimately a coercive apparatus asserting political and economic power without consent. This area of inquiry and this model have been used to explain the relationship between the legal system of the motherland and that of the colonies within imperialistic colonial enterprises. The opposing pattern, telling a story of consensual voluntary reception by an admiring periphery of legal models developed and provided for at the center, is usually considered the most important pattern of legal transplants. It is described by stressing on the idea of consent within a notion of “prestige.”8

Little effort is necessary to challenge the sufficiency of this basic taxonomy in introducing legal transplants. Law is a detailed and complex machinery of social control that cannot function with any degree of effectiveness without some cooperation from a variety of individuals staffing legal institutions. These individuals usually consist of a professional elite which either already exists or is created by the hegemonic power. Such an elite provides the degree of consent to the reception of foreign legal ideas that is necessary for any legal transplant to occur. Hence, the distinction between imperialistic and non-imperialistic transplants is a matter only of degree and not of structure. In order to understand the nature of present legal hegemony, it is necessary to capture the way in which the law functions to build a degree of consent to the present pattern of international economic and political dominance.9

In this essay I suggest that a fundamental cultural construct of presumed consent is the rhetoric of democracy and the rule of law utilized by the imperial model of governance, 10 triumphant worldwide together with the neo-American model of capitalism developed by the Reagan and Thatcher revolution early in the 1980s. I argue that the last twenty years have produced the triumph in global governance of reactive, politically irresponsible institutions, such as the courts of law, over proactive politically accountable institutions such as direct administrative apparatuses of the State.11

This essay attempts to open a radical revision of some accepted modes of thought about the law as they appear today, at what has been called “the end of history.”12 Its aim is to discuss some ways in which global legality has been created in the present stage of world-wide legal development. It will show how democracy and the rule of law, in the present legal landscape, are just another rhetoric of legitimization of a given international dynamic of power. It will also denounce the present unconscious state in which the law is produced and developed by professional “consent building” elites. The consequences of such unconsciousness are creating a legal landscape in which the law is “naturally” giving up its role of constraining opportunistic behavior of market actors. This process results in the development of faked rules and institutions that are functional to the interests of the great capital and that dramatically enlarge inequality within society. I predict that such a legal environment is unable to avoid tragic results on a global scale such as those outlined in the well-known parable of the tragedy of the commons.13

My object of observation is a legal landscape in transition. I wish to analyze this path of transition from one political setting (the local state) to another political setting (world governance) in which American-framed reactive institutions are asserting themselves as legitimate and legitimating governing bodies, which I call imperial law. Imperial law is the product of a renowned alliance between state and economic institutions, a cooperative game in which a very limited number of powerful players are at play.14 While in the ages of colonialism such political battles for international hegemony were mostly carried on with an open use of force and political violence (in such a way that final extensive conflict between superpowers was unavoidable), in the age of globalization and of economic Empire political violence has been transformed into legal violence.

#### 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.

#### Capitalist IOT---it ensures bad AI---ruthless maximization is a s-risk.

**Shino 15** [Yuya, Journalist at Reuters "Capitalist forces could create ‘uncontrollable’ artificial intelligence – scientist," RT International, https://www.rt.com/uk/235143-capitalism-ai-dangerous-technology]

Murray Shanahan, professor of cognitive robotics at Imperial College London, cautioned against “capitalist forces” developing AI without any sense of morality, arguing it could lead to potentially “uncontrollable military technologies.” Shanahan’s comments follow warnings from leading scientists and entrepreneurs, including Stephen Hawking, Bill Gates, and Tesla Motors CEO Elon Musk. Gates admitted last month that he doesn’t “understand why some people are not concerned” by the threat of AI. Speaking to the Centre for the Study of Existential Risk at the University of Cambridge last week, Shanahan argued that AI development faces two options. Either a potentially dangerous AI is developed – with no moral reasoning and based on ruthless optimization processes – or scientists develop AI based on human brains, borrowing from our psychology and even neurology. “Right now, my vote is for option two, in the hope that it will lead to a form of harmonious co-existence [with humanity],” Shanahan said. AI based on the human brain would not be possible without first mapping the organ – a task the Human Connectome Project (HCP) is undertaking and aims to complete by late 2015. However, once the map is complete, it could take years to analyze all the data gathered. Experts disagree as to how long it will be before AI is successfully developed – or if it is even possible. Estimates range from 15 years to 100 years from now, with Shanahan believing that by the year 2100, AI will be “increasingly likely but still not certain.” Whether the technology is helpful or harmful to humans depends on which of Shanahan’s two options becomes the driving force behind its development. There is a fear that current economic and political systems are leading to the development of option one – a machine with no moral reasoning. “Capitalist forces will drive incentive to produce ruthless maximization processes. With this there is the temptation to develop risky things,” Shanahan said. For Shanahan, risky things include AI which could rig elections, subvert markets, or become dangerous military technology. “Within the military sphere governments will build these things just in case the others do it, so it's a very difficult process to stop.” Shanahan’s comments echo fears expressed by Gates and Musk last year, both of whom were influenced by Nick Bostrom’s book “Superintelligence: Paths, Dangers, Strategies,” he said. In his book 'Superintelligence: Paths, dangers, strategies,' Nick Bostrom – a professor of philosophy at Oxford University – argues that if machine brains surpass humans in intelligence, they could eventually replace us as the dominant species on earth. “As the fate of the gorillas now depends more on us humans than on the gorillas themselves,” Bostrom writes, “so the fate of our species then would come to depend on the actions of the machine superintelligence.” After reading Bostrom's book, Musk warned that the threat posed by AI could be greater than nuclear weapons. He donated $10 million to the Future of Life Institute in January, a global research program aimed at keeping AI beneficial to humanity.

## Adv 1 – Blockchain

### 2NC – Solvency

#### Courts 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.

#### There cards are about one case!

#### 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 – A2: Supply Chain Sustainability

#### “The grid” doesn’t exist.

Uchill 18 Joe Uchill, Cybersecurity reporter at Axios, former cybersecurity reporter at The Hill, internally citing Department of Homeland Security officials and other cybersecurity experts. [Why "crashing the grid" doesn't keep cyber experts awake at night, 8-23-18, https://www.axios.com/why-crashing-the-grid-doesnt-keep-cyber-experts-awake-at-night-a40563a5-f266-493d-856a-5c9a5c1383dd.html]

Reality check: The people tasked with protecting U.S. electrical infrastructure say the scenario where hackers take down the entire grid — the one that's also the plot of the "Die Hard" movie where Bruce Willis blows up a helicopter by launching a car at it — is not a realistic threat. And focusing on the wrong problem means we’re not focusing on the right ones. So, why can't you hack the grid? Here's one big reason: "The thing called the grid does not exist," said a Department of Homeland Security official involved in securing the U.S. power structure. Think of the grid like the internet. We refer to the collective mess of servers, software, users and equipment that routes internet traffic as "the internet." The internet is a singular noun, but it’s not a singular thing. You can’t hack the entire internet. There’s so much stuff running independently that all you can hack is individual pieces of the internet. Similarly, the North American electric grid is actually five interconnected grids that can borrow electricity from each other. And the mini-grids aren't singular things either. Taking down "the grid" would be more like collapsing the thousands of companies that provide and distribute power accross the country. "When someone talks about 'the grid,' it's usually a red flag they aren't going to know what they are talking about," says Sergio Caltagirone, director of threat intelligence at Dragos, a firm that specializes in industrial cybersecurity including the energy sector. Redundancy and resilience: Every aspect of the electric system, from the machines in power plants to the grid as a whole, is designed with redundancy in mind. You can’t just break a thing or 10 and expect a prolonged blackout. On some level, most people already know this. Everyone has lived through blackouts, but no one has lived through a blackout so big it caused the Purge. 'The power system is the most complex machine ever made by humans," said Chris Sistrunk, principle consultant at FireEye in energy cybersecurity. "Setting it up, or hacking it, is more complicated than putting a man [person] on the moon." An attack that took out power to New York using cyber means would require a nearly prohibitive amount of effort to coordinate, said Lesley Carhart of Dragos. Such a failure would also tip off other regions that there was an attack afoot. Causing a power outage in New York would likely prevent a power outage in Chicago.

### 1NC – A2: Bees

#### Structural alt causes – warming, urbanization, industrial ag, global capitalism.

Andrew Krosofsky, 4-1-2021, "The Un-bee-lievable Truth Behind Why Bees Are Disappearing ," Green Matters, https://www.greenmatters.com/p/why-are-bees-disappearing

Why are bees disappearing?

To be frank, bees are disappearing because of humans. According to Woodland Trust, the biggest causes of bee population decline include everything from habitat loss to climate change. We destroy natural habitats, forests, wildflower meadows, and many other areas that once held flower species necessary for bee survival.

The climate is warming, cooling, and all-around shifting in ways that many insect populations cannot cope with. Seasonal changes disrupt the delicate nesting behavior of bees and can prevent or confuse normal pollination and breeding patterns. Diseases, parasites, invasive species, and pesticides make up the rest of the culprits.

How are pesticides affecting bees?

It isn’t just the inherent toxicity of pesticides that's killing our bees. Even if some pesticides aren't designed to be strong enough to kill the bees themselves, they can still have an adverse effect on the neurological systems of bees.

According to Woodland Trust, these pesticides, many of which were meant to kill ants, get sprayed on plants, which then get absorbed into the bees' bodies when they attempt to pollinate the plants. This can lead to developmental problems, neurodegenerative effects, and even colony collapse disorder.

The EPA reports that one of the chief causes of bee disappearances is a phenomenon known as colony collapse disorder, or CCD. The result of CCD is a hive without enough worker bees that is unable to sustain itself. It dies from the outside in, until only the queen is left. CCD has a number of causes that include, but are not limited to, poor nutrition, mite infestations, exposure to pesticides, stress, and viral infections.

#### 

#### Pollinator collapse does not cause extinction

Dr. Toby Ord 20, Senior Research Fellow in Philosophy at Oxford University, DPhil in Philosophy from the University of Oxford, The Precipice: Existential Risk and the Future of Humanity, Hachette Books, Kindle Edition, p. 118

And while extinction is a useful measure of biodiversity loss, it is not the whole story. It doesn’t capture population reductions or species disappearing locally or regionally. While “only” 1 percent of species have gone extinct on our watch, the toll on biodiversity within each region may be much higher, and this may be what matters most. From the perspective of existential risk, what matters most about biodiversity loss is the loss of ecosystem services. These are services—such as purifying water and air, providing energy and resources, or improving our soil—that plants and animals currently provide for us, but we may find costly or impossible to do ourselves.

A prominent example is the crop pollination performed by honeybees. This is often raised as an existential risk, citing a quotation attributed Einstein that “If the bee disappeared off the surface of the globe then man would only have four years of life left.” This has been thoroughly debunked: it is not true and Einstein didn’t say it.109 In fact, a recent review found that even if honeybees were completely lost—and all other pollinators too—this would only create a 3 to 8 percent reduction in global crop production.110 It would be a great environmental tragedy and a crisis for humanity, but there is no reason to think it is an existential risk.

### 1NC – A2: Arms Control/Miscalc

#### Blockchain’s only relevant for arms control if the chains are private and controlled by states – opposite what the plan promotes!

Michal Onderco 21, Associate Professor of International Relations in the Department of Public Administration and Sociology at Erasmus University Rotterdam; and Madeline Zutt, research associate at Erasmus University Rotterdam, 2021, “Emerging technology and nuclear security: What does the wisdom of the crowd tell us?,” Contemporary Security Policy, 42(3), pp. 286-311

Our third finding focuses on whether emerging technologies could enhance or impede nuclear disarmament efforts. Some work has already exposed how new technologies have the potential to strengthen nuclear disarmament and verification measures. A prototype “SLAFKA” was recently jointly developed by a nuclear regulator in Finland (STUK), the University of New South Wales in Australia, and the Stimson Center in the United States which tests whether a distributed ledger technology (DLT) can effectively safeguard nuclear material (Stimson Center, 2020). A DLT platform is “a system of electronic records that enables independent entities to establish consensus around a “ledger”—without relying on a central coordinator to provide the authoritative version of the records” (Rauchs et al., 2018, p. 23). Blockchain is the most well-known type of distributed ledger. Importantly, blockchain is structured in such a way that all who participate in the shared ledger must agree upon a set of records or data, and this data cannot be changed or tampered with by one actor alone (Rockwood et al., 2018). When it comes to accounting for nuclear materials, blockchain could be used by member states to confidentially and securely provide data to the IAEA (Vestergaard, 2018). By using a shared ledger system, the transmission of data by a member state would be visible to other member states, while maintaining the anonymity of participants (Rockwood et al., 2018).

In a recent report, Burford (2020) notes that the characteristic features of blockchain, namely its immutability and security as a data management tool, are uniquely suited to “help to build technical capacity among [non-nuclear weapons states] and habits of cooperation among NPT parties, while protecting proliferation-sensitive data” (p. 21). Finally, others have noted that advances in image-recognition software combined with the increased sophistication in and availability of satellite imagery could open up space for more actors to get involved in verification activities (Kaspersen & King, 2019). This would make verification more robust by allowing a greater number of states to participate in what has traditionally been the domain of states that are more technologically superior.

#### Adversaries ignore norms.

Payne ’15 [Keith; July 2015; PhD, Professor and Head of the Graduate Department of Defense and Strategic Studies at Missouri State University; “US Nuclear Weapons and Deterrence,” Air & Space Power Journal, https://www.airuniversity.af.mil/Portals/10/ASPJ/journals/Volume-29\_Issue-4/V-Payne.pdf]

Realists in this regard are from Missouri, the “show me” state, and ask utopians to explain how, why, and when a powerful new cooperative international norm with corresponding international institutions will become a reality. Realists point to the unhappy history of the unmet claims and dashed hopes of the 1928 Kellogg-Briand Pact (intended to prevent offensive war by global legal agreement), the League of Nations, and the United Nations. To be sure, the future does not have to be bound by the past, but before moving further toward nuclear disarmament, realists want to see some clear evidence of the emerging transformation of the global order—not just the claim that it can occur if all key leaders are so willing, faithful, and visionary and can “embrace a politics of impossibility.”12 As the old English proverb says, “If wishes were horses, then beggars would ride.”

But has not everything changed in the twenty-first century? Has not the end of the Cold War ushered in a new global commitment to cooperation, the rule of law globally, and benign conflict resolution? The unarguable answer is no. Russian military actions against Georgia in 2008 and Ukraine since 2014 (the latter in direct violation of the 1994 Budapest Memorandum signed by Russia, Great Britain, and the United States) are sufficient empirical evidence to demonstrate that Thucydides’ stark description of reality is alive and well. China’s expansionist claims and military pressure against its neighbors in the East and South China Seas teach the same lesson.

Why is this reality significant in the consideration of nuclear weapons? Because in the absence of reliably overturning the powerful norm of raison d’État and Thucydides’ explanation of international relations, states with the capability and felt need will continue to demand nuclear capabilities for their own protection and, in some cases, to provide cover for their expansionist plans. To wit, if Ukraine had retained nuclear weapons, would it now fear for its survival at the hands of Russian aggression? Former Ukrainian defense minister Valeriy Heletey and members of the Ukrainian parliament have made this point explicitly, lamenting Ukraine’s transfer of its nuclear forces to Russia in return for now-broken security promises of the Budapest Memorandum.13

This lesson cannot have been lost on other leaders considering the value of nuclear weapons. Nor is it a coincidence that US allies in Central Europe and Asia are becoming ever more explicit about their need for US nuclear assurances under the US extended nuclear deterrent (i.e., the nuclear umbrella). They see no new emerging, powerful global collective security regime or cooperative norms that will preserve their security; thus, they understandably seek the assurance of power, including nuclear power. The Polish Foreign Ministry observed in a recent press release that “the current situation reaffirms the importance of NATO’s nuclear deterrence policy.”14 This reality stands in stark contrast to utopian claims that powerful new global norms and international institutions will reorder the international system, overturn Thucydides, and allow individual states to dispense with nuclear weapons or the nuclear protection of a powerful ally. As the Socialist French president Francois Hollande has said, “The international context does not allow for any weakness. . . . The era of nuclear deterrence is therefore not over. . . . In a dangerous world—and it is dangerous—France does not want to let down its guard. . . . The possibility of future state conflicts concerning us directly or indirectly cannot be excluded.”15 There could be no clearer expression of Thucydides’ description of international relations and its contemporary implications for nuclear weapons.

Opponents of the administration’s plan to modernize the US triad now double down on the utopian narrative by insisting that the United States instead lead the way in establishing the new global norm by showing that Washington no longer relies on nuclear weapons and does not seek new ones. Washington cannot expect others to forgo nuclear weapons if it retains them, they say, and thus it must lead in creation of the new norm against nuclear weapons by providing an example to the world. For instance, “by unilaterally reducing its arsenal to a total of 1,000 warheads, the United States would encourage Russia to similarly reduce its nuclear forces without waiting for arms control negotiations.”16 A good US example supposedly can help “induce parallel” behavior in others.17 If, however, the United States attributes continuing value to nuclear weapons by maintaining its arsenal, “other countries will be more inclined to seek” them.18

Nuclear realists respond, however, that the United States already has reduced its nuclear forces deeply over the last 25 years. America cut its tactical nuclear weapons from a few thousand in 1991 to a “few hundred” today.19 Moreover, US-deployed strategic nuclear weapons have been cut from an estimated 9,000 in 1992 to roughly 1,600 accountable warheads today, with still more reductions planned under the New START Treaty.20 The United States has even decided to be highly revealing of its nuclear capabilities to encourage others to do so, with no apparent effect on Russia, China, or North Korea.21 America has adhered fully to the reductions and restrictions of the 1987 Intermediate-Range Nuclear Forces Treaty—the “centerpiece of arms control”—but the Russians now are in open violation. As former undersec- retary of state Robert Joseph stated recently, decades of deep US reductions “appear to have had no moderating effect on Russian, Chinese or North Korean nuclear programs. Neither have U.S. reductions led to any effective strengthening of international nonproliferation efforts.”22 Utopians want the United States to lead the world toward nuclear disarmament by its good example, but no one is following.

The basic reason, realists point out, is that foreign leaders make decisions about nuclear weaponry based largely on their countries’ strategic needs, raison d’État, not in deference to America’s penchant for nuclear disarmament or some sense of global fairness. A close review of India by S. Paul Kapur, for example, concluded that “Indian leaders do not seek to emulate US nuclear behavior; they formulate policy based primarily on their assessment of the security threats facing India.”23 The same self-interested calculation is true for other nuclear and aspiring nuclear states.

#### No ‘miscalc’ or ‘accidental’ war.

Brands 20 – Hal Brands, Henry A. Kissinger Distinguished Professor of Global Affairs at the Johns Hopkins School of Advanced International Studies (SAIS), a resident scholar at the American Enterprise Institute. [If America and China go to war, it won’t be an accident, 8-7-20, https://www.aei.org/op-eds/if-america-and-china-go-to-war-it-wont-be-an-accident/]

There is a venerable argument that states can stumble into a major conflict that neither truly desires, and it has been revived as tensions between the two great powers escalate. Nevertheless, history shows that big wars don’t just happen inadvertently.

The accidental war thesis was raised recently by former Prime Minister Kevin Rudd of Australia. Noting the many flashpoints at which U.S. and Chinese interests collide, he argued that there is a growing danger of them “stumbling into conflict.” An accidental collision between ships or planes in the South China Sea, or several other plausible scenarios, could lead to crisis, escalation and war. Just as the great powers of the early 20th century “sleep-walked” into World War I, China and America could blunder their way to disaster today.

World War I is often considered the classic example of an unwanted war: a devastating conflict that none of the participants would have chosen had they known what was coming. During the Cold War, U.S. policymakers worried that crises over Berlin or Cuba could get out of control. There is a body of political science literature devoted to understanding how accidental war can occur.

Yet there is one big problem: It is hard to identify any major wars that came about even though no one wanted them. The trouble in July and August 1914, it turns out, was not that inflexible mobilization schedules and military plans thrust political leaders into conflict. It was that several powers, most notably but not solely Austria-Hungary and Imperial Germany, insisted on pursuing aggressive policies that they knew risked a localized war at best and a continental war at worst. They nearly all believed, moreover, that if war had to come, better it should come sooner rather than later.

A generation after that, Franklin Roosevelt may not have foreseen that slapping an oil embargo on Japan would lead to the aerial assault on Pearl Harbor. But he certainly understood that war was a distinct possibility once the U.S. began strangling the economy of a country that was already pillaging Asia.

Likewise, the Six Day War of 1967 is sometimes treated as an inadvertent conflict. But again, Egyptian leaders were hardly blind to the danger of war when they mobilized forces in the Sinai Peninsula, blockaded Israel’s port on the Red Sea and took other belligerent steps.

The reality, as the historian Marc Trachtenberg has shown, is that countries tend to avoid war when neither really desires it. Yes, leaders do sometimes misjudge how wars will turn out and how destructive they will be. Tensions can gradually ratchet up in a way that makes de-escalation progressively harder.

Yet there is no more monumental decision than to initiate a major conflict. So when countries really do want to avert a showdown, they are generally willing to tack or retreat, even at the cost of some embarrassment.

During the Cold War, there was plenty of superpower brinkmanship, and some hair-raising incidents involving U.S. and Soviet military forces. There were several near misses in the Cuban Missile Crisis alone. But in that case and every other case, the crisis was defused and the superpowers drew back, precisely because they didn’t believe that the stakes merited a nuclear bloodbath.

Accidental war also seems unlikely today. There are plenty of circumstances in which the U.S. and China could find themselves in a crisis: a replay of the EP-3 incident of 2001, when a midair collision led to a diplomatic standoff; or an interaction between the Chinese and Japanese air forces in the East China Sea that unexpectedly turns deadly. But U.S. and Chinese policymakers know that a war could very well become an extremely grave affair. If both sides truly seek to avoid one, they will probably find a way of doing so.

This isn’t the same thing as saying that a Chinese-American war won’t happen. Conflict tends to occur when one party decides that war, or actions risking war, is preferable to living with the status quo or backing down in a crisis. That could happen all too easily.

If China concludes that Taiwan is distancing itself too far from the mainland politically, as the balance of power shifts in Beijing’s favor militarily, then it might decide that war is better than letting the dream of reunification slip away. If Chinese leaders worry that their domestic legitimacy is slipping, they might behave more belligerently in a crisis, for fear that war is less dangerous than humiliation.

Beijing might even gamble that the U.S. would stay out of a short, sharp war with Japan over the Senkaku Islands or the Philippines over Scarborough Shoal, and that gamble might not pay off.

But in any of these cases, Beijing would be making a deliberate choice to seek key objectives through the use of coercion or force, with the knowledge that a larger conflict is a real possibility. If a U.S.-China war results from such a choice, it could hardly be called an accident.

Why does this matter? Because it bears on the best way of avoiding war in the Pacific. Establishing memorandums of understanding on how military forces operating in close proximity should conduct themselves, creating mechanisms for communication in a crisis, and other steps to encourage de-escalation is helpful.

What is critical, however, is maintaining the military balance of power, and the perception of U.S. commitment, that makes it less likely that Chinese leaders could imagine a war in the region going their way.

## Adv 2 – FTC

### 2NC – AT: Schrepel

#### 1 – Shrepel’s “theory of granularity” is incoherent bunk and kills antitrust.

Katopodi ’21 [Eleni; 2021; LL.M PhD Candidate (University of Augsburg) and Research Associate, Technical University of Munich; EU and Comparative Law Issues and Challenges Series (Eclic 5) – Special Issue; “Blockchain Market: Regulatory Concerns Arising from the ‘Diem’ Example in the Field of Free Competition1,” https://hrcak.srce.hr/ojs/index.php/eclic/article/view/18821/10289]

In order for the reader to answer this question, they have to go through the analysis of another essential term: the notion of ‘firm’ adapted to the requirements of the blockchain technology in competition law. In the traditional doctrine, the enterprise is the smallest economic unit, in which free competition law can be applied. The fact that the introduction of the blockchain complicates the boundaries of the company and makes its traditional definition redundant has given rise to a number of theoretical views with a view to redefining it.24 Initiating from the classic Ronald Coase’s theory of transaction costs as the most contributing factor to the more modern ‘theory of granularity’ introduced by Schrepel one thing is to be guaranteed; the issue still remains unsolved.

According to this latest theory, there is a narrow ‘nucleus’ among users of the same blockchain, which can define and control the entire structure of it, therefore bear the sole liability. This control is identified on the basis of various quantitative criteria, such as the technical capacity, the capacity to interfere with the blockchain economic value or the capacity to influence the blockchain norms. 25 However, even Schrepel’s well-structured theory presents gaps to the extent that the concept of undertaking as an entity engaged in economic activity within a structured market is unfortunately lost. Users of blockchain can be natural persons with no involvement into the business market. The narrow ‘nucleus’ may consist of the sum of those people that cannot constitute in any case legal entities.

Of course, the adoption of the ‘theory of granularity’ challenges the interpreter who will give in to it to face significant evidentiary difficulties immediately afterwards. These mainly focus on the proof that a blockchain user actually belongs to the ‘nucleus of a blockchain’ on the basis of the above criteria. Could in the decentralized ecosystem of the blockchain, however, still be expected a centralized classical dominant undertaking, which controls the market in one of the traditional and prescribed ways? According to the author, something like that would not be possible for typical permissionless blockchain. If this were accepted, it would probably jeopardize the whole antitrust legal system and result in the impunity of the responsible ones for stopping the prohibited conduct. Therefore, to the question of whether there can be a monopoly without a monopolist, the answer inevitably ends up being positive. This is partially confirmed through the wording of the MiCa Regulation (see below). Naturally, there is an exception and this theoretical structure can easily be applied in permissionless blockchains that are organized in a different way; especially within those ecosystems only few people have the right to write the code and actually run the blockchain. In similar situations, this is deemed applicable. Nonetheless, such ecosystems are far from being the rule.

Secondly, even taken for granted that the answer to the previous question would be positive, it is a real fact that blockchain and non-blockchain institutions are in a thorough competition with one another. In this framework, every time a definition is going to take place the market will be defined rather broad, excluding per se the possibility of diagnosing dominance of one actor. For example, that is the case if one considers the market for online payments, in which companies, such as PayPal or VISA payments, are also major players. Blockchain reduces significantly the transaction fees, yet it does not itself constitute a separate market. Only under the scenario that one could argue that there is a separate market for infrastructure, there might be an argument for the inclusion of blockchain technology in it. Namely, to the extent that mining cryptocurrencies and verifying transactions are also subject to fees, just like the normal payments, the existence of a broader market cannot be doubted. However, even then, this theory overlooks the various functions of blockchain and focuses only one; the use as a payment system.

#### Squo concept of the ‘firm’ is enough.

Pascarella ’22 [Pat; 1/21; Antitrust attorney with BonaLaw, formerly with the U.S. Department of Justice Antitrust Division and former Chief Antitrust Counsel at AT&T; The Antitrust Attorney Blog; “Don’t Let Antitrust Stick a Fork in Your Blockchain,” https://www.theantitrustattorney.com/dont-let-antitrust-stick-a-fork-in-your-blockchain/]

Can a blockchain itself violate the antitrust laws much like a firm or company today? Say a blockchain influenced by its founders, developers, and users (and in some instances miners), enables some conduct or practice with the purpose and effect to exclude or raise the cost of a rival entity (e.g., a competing blockchain, or perhaps a competitor relying on a centralized control solution). Or the blockchain is used to implement rules that permit an exchange of data among its users that enables collusion to the mutual benefit of the conspirators and blockchain (a hub and spoke conspiracy).

I think it is safe to assume that the answer to that question is yes. This is not to say however that the prosecution of such claims will not pose some interesting questions. For example, is the blockchain a firm or person like a corporation for purposes of antitrust enforcement? Who is “the blockchain?” Is there some control group and what are its bounds? (See, Blockchain + Antitrust, Thibault Schrepel (2021) for an interesting and well-informed discussion of this and other potential antitrust-related issues in a blockchain world.) While questions such as these are today unanswered, I would suggest that they will be relatively simple issues for courts to deal with. Contrary to whimsical theoretic discussions, these issues will be decided in the cold light of facts – i.e., who did what to whom. Nothing courts haven’t been called on to do with every new technology and marketplace. What is the alleged injury? And who caused it?

Intra-Blockchain Violations

Obviously, there are scenarios that might cause damage or injury primarily within a single blockchain that also give rise to antitrust liability. Most will involve some amalgamation of control among participants (and potentially outsiders) who then proceed to act to the detriment of other participants in the blockchain (and possibly outsiders impacted by the conduct). See, e.g., United American Corp. v. Bitmain Inc., et al., Case No. 1-18-cv-25106 (S.D. Fla.). I suspect key issues in most such cases will be defining the relevant market and whether the proffered harm amounts to antitrust injury.

There will no doubt continue to be countless articles, reports, and even books written about antitrust and blockchain. These books and articles will raise an array of interesting hypothetical scenarios that arguably may confound the antitrust laws. My point—I have yet to see a real world blockchain-related issue that can’t be resolved by the simple application of the current antitrust laws to the relevant facts—assuming, of course, your antitrust attorney knows the difference between a dApp and a DAO.

### 1NC – A2: Spyware

#### No spyware impact, but no chance of deepening global agreement on norms either

Wolfgang Kleinwächter 21, International Communication Policy and Regulation in the Department for Media and Information Studies at the University of Aarhus, 1/8/21, “Internet Governance Outlook 2021: Digital Cacaphony in a Splintering Cyberspace,” https://circleid.com/posts/20210108-internet-governance-outlook-2021-digital-cacaphony/

One thing is for sure: 2021 will probably see little global consensus. The digital cacophony will become louder. Driven by local needs, governments tend to prioritize the development of national policies. Although all sides recognize that national solutions need a functioning global information infrastructure in an interconnected world, the appetite to intensify mutual beneficial global cooperation, compromise, and find consensus is very low.

On the other hand, there is a more or less a silent agreement that the protection of the public core of the Internet—that is, the functioning of the global mechanisms for the management of root servers, domain names and IP addresses—is in the interest of all sides. It seems that some Internet Governance battles of the past are over. ICANN is not anymore in the line of geo-political fire. Its technical service is needed by everybody.

What ICANN is doing is called now by ICANNs CEO & President Göran Marby “Technical Internet Governance” (TIG). ICANN is afraid to get pulled into a new round of political arm-twisting. Marby’s more neutral “TIG language” goes back to the Internet Governance definition and the consensus of the WSIS Tunis Agenda from 2005, which differentiated between the “development” and the “use” of the Internet. The political Internet Governance problems, which emerged in the last 15 years, are more related to the “use” of the Internet, less to its “development.” And the pandemic has shown that regardless of the different national Corona approaches, the seamless and silent functioning of the Internet was a great gift for everybody to reduce the damage that came with Covid-19.

Insofar, we can see an interesting contradiction: On the lower layer—the “development” or “TIG”-Layer—the Internet remains unfragmented. On the upper layer—the “use” or “IG”-Layer—a special variant of Internet fragmentation, now labeled as “Internet Bifurcation,” is growing. Nevertheless, there are interlinkages between the two layers. Technical issues do have political implications and political problems have a technical component. It will be interesting to watch how the interplay between technology and policy will evolve in the years to come. In any case, 2021 will be a year where the digital cards on the cybertable will be reshuffled.

#### No cyber impact – attribution, restraint, and capabilities.

Lewis ’20 [James Andrew; 8/17/20; senior vice president and director of the Strategic Technologies Program at the Center for Strategic and International Studies; "Dismissing Cyber Catastrophe," https://www.csis.org/analysis/dismissing-cyber-catastrophe]

More importantly, there are powerful strategic constraints on those who have the ability to launch catastrophe attacks. We have more than two decades of experience with the use of cyber techniques and operations for coercive and criminal purposes and have a clear understanding of motives, capabilities, and intentions. We can be guided by the methods of the Strategic Bombing Survey, which used interviews and observation (rather than hypotheses) to determine effect. These methods apply equally to cyberattacks. The conclusions we can draw from this are:

Nonstate actors and most states lack the capability to launch attacks that cause physical damage at any level, much less a catastrophe. There have been regular predictions every year for over a decade that nonstate actors will acquire these high-end cyber capabilities in two or three years in what has become a cycle of repetition. The monetary return is negligible, which dissuades the skilled cybercriminals (mostly Russian speaking) who might have the necessary skills. One mystery is why these groups have not been used as mercenaries, and this may reflect either a degree of control by the Russian state (if it has forbidden mercenary acts) or a degree of caution by criminals.

There is enough uncertainty among potential attackers about the United States’ ability to attribute that they are unwilling to risk massive retaliation in response to a catastrophic attack. (They are perfectly willing to take the risk of attribution for espionage and coercive cyber actions.)

No one has ever died from a cyberattack, and only a handful of these attacks have produced physical damage. A cyberattack is not a nuclear weapon, and it is intellectually lazy to equate them to nuclear weapons. Using a tactical nuclear weapon against an urban center would produce several hundred thousand casualties, while a strategic nuclear exchange would cause tens of millions of casualties and immense physical destruction. These are catastrophes that some hack cannot duplicate. The shadow of nuclear war distorts discussion of cyber warfare.

State use of cyber operations is consistent with their broad national strategies and interests. Their primary emphasis is on espionage and political coercion. The United States has opponents and is in conflict with them, but they have no interest in launching a catastrophic cyberattack since it would certainly produce an equally catastrophic retaliation. Their goal is to stay below the “use-of-force” threshold and undertake damaging cyber actions against the United States, not start a war.

This has implications for the discussion of inadvertent escalation, something that has also never occurred. The concern over escalation deserves a longer discussion, as there are both technological and strategic constraints that shape and limit risk in cyber operations, and the absence of inadvertent escalation suggests a high degree of control for cyber capabilities by advanced states. Attackers, particularly among the United States’ major opponents for whom cyber is just one of the tools for confrontation, seek to avoid actions that could trigger escalation.

The United States has two opponents (China and Russia) who are capable of damaging cyberattacks. Russia has demonstrated its attack skills on the Ukrainian power grid, but neither Russia nor China would be well served by a similar attack on the United States. Iran is improving and may reach the point where it could use cyberattacks to cause major damage, but it would only do so when it has decided to engage in a major armed conflict with the United States. Iran might attack targets outside the United States and its allies with less risk and continues to experiment with cyberattacks against Israeli critical infrastructure. North Korea has not yet developed this kind of capability.

### 1NC – Human Rights

#### Norms don’t stop conflict.

Ferry 18 Jean Pisani-Ferry, Economics Professor with Sciences Po of Paris and the Hertie School of Governance of Berlin, former campaign director for Emmanuel Macron and Commissioner-General of France Stratégie, the Founding Director of the think tank Bruegel. [Should we give up on global governance? Policy Contribution 17, October 2018, https://bruegel.org/wp-content/uploads/2018/10/PC-17-2018.pdf (table 1 omitted)]

C. Obsolescence of global rules and institutions Although the previous argument primarily rests on the broad pattern of international trade and finance, the adverse effects of external liberalisation can be compounded by inadequate governance. As far as trade is concerned, two cases in point are, first, inertia in the categorisation of countries, especially the fact that emerging countries, including China, still enjoy developing country status in the WTO; and, second, failures to enforce the adequate protection of intellectual property (an issue on which the EU recently joined the US and filed a complaint at the WTO against Chinese practices; see European Union, 2018). These grievances, and others concerning subsidies or investment, are not new: they were clearly spelled out by policymakers from the Obama administration (see for example, Schwab, 2011, and Wu, 2016). The underlying concern is that the systemic convergence on a market economy template that was expected from participation in the WTO has failed to materialise. The rules and institutions of global trade have brought shallow convergence but not the deeper alignment of economic systems that was hoped for. More generally, existing rules and institutions were conceived for a different world. This is very apparent in the trade field: the GATT/WTO framework dates from what Baldwin (2016) has called the “first unbundling” of production and consumption. They were not designed for the “second unbundling” of knowledge and production that gave rise to the emergence of global value chains. For decades, the implicit assumption behind the structure of trade negotiations has been that nations have well-defined sectoral trade interests: they are either exporters or importers. But in a world of global value chains, they are both importers and exporters of similar products simultaneously. Even if the principles of multilateralism remain valid, important features of the rules and institutions in which they are embedded are increasingly outdated. In the same way, opening to capital movements was supposed to result in net financial flows from savings-rich to savings-poor countries. What has happened instead is a massive increase in gross flows resulting in the interpenetration of financial systems and the coexistence of sizeable external assets and liabilities. The consequence has been the emergence of a global financial cycle (see for example Rey, 2017) and of policy dilemmas that are quite different from those arising in a simple Mundell-Fleming framework, in which interdependence takes place through net inflows and outflows of capital. Developments in the climate field further illustrate the point. The 1997 Kyoto Protocol was negotiated under the assumption that the bulk of greenhouse gas emissions would continue to originate in the advanced countries. But by the time the Protocol was meant to enter into force, it was clear already that the hypothesis was deeply wrong. The exemption of developing countries from emissions reductions was one of the reasons why the US did not ratify the treaty. The failed Copenhagen agreement of 2009 was an attempt to replicate Kyoto on a global scale, but there was no consensus for such an approach. Rules can be reformed and institutions can adapt. But this is a long and demanding process, especially when it requires unanimity, when participating countries have diverging interests and when changes require ratification by parliaments where there is no majority to support them. Global rules therefore exhibit a strong inertia that often prevents necessary adaptations. Trade rules, amendments to which require unanimity, are a case in point. Institutions are nimbler and can adapt to changing priorities or perspectives on interdependence. The IMF for example has succeeded in adjusting to major changes in the international economic regime and major shifts in the intellectual consensus. But even institutions face limitations to their ability to keep up with underlying transformations. This is one of the reasons why solutions to emerging problems have often been looked for outside the existing multilateral, institution-based governance framework (Table 1). D. The imbalances of global governance A further reason for popular dissatisfaction with global governance is its unbalanced nature. The deeper international integration becomes, the broader the scope of policy its management should cover, and the more acute the tension between the technical requirements of global interdependence and the domestically-rooted legitimacy of public policies. This is most apparent in the field of taxation. International tax optimisation by multinationals has become an issue of significant relevance and it is estimated that 40 percent of their profit is being artificially shifted to low-tax countries – with major consequences for national budgets (Tørsløv et al, 2018). But the fact that taxation remains at the core of sovereign prerogatives limits the scope and ambition of initiatives conducted at international level. The result, which can be regarded as an illustration of Rodrik’s trilemma, is that global coordination in tax matters falls short of what equity-conscious citizens regard as desirable and, at the same time, exceeds what sovereignty-conscious citizens consider acceptable. The imbalances of global governance are by no means limited to the taxation field. The same can be found in a series of domains, for example biodiversity and the preservation of nature. E. Increased complexity The final obstacle to multilateral solutions has to do with the sheer complexity of the challenges global governance has to tackle. In recent decades channels of international interdependence have both multiplied and diversified. They now link together countries with significantly differing levels of technical, economic or financial development. Because they have developed outside the scope of negotiated rules and established institutions, some of channels of interdependence also escape the reach of international agreements to an unprecedented degree. This is especially, but not only, the case of the internet and the multiple networks that rely on it. The world does not fit anymore the usual representation whereby individual nations trade goods, capital and technology. Even putting aside geopolitical consequences and assuming a shared commitment to openness and multilateral solutions, such complexity is bound to test the limits of existing international governance arrangements.