# Northwestern Round 1 Wiki

## 1NC

### T Per Se

#### 1. Interpretation – prohibit means to forbid a given practice – that’s distinct from restrictions

Kennard 93 – Judge, California Supreme Court

Joyce L. Kennard, THEODORE R. HOWARD et al., Plaintiffs and Appellants, v. GEORGE H. BABCOCK et al., Defendants and Respondents. No. S027061., Supreme Court of California, 1993, https://law.justia.com/cases/california/supreme-court/4th/6/409.html

As I pointed out earlier, the majority's conclusion is at odds with the great weight of authority. Also, in determining reasonableness based on the relationship between or among attorneys, the majority gives little regard to the relationship between the attorney and the client. Moreover, the majority fails to recognize that restrictive covenants are intended to and do restrict the practice of law. Rule 1-500 proscribes agreements that "restrict" the practice of law, not just those that prohibit "altogether" the practice of law. (Contra, Haight, Brown & Bonesteel v. Superior Court (1991) 234 Cal.App.3d 963, 969 [285 Cal.Rptr. 845] [rule 1-500 "simply provides that an attorney may not enter into an agreement to refrain altogether from the practice of law"].) To "restrict" means to restrain, to confine within bounds. (Webster's New Collegiate Dict. (9th ed. 1988) p. 1006.) To "prohibit" means to prevent, to [\*\*164] [\*\*\*94] forbid. (Id. at p. 940.) The terms are not synonymous.

#### Violation: Exemptions means practices are not prohibited

Skoczny 01 – Professor of law, Holder of the Jean Monnet Chair on European Economic Law at the Warsaw University Faculty of Management

Tadeusz Skoczny, “Polish Competition Law in the 1990s - on the Way to Higher Effectiveness and Deeper Conformity with EC Competition Rules,” European Business Organization Law Review, Vol. 2, Issue 3-4, September 2001, LexisNexis

Most importantly, the new Act departed from the relativity of the prohibition of dominant position abuses; as in Article 82 EC Treaty, it is now a general prohibition which does not allow for exemptions on the basis of a rule of reason. Also new is the prohibition of the abuse of dominant position by groups of undertakings, which will allow to effectively control the state and the development of competition on oligopolistic markets. The Act also eliminated the distinction between monopolistic and dominant position; in theory and in practice, it was difficult to justify the maintenance of this distinction. Therefore, the Act relates only to a dominant position, the definition of which however has been changed. According to the new Article 4 point 9, dominant position means a position "which allows [the undertaking] to prevent effective competition on the relevant market thus enabling [the undertaking] to act to a significant degree independently from its competitors, contracting parties and consumers". It is easy to notice that this definition is based on the United Brands and Hoffmann La-Roche standards. It must nevertheless be emphasised that such understanding of dominance was introduced by the AMC already in 1993; it considered dominance as the capacity to act "to a large extent independently of the competitors and clients, thus also the consumers". Thanks to the AMC's judgements also the relevant product and geographical markets are defined on the basis of the criteria of "close commodity substitutability" and "homogenous competition conditions".

#### 2. “Expand the scope” means broadening the range of claims that can be brought – the plan merely makes it easier to bring claims under current statutes.

Barrera 96 – J.D., Wayne State University Law School

Lise A. Barrera, “Is the Courtroom the New Front for the Resolution of Publishing Disputes?,” The Wayne Law Review, Vol. 42, Summer 1996, LexisNexis

It is important to note the distinction between the expansion of the scope of section 43(a) and the standard that courts apply in granting relief to claims under this section. The scope of section 43(a) allows plaintiffs to claim the section provides them with protection and thus should grant them relief. The expansion of the scope allows a much broader range of claims to be brought legitimately under section 43(a). Once the scope of the statute allows the claim to be brought, the courts apply a standard to the claim in order to determine whether a plaintiff should be granted relief.22 The standard applied is also the product of years of judicial interpretation. While the scope of section 43(a) is expanding, however, the standard for relief seems to be becoming higher and harder to meet.

#### That’s a voter for limits and ground – allowing exemptions on the rule of reason lets the aff straight turn core topic DAs and get advantages based off clarifying vague statutes

### P Disclosure

#### They should have disclosed their affirmative – key to a prepared negative and in round clash. No aff offense because they had to cut a new aff for the topic anyways

### K Neolib

#### The affirmatives drive toward antitrust intervention adopts neoliberal assumptions of politics and economics where the role of the government is to get out of the markets way

Vaheesan 18 – Policy Counsel at the Open Markets Institute. Former regulations counsel at the Consumer Financial Protections Bureau

Sandeep Vaheesan, “The Twilight of the Technocrats’ Monopoly on Antitrust?,” The Yale Law Journal Forum, 6/4/18, <https://www.yalelawjournal.org/pdf/Vaheesan_ir9dchg8.pdf>.

ii. antitrust law is not and cannot be “apolitical”

Antitrust law is unavoidably political. Of course, the enforcement of antitrust law should not be political in the popular sense: the President and the heads of the Department of Justice Antitrust Division and Federal Trade Commission should not employ the antitrust laws to reward their friends and punish their enemies.22 Rather, antitrust is political in its content. In designing a body of law, Congress, federal agencies, and the courts must answer the basic questions of whom the law benefits and to what end. Answering these questions inherently requires moral and political judgments. These fundamental questions do not have a single “correct” answer and cannot be resolved through “neutral” methods or decided with an “apolitical” answer.23

Antitrust regulates state-enabled markets, which cannot be separated from politics. The history of antitrust law shows competing visions of both the law’s aims and its methods, suggesting there is no “apolitical,” universal concept of antitrust. Rather than aspire for an impossible utopia of “apolitical” antitrust, we must decide who should determine the political content of the field—democratically-elected representatives or unelected executive branch officials and judges.

A. Markets Cannot Be Divorced from Politics

A market economy is the product of extensive state action and so is inevitably political. The conception of the market as a “spontaneous order” is a useful construct for defenders of the status quo because it lends legitimacy to the current order and suggests that intervention is futile.24 This model, however, is a myth and bears no correspondence to actual markets. Most fundamentally, state action supports a market economy through the creation and protection of property rights25 and the enforcement of contracts.26 As sociologist Greta Krippner writes, “there can be no such excavation of politics from the economy, as this is the sub- stratum on which all market activity—even ‘free’ markets—rests.”27 In addition to property and contract law, examples of state action necessary for the contemporary U.S. economy to function include corporate and tort law (typically established and enforced by state governments), intellectual property, protection of interstate commerce, banking regulation, and monetary policy (generally con- ducted at the federal level).

Antitrust law, therefore, is a governmental action that shapes the power of state-chartered corporations and the scope of their state-enforced property and contractual rights. This regulation of state-enabled markets makes antitrust inherently political. Moreover, in formulating antitrust rules, lawmakers must determine whom the law seeks to protect. Antitrust law could conceivably protect consumers, small businesses, retailers, producers, citizens, or large businesses. But even identifying the protected group or groups does not fully resolve the question. For instance, if consumers are antitrust law’s sole protected group, how should the law protect consumers? Antitrust could protect consumers’ short- term interest in low prices or their long-term interests in product innovation or product variety, just to name a few possibilities.28

Given the foundational role of state action—and therefore politics—in a market economy, the choice of objective in antitrust law is not between intervention and nonintervention. Rather, antitrust law must choose between different con- figurations of state action and different sets of beneficiaries.29 More concretely, we must decide, openly or otherwise, whose interests antitrust law should protect.

B. The History of Antitrust Law Reveals the Unavoidability of Politics

The history of antitrust law further demonstrates the political nature of the field. Although Congress has not modified the antitrust statutes significantly since 1950,30 the content of antitrust has changed dramatically since then. Even the consumer welfare model has not banished political values from the field. While the range of debate within the community of antitrust specialists is narrow, the continuing disagreement over the interpretation of consumer welfare reveals the inescapability of political judgment.

Antitrust law today is qualitatively different from antitrust law fifty years ago. In the 1950s and 1960s, the courts and agencies interpreted antitrust law to advance a variety of objectives. The Supreme Court held that the antitrust laws promoted consumers’ interest in competitively-priced goods,31 freedom for small proprietors,32 and dispersal of private power.33 The Court held that business conduct injurious to competitors could give rise to antitrust violations, irrespective of the effects on consumers.34 It also interpreted congressional intent to be that a decentralized industrial structure should override possible economies of scale gained from greater consolidation of economic power.35 Recognizing this goal of decentralization, the federal judiciary adopted strict limits on business conduct with anticompetitive potential, including mergers36 and exclusionary practices.37

Since the late 1970s, however, the Supreme Court, along with the Department of Justice and Federal Trade Commission, has reduced the scope of the antitrust laws. With a rightward shift in the composition of the Supreme Court under the Nixon Administration and in the leadership at the federal antitrust agencies under the Reagan Administration,38 these institutions curtailed the reach of antitrust law, scaling back its objectives39 and rewriting legal doctrine to preserve the autonomy of powerful businesses—all in the name of protecting consumers.40

Even the adoption of the consumer welfare model has not somehow banished politics from antitrust. Instead, it has underscored the unavoidability of politics in the field. Despite being the prevailing goal of antitrust for nearly four decades now, the meaning of consumer welfare is still not settled. The two primary schools of thought on consumer welfare disagree on a fundamental question—who are the beneficiaries of antitrust law? One holds that actual consumers, as understood in the popular sense, should be the principal beneficiaries of antitrust law.41 The rival camp holds that both consumers and businesses should be the beneficiaries of antitrust law, and that whether a dollar of economic sur- plus goes to a consumer or a monopolistic business should be of no concern to the federal antitrust agencies and courts.42 C. Who Should Decide the Political Content of Antitrust?

Because the objective of antitrust law is thus bound up with political judgments and values, seeking an “apolitical” antitrust jurisprudence is futile at best and a cynical effort to conceal political choices at worst. The choice is not be- tween “apolitical” antitrust and “political” antitrust; rather, lawmakers must decide between different political objectives. Once the inevitably political valence of antitrust law has been acknowledged, we can turn to the key question of whether unelected officials at the antitrust agencies and federal judges (collectively “the technocrats”) or democratically-elected members of Congress should decide this political content.43

Over the past forty years, technocrats have dominated antitrust law.44 Leadership at the Department of Justice and Federal Trade Commission as well as Supreme Court Justices have rewritten much of antitrust law.45 They have ignored or distorted the legislative histories of the antitrust laws and have even overridden Congress’s legislative judgments.46 By restricting private antitrust enforcement, the Supreme Court has also limited the ability of ordinary Ameri- cans to influence the content of antitrust law.47

While the antitrust technocrats have been on the march, Congress has been dormant. Its antitrust activities have been confined to secondary issues.48 This combination of technocratic hyperactivism and legislative lethargy has created, in the words of Harry First and Spencer Waller, “an antitrust system captured by lawyers and economists advancing their own self-referential goals, free of political control and economic accountability.”49 Although proponents of technocratic antitrust may characterize it as “pure” or “scientific,” the reality is quite different as big business interests and their representatives dominate debate within this cloistered enterprise.50

This congressional indifference to antitrust is not inevitable. Despite pro- longed quietude, Congress could become an active player in antitrust again. Some members of Congress are showing a renewed awareness of the field and an interest in reasserting control over the content of the antitrust statutes.51 The most democratically accountable branch of the federal government may be poised to take the lead on antitrust in the coming years, reclaiming authority over a technocracy that has not answered to the public in decades.

iii. the consumer welfare model is not anchored in congressional intent and reflects a narrow conception of monopoly and oligopoly

Given that consumer welfare antitrust is a political choice, this model can be evaluated against alternatives on a level playing field. Consumer welfare is not “above politics.” It is a political construct that features at least two serious deficiencies. First, the consumer welfare model contradicts the legislative histories of the principal antitrust statutes; the courts and federal antitrust agencies have instead substituted their own political judgments for those of Congress. Second, the consumer welfare model represents an impoverished understanding of corporate power. It focuses principally on one aspect of business power—power over consumers—and ignores other critical manifestations.

Congress’s original vision for the antitrust laws, one that recognizes both the economic and the political impacts of monopoly, is a superior alternative to the consumer welfare philosophy. As the enforcers and interpreters of statutory law in a democratic polity, federal antitrust officials and judges should follow the congressional intent underlying the antitrust laws. Furthermore, commentators, legislators, and policymakers should recognize that controlling the power of large businesses over not only consumers but also competitors, workers, producers, and citizens is essential for preserving at least a modicum of economic and political equality in a democratic society.

A. In Passing the Antitrust Laws, Congress Expressed Aims Much Broader than Consumer Welfare

The consumer welfare model of antitrust is not true to the intent of Congress. An extensive body of careful research has shown that Congress had several objectives when it passed the Sherman, Clayton, and Federal Trade Commission Acts.52 The Congresses that passed these landmark statutes recognized that eco- nomics and politics are inseparable. Congress originally sought to structure markets to advance the interests of ordinary Americans in multiple capacities, not just as consumers. Consumer welfare antitrust reflects, at best, a selective reading of this legislative history and, at worst, an intentional distortion of this historical record. Contrary to Robert Bork’s historical analysis, the legislative histories show no congressional awareness, let alone support, for interpreting consumer welfare as the economic efficiency model of antitrust, one nominally indifferent toward distributional effects.53

In passing the antitrust statutes, Congress aimed to protect consumers and sellers from monopolies, oligopolies, and cartels, as well as defend businesses against the exclusionary practices of powerful rivals.54 Key members of the House and Senate condemned the prices that powerful corporations charged consumers as “robbery”55 and “extortion.”56 The debates reveal similar solicitude for farmers and other producers who received lower prices for their products thanks to powerful corporate buyers.57 In addition to consumers and producers, Congress aimed to protect another important group of market participants: competitors. In enacting the antitrust statutes, Congress sought to restrain large businesses from using their power to exclude rivals.58 Congress recognized the political power of large corporations and aimed to curtail it through strong federal restraints. Indeed, the political power of these corporations represents a running theme in the legislative histories of the anti- trust laws. A number of speakers in the course of the debates pointed to the power wielded by these big businesses over government at all levels.59 In the debate over the Clayton Act, one Congressman declared that the trusts were commandeering ostensibly democratic political institutions.60 Senator John Sherman warned his colleagues that “[i]f we will not endure a king as a political power[,] we should not endure a king over the production, transportation, and sale of any of the necessaries of life.”61

B. The Consumer Welfare Model Reflects an Impoverished Understanding of Corporate Power

Focusing solely on harms to consumers and sellers, the consumer welfare model embodies an emaciated conception of corporate power. With its foundation in neoclassical economics, the consumer welfare model privileges short- term consumer interests. The neoclassical representation of the market—commonly known through supply-and-demand diagrams—presents a static picture of a market and does not account for long-term dynamics. As the default analytical guide for consumer welfare antitrust, the neoclassical model, with its focus on quantification, prizes short-term price harms to consumers and sellers and discounts longer-term injuries.62

Furthermore, the consumer welfare model legitimizes the existing distribution of resources by focusing on change to the status quo. Current antitrust law measures consumer welfare by changes in prices paid; what a person can pay, though, depends on both her willingness-to-pay for goods and services and her existing wealth. By this definition, a rich person who pays more for a luxury good due to a cartel suffers an antitrust harm, but a poor person who has no income and is unable to afford necessities cannot suffer antitrust harm from a monopoly. A wealthy consumer commands power in the market; a poor consumer, in comparison, has little or no clout in the market.63

The consumer welfare model, moreover, affords little or no importance to corporations’ ability to dictate the development of entire markets. Antitrust practitioners and scholars are wont to remind each other and critics that the antitrust laws “protect[] competition, not competitors.”64 Although the expression is arguably empty,65 it is taken to mean that harm to actual and prospective competitors alone is of no import to the antitrust laws. This doctrinal cornerstone is a political choice,66 which gives monopolists and oligopolists the power to dictate who participates in a market and on what terms.67 Under consumer welfare antitrust, businesses can use their muscle to exclude rivals and strangle economic opportunity so long as this exclusion is not likely to injure consumers. In practical terms, consumer welfare antitrust grants big businesses broad latitude to engage in private industrial planning. 68

For the consumer welfare school, the hegemonic power of large corporations is also of no consequence. Monopolistic and oligopolistic businesses across the economy use their power to seek and win favorable political and regulatory de- cisions.69 The ongoing—and frenzied—contest between states and cities to at- tract Amazon’s second headquarters is indicative of a giant business’s weight. In recent years, the concentrated financial sector has offered a vivid example of corporate political power in action.71 Leading banks helped trigger a worldwide economic crisis through their fraud and reckless speculation, and yet they defeated subsequent political efforts to control their size and structure and man- aged to preserve their institutional power.72 An influential analysis of congressional decision making suggests that the United States today is closer to an oligarchy than a democracy—the wealthy and large businesses wield tremendous political clout, whereas most ordinary people have little or no influence.73 Large businesses also set the parameters of political debate through control of the me- dia,74 sponsorship of supportive figures and organizations,75 and marginalization of critical voices.76 Consumer welfare antitrust itself is, at least in part, a product of big business’s reaction against the relatively vigorous antitrust pro- gram of the postwar decades.77

With its narrow analytical frame, the consumer welfare model of antitrust accepts and legitimizes many forms of state-supported corporate power. Under consumer welfare antitrust, large corporations have the freedom to enhance their power through mergers and monopolistic practices that hurt competitors and citizens. Viewed as part of the overall landscape of state-enabled markets, consumer welfare antitrust is not an apolitical choice, but a charter of liberty for dominant businesses.

#### Elite capture locks in civilizational collapse, but it’s not inevitable. Try or die for putting political and economic power in the hands of the citizenry.

MacKay 18 – Professor of Sociology, Mohawk College

Kevin MacKay, also a union activist & executive director of a sustainable community development cooperative, The Ecological Crisis is a Political Crisis, 2018, https://www.resilience.org/stories/2018-09-25/the-ecological-crisis-is-a-political-crisis/

With each passing day, reports on global climate change become increasingly bleak. Recent research has affirmed that the glaciers are melting faster than anticipated1, and that acidification, with its catastrophic effect on ocean ecosystems, is also proceeding faster than feared2. As the concentration of atmospheric carbon continues to rise, so does the likelihood we’ve passed the tipping point for irreversible climate change.3

When one looks at other critical earth ecosystems, the danger is equally apparent. Soil is being destroyed.4 Fresh water shortages are wracking several continents and leaving billions of people without reliable access to clean drinking water.5 Fish stocks are plummeting.6 Oceans are clogged with plastic garbage.7 Biodiversity is disappearing at an alarming rate.8 In the face of this full-spectrum ecological assault, a growing number of scientists have been saying that the collapse of civilization is now unavoidable.9

Stopping the destructive effects of industrial, capitalist civilization has now become the defining challenge of our age. If we don’t radically change our society’s course within the next 30 years, then a deep collapse and protracted Dark Age are all but assured. In order to confront this challenge, we need to understand what is causing civilization’s crisis, and most importantly, how the crisis can be resolved. At stake is nothing less than a viable future on this planet.

The Five Horsemen of the Modern Day Apocalypse

In my book, Radical Transformation: Oligarchy, Collapse, and the Crisis of Civilization, I argue that industrial civilization is being driven toward collapse by five key forces – related to terminal dysfunction within its ecological, economic, socio-cultural, and political sub-systems:

Dissociation: globalized production and distribution systems disrupt people’s ability to put their own actions, and the actions of elites, into a coherent causal and ethical framework. Actions by individuals, institutions, and systems of governance are therefore disconnected from their effect on the natural world and on other peoples. Without this critical feedback, even well-intentioned actors can’t make rational and ethical choices regarding their behaviour.

Complexity: the world-spanning nature of industrial capitalist civilization, and the massive number of interrelationships it represents, make predicting the effect of any given change on the system as a whole devilishly difficult. Disastrous tipping points loom in several of civilization’s systems – from the collapse of ocean ecology to the threat of nuclear war. In addition, because the crisis cannot be contained in one part of the globe, the dysfunctions can’t be dealt with in isolation.

Stratification: a profoundly unequal distribution of wealth – both globally and within nations – leads to mass human poverty, displacement, and to premature death through disease and continuous warfare. Stratification also leads to political instability, eroding a society’s social cohesion and undermining decision-making structures.

Overshoot: the economic practices of industrial capitalism are exceeding ecological limits. Our civilization is critically degrading the biosphere, burning through non-renewable energy sources, and shifting the entire climatic balance.

Oligarchy: in states worldwide, political decision-making is controlled by a numerically small, wealthy elite. This form of government serves to lock in patterns of conflict, oppression, and ecological destruction.

Societies as Decision-Making Systems

Each of the horsemen presents a significant threat to civilization’s viability. However, oligarchy is particularly important as it deals with a society’s decision-making systems. In his 2005 book Collapse: How Societies Choose to Fail or to Succeed, geographer Jared Diamond argued that many past civilizations have collapsed due to their inability to make correct decisions in the face of existential threats.10 Diamond drew on the work of archaeologist Joseph Tainter, who in his 1998 book The Collapse of Complex Societies, argued that civilizations fail due to a constellation of factors.11

To Tainter, the ultimate mistake failed civilizations made was to continually solve problems by adding social complexity, and as a result, increasing the society’s energy needs. Eventually, Tainter argued that civilizations encounter a “thermodynamic crisis” in which they are unable to sustain an energy-intensive level of complexity. The result is collapse – ecological devastation, political upheaval, and mass population die-off.

The tendency for societies to collapse under excessive energy demands is an important insight. However, what Tainter and Diamond failed to appreciate is how oligarchy is an even more fundamental cause of civilization collapse.

Oligarchic control compromises a society’s ability to make correct decisions in the face of existential threats. This explains a seeming paradox in which past civilizations have collapsed despite possessing the cultural and technological know-how needed to resolve their crises. The problem wasn’t that they didn’t understand the source of the threat or the way to avert it. The problem was that societal elites benefitted from the system’s dysfunctions and prevented available solutions.

Oligarchic Control in “Democratic” States

Citizens in countries such as Canada, the United States, Australia, or the Eurozone members, would generally consider themselves to be living in democratic societies. However, when the political systems of Western democracies are scrutinized, clear and pervasive signs of oligarchy emerge.

A 2014 study by American political scientists Martin Gilens and Benjamin Page revealed that the great majority of political decisions made in the United States reflect the interests of elites. After studying nearly 1,800 policy decisions passed between 1981 and 2002, the researchers argued that “both individual economic elites and organized interest groups (including corporations, largely owned and controlled by wealthy elites) play a substantial part in affecting public policy, but the general public has little or no independent influence.”12

Today, oligarchic control over decision-making, and its catastrophic ecological effects, have never been clearer. In the U.S., Donald Trump and his billionaire-dominated cabinet are seeking to dismantle the Environmental Protection Agency13, to question climate science14, and to pursue a policy of “American energy dominance” that will dramatically expand production of fossil fuels.15

U.S. energy companies are also having a profound impact on domestic energy policy by accelerating the development of hard-to-access fuel sources through hydraulic fracturing, deep-sea oil drilling, and mountain-top removal coal mining.16 At the same time, fossil fuel oligarchs are working overtime to dismantle green energy initiatives, such as the Koch brothers’ war on the solar industry in Florida, and in other cities across the continent.17

In Canada, often thought of as more progressive than its southern neighbor, the situation hasn’t been much different. Under prime minister Stephen Harper’s two terms, the Canadian state became an unapologetic cheerleader for extracting some of the world’s dirtiest oil –Tar Sands bitumen. Harper accelerated Tar Sands production, leading to the clear-cutting of thousands of acres of boreal forest, the diversion of millions of gallons of freshwater, and the creation of miles of toxic tailings ponds, filled with water contaminated by the bitumen extraction process.18

Like the Trump administration, the Harper government silenced federal climate scientists.19 The government also targeted environmental charities and non-profits, using funding cuts and the threat of audits to undermine climate advocacy.20 When a movement of national outrage swept Harper from power in 2015, Canadians were hopeful that climate change would once more be taken seriously. However, the new government of Justin Trudeau, while embracing the international discourse on global warming, has shown a continued allegiance to the fossil-fuel oligarchy by committing over $7 billion in federal funds to purchase the failing Kinder-Morgan Trans Mountain pipeline.21

What is To Be Done?

To create a sustainable future, we must first learn the lessons of the past, and what archaeological research shows is that throughout history, civilizations that have been captive to the interests of an oligarchic elite have all collapsed.22 Today’s industrial, capitalist civilization is trapped in this same deadly cycle.

As long as a self-interested elite controls decision-making in modern states, we will be far too late to avoid the effects of steadily contracting ecological limits. In addition, we will be unable to avert the downward spiral of economic crisis, conflict, and warfare that will result as oligarchs scramble to maintain their wealth and power in the face of dwindling resources and mounting crisis.23

Breaking free from this destructive pattern will require us to take political and economic power back from the 1% and return it to the hands of citizens. This means that advocates for ecological sustainability must move far beyond individual actions, lobbying, or reform of existing political and economic institutions. If we are to have a chance, we must ensure that governments make decisions based on the public good, not on private profit.

Radically transforming industrial, capitalist civilization won’t be easy. It will require movements for environmental sustainability, social justice, and economic fairness to come together, and to realize their common interest in dismantling the system of oligarchy and building a democratic, eco-socialist society.24 This “movement of movements” must put aside sectarian squabbles, and finally realize that the goals of economic justice, human rights, and ecological sustainability are all intrinsically linked.

Such changes may seem like a tall order, but hope can be found in the deepening struggle being waged to protect our fragile ecosystems. First Nations groups are leading this charge and beginning to win some important victories. The inspiring Water Protectors of Standing Rock were able to disrupt the Dakota Access Pipeline in the face of intense government oppression.25 In Canada, Several British Columbia First Nations recently won an impressive court victory in their opposition to the Trans Mountain pipeline.26

If successful grassroots struggles can be linked with equally hopeful movements for real political change, then there is hope for the future. However, if we continue on with “business as usual” – hoping that change will come from lifestyle choices and the interchangeable representatives of elite political parties, then the future looks grim indeed.

#### Focusing on a politics of anti-domination reorients power to the people which allows collective mobilizing against existential threats

Jackson 21 – DeOlazarra Fellow at the Program in Political Philosophy, Policy & Law at the University of Virginia. She received her Ph.D. with distinction in political theory at Columbia University.

Kate Jackson, “All the Sovereign’s Agents: The Constitutional Credentials of Administration,” *William & Mary Bill of Rights Journal*, 8 July 2021, pp. 2-7, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3813904.

We face no less than four urgent crises: an ongoing pandemic1; racial injustice and its consequent civil unrest2; an economic depression approaching the pain inflicted in 1929; and the accumulating, existential threat of climate change.4 Citizens must rely on their state to tackle these burning perils.5 Yet critics both left 6 and right 7 would tear down its institutional capacity to do so. Some denounce the exercise of administrative power as illiberal, unconstitutional and obnoxious to the rule of law.8 Others impugn it as undemocratic, paternalistic, and corrupt.9 Yet without some kind of agent to carry out collective solutions, these perils may very well proceed unabated.

Pushing an anti-administravist agenda, libertarians continue their “long war”11 against government agencies by insisting that they are an unconstitutional fourth branch of government. For them, administration is a kind of “absolutism”12 that violates the separation of powers and defies the principle of limited government.13 They contend that agencies’ discretionary rulemaking offends the liberal commitment to the rule of law. 14 Accordingly, they would punt agencies’ responsibility for social, economic, and environmental problems to courts and legislatures. 15 Regulation would thus be placed at the mercy of an undemocratic judiciary who increasingly “weaponizes” the First Amendment in favor of big business16 – or of a Congress whose already inefficient decision-making is crippled by hyperpolarization17 and distorted by the kind of material inequalities that the welfare state is meant to ameliorate. 18

Conservatives with a more authoritarian inflection seek to recall administration from its constitutional exile by subsuming it under presidential power. 19 Such critics would lend administration some democratic credentials by bootstrapping them to the president’s electoral accountability. Yet ridding agencies of their independence by placing them under the discretion of the president grants the president personal control over agency policymaking and adjudication without the checks provided by Congress, the courts, or an independent civil service.20 It thus, arguably, solves a separation-of-powers problem by introducing a new one.21 More ominously, empowering the president with the patina of democratic legitimacy emits a strong whiff of Schmittian politics.22 The prospect of a largely unbound executive officer claiming a popular mandate to hire and fire civil servants on a whim should alarm any that followed the Trump Administration’s treatment of refugees, civil protestors, polluters, and political cronies.

Agency power likewise fares poorly in the hands of the left. 23 They blame administrative technocracy for a variety of social and political ailments: the reification of social differences and the juridification of human nature24; corruption, privatization and regulatory capture25; the depoliticization of economic issues and the subsidization of globalized financial capitalism26 and, ultimately, the constellation of conspiratorial populist politics currently threatening liberal democratic states.27 Their preferred solutions include democratizing agency decision-making28 and constraining Congress’ capacity to delegate its lawmaking function. 29 While their interventions are welcome, they may deprive government of the nimble expertise necessary to address environmental and economic crises.30 Moreover, as illustrated by the president’s extraordinary powers to shape national immigration policy despite its “notoriously complex and detailed statutory structure,” increasing the amount of formal legislation may only expand agencies’ enforcement discretion.31 Agency democratization, furthermore, risks reproducing, perhaps under the cover of ostensible public consensus, the same social, economic and political inequalities that distort Congressional lawmaking. 32

In this essay, I contend that this multi-pronged anti-administravist attack stands upon shaky conceptual foundations. Each builds atop a theory of constitutionalism that embraces a too-literal conception of popular sovereignty.33 It is a conception that posits that there is, in fact, a “people” with a sovereign “will.” It is a “will” that can be clearly identified (through elections); straightforwardly transcribed (through lawmaking); mechanically applied (by administrators) and constrained (by judges). 34 But in a country of hundreds of millions, the diverse multiplicity of citizens could never find a common will.35 It is even more impossible that it could ever be accurately expressed through the lawmaking of elected representatives.36 As a result, critics of administration often grant statutory lawmaking more democratic credentials than it deserves. 37 The non-delegation doctrine purports to prevent the delegation of something that simply may not exist.

Critics commit another mistake when they invoke a theory of constitutionalism that analytically divides functions that cannot, as either a moral or empirical matter, be disentangled. First, they incorrectly posit two separate, autonomous processes: the collective formation of ends (lawmaking) and the implementation (execution) and application (adjudication) of those ends. 38 But we cannot presume that judges and administrators can mechanically apply and enforce the law without importing into the process their own value-laden, and therefore political, judgments.39 “They who will the end will the means” is a naïve argument that occludes the power wielded by unelected actors.40 It is also a mistake to presume that the legislative branch concerns itself only with value-laden final ends, and not with the means required to execute them.41 Indeed, most of our most bitter political fights are fights conducted precisely over means: how best to grow the economy; how best to care for the sick; how best to mitigate climate change, etc. 42 As a result, the theories overemphasize and distort the purpose of separating powers.43

Critics commit yet another mistake when they divorce the constitutional functions of (1) protecting rights and limiting government power, and (2) providing the decision-making procedures necessary for democratic will-formation. 44 They isolate elections and lawmaking from the process of enforcing rights and the rule of law – as if they have nothing to do with one another. Yet quarantining rights from democracy requires reliance on an outsourced moral order external to the political system itself – a reliance inappropriate for contemporary secular polities.45 They therefore lend judges too many liberal credentials while denying any to mechanisms of popular feedback.

Rather than critiquing agencies for violating the separation of powers, for their over-reliance on unelected technocrats, or for their indifference to universalizable legal principles, I argue that administration does indeed carry constitutional liberal democratic credentials – credentials borne out by political theory’s “representative turn.”46 By understanding agencies as embedded in a system of representative democracy that aims to set the conditions by which citizens can relate to each other as political equals, we can assess the legitimacy of government agencies without any “idolatrous”47 commitments to a fictitious popular sovereign or legal formalism. I suggest that agency institutions should be measured against the notion that popular sovereignty demands not consensus and consent, but instead institutions that permit citizens to understand themselves as co-equal participants in the collective decision-making process.

This essay will proceed as follows. Part I situates administrative agencies in an understanding of liberal democratic constitutionalism that (A) eschews outmoded notions of popular sovereignty and (B) natural law. It will then (C) explain how adequately conceived notions of the separation of powers and the rule of law cannot serve as indefeasible objections to administration. Part II makes a positive case for agency authority by drawing from the insights gained from political theory’s representative turn. It will first (A) define this important intellectual development and then (B) explain how administrative agencies might fit comfortably within a representative system. The essay (C) concludes by showing how theories of representation can inform some enduring debates in administrative law and suggesting some changes that might enhance the legitimacy of agency action.

PART I: ADMINISTRATION, POPULAR SOVEREIGNTY AND RIGHTS

Democracy promises the rule of “we the people.”48 Democratic citizens, possessing inalienable rights, are to come together, deliberate,49 and jointly create the laws that bind them. The administrative agency, with its unaccountable expert technocrats, policymaking autonomy, and immunity from micromanaging judicial review, looks like an unwelcome uncle at the constitutional dinner table.

Intuitively, these knee-jerk objections cannot be quite correct. Agencies carry some obviously democratic credentials. As Adrian Vermeule points out, they are, after all, the creation of statutory lawmaking.50 At least as early as 1798, Congress has delegated coercive rule-making power to Federal bureaucracy on matters as diverse as tax inspections, territorial governance, veterans’ pensions, mail delivery, intellectual property, and the payment of public debts.51 In McCullough v. Maryland,52 the U.S. Supreme Court interpreted the “necessary and proper” clause53 to anticipate Congress’ desire to create such agencies – in this case, a national bank. Bruce Ackerman,54 in his seminal work, argues that our contemporary agencies carry Constitutional credentials. Many were birthed through multiple hyperpolitical elections and constitutional challenges within the courts. Further, from their very inception, agencies struggled internally to accommodate their actions to constitutional requirements.55 The Administrative Procedure Act56 (“APA”), for example, imposes upon agencies principles of due process and the rule of law.57

Regardless, if democratic lawmaking is to shape the community of those that make it, there must be some kind of agent or instrumentality to carry it out.58 A Congressional decision to levy a tax is meaningless without an Internal Revenue Service to collect it.59 Yet it is impossible to imagine that such agencies might operate like mindless, loyal robots. Whether performed by court or administrator, the application of laws will inevitably involve controversial policy judgments.60 Lawmaking is, by its nature, always more abstract than we would like. Such “general propositions do not,” noted Justice Holmes, Jr. in his influential Lochner v. New York61 dissent, “decide concrete cases.” The required elaboration almost always imports values that are not clearly and unambiguously identified in any statutory text.62 The task of accommodating administration to constitutional democracy cannot, therefore, aim at eliminating the agency costs implicit in the application of law. It can only seek to understand how they might comfortably fit within a constitutional order.

The next two sections will elaborate upon these intuitions. Many objections to agency power presume antiquated conceptions of sovereignty and rights. They juxtapose the will of a powerful organ-body sovereign63 against a governed mass of subjects who hold an array of pre-political liberties that require judicial protection. This all-powerful body is thought to be represented by Congress64 as the commissioned agent (or embodiment?) of the popular sovereign. To preserve citizens’ natural, pre-political liberties, this agent of the popular sovereign is constrained by a separation of powers, checks and balances, a Bill of Rights, etc. – each policed by independent courts capable of identifying and enforcing citizens’ inalienable liberties.65 If this is indeed the rubric of the liberal democratic constitutional state, it is difficult to see how agencies pass constitutional muster. They are not Congress – and so their policymaking cannot be legitimate expressions of the popular will. They often avoid substantial judicial review, and so they might violate natural liberties with impunity. Fortunately, this rubric is wrong.

A. The Mind and Body of the Democratic Sovereign

True, for much of modern Western history, sovereignty, understood as the supreme, absolute and indivisible power to make law, was thought to be held by a specific body: the one wearing the crown.66 To constitute and justify public power, Hobbes, for example, imagined a state of nature full of individuals authorizing and relinquishing their natural liberties to a “Mortall God,”67 i.e., the modern corporate state, represented (or re-presented) in the flesh-and-blood bodies of the king or legislature.68 During the democratic revolutions, radical69 theorists merged the monarch with her subjects.70 They imagined “the people” not only replacing the king as sovereign, but also governing itself as a subject, thereby creating an identity between ruler and ruled. Rousseau’s volonté générale71 serves as a model for this kind of logic.72 Montesquieu, whose thinking influenced the American founders,73 likewise held that the “people as a body have sovereign power” in a republic.74 Even A.V. Dicey, despite his fame as a rule of law scholar, believed that a representative legislature would “produce coincidence between the wishes of the sovereign and the wishes of the subjects.”75 It is a sovereign-subject hat trick: the ruled become the ruler, the democratic “people,” understood as a body, a “unitary macro-subject,”76 come to occupy what was once occupied by the body of the king. Carl Schmitt likewise endorsed a scrupulous identity between governed and governor - with homogenizing and fascist implications.77 For Schmitt, it was impossible to imagine a leader speaking with the voice of the people unless the people themselves first sang in perfect harmony.

There are flaws in this equation. The “people,” understood literally, cannot rule. They do not possess a primordial collective will existing outside and independent of their political institutions.78 Moreover, the entire population of a diverse community of hundreds of millions cannot be present within those institutions. Nor can that population ever find a unanimous general will, a non-controversial understanding of the common good, no matter how constrained and qualified their public reasoning or how universal and general its aspirations.79 Thus, no coherent popular will can obtain even after undertaking the decision-making processes of political institutions.80 Just as the contractual “meeting of the minds” is a legal fiction of private law,81 a popular “meeting of the minds” is a political fiction of public law. As a result, despite the democratic revolutions, the old gap between ruler and ruled remains.82 In other words, the merger between governed and governor attempted by the democratic revolutions did not remove the danger of heteronomy,83 even if the offices of government might be staffed by elected representatives and even as constitutional systems split powers and limited legal authority.84 Some (body) would wield public power, and the rest would be subject to its rules. Even Rousseau downgraded the popular sovereign to a silent, passive actor that left the actual business of governing to functionaries.85 Like the client of a travel agent, Rousseau’s democratic citizen was meant only to approve or disapprove the prepackaged plans presented by ministers.86

Lawmaking under constitutional liberal democracy is thus not a question of ascertaining the existence of some non-existent popular “will” to be left in the hands of loyal fiduciaries in government87 to carry out like mindless automatons. Nor is it comprised of the dictates of a caesarist leader purporting to speak with the unified voice of the sovereign people.88 Instead, it a question of developing transparent and accessible collective decision- making procedures that ensure that all citizens can understand themselves as equal participants in their collective ordering; that ordinary people are involved in public life and have a say in their collective destiny.89 They do not rule. Rather, they are equal players in the game of representative democracy.90

Thus, although contemporary notions of constitutional liberal democracy ascribe the highest legitimate source of authority to “the people,” they do not understand “the people” as a reified, homogenous whole with an identifiable will that pre-exists whatever governing apparatus might be laid atop it. Though “popular sovereignty” is a political fiction, it is a useful one – at least if it is used as a standard of justification and critique, not as a proper noun. It is an aspirational, regulative idea intended to depersonalize and distribute public power in a way that serves the entire community.91 It is a Kantian “as if” principle.92 Namely, if we try to think like a popular sovereign might think, if such a thing could ever exist, we will orient our public reasoning not towards our individual self-interest alone, but in terms of inclusivity, human equality and the public good.93 Because if the sovereign is a “we,” then governing involves more than the interests and preferences of single individuals. We will therefore demand that political institutions remain accountable and accessible to popular complaints. We will adopt a Weberian politics of responsibility, remembering that our decisions might inflict unforeseen costs upon others.94

This figurative idea of popular sovereignty also unlocks the closed doors of power and forces the inclusion of voices previously ignored.95 Whosoever happens to be governing at any given time, that person is not “the people” precisely because “the people” cannot ever be present. As a result, anyone denied an audience can appeal to popular sovereignty as they seek admission to political decision-making. Importantly, popular sovereignty demands, as French philosopher Claude Lefort96 notes, that this place of power remain an empty one – or at least one with a revolving door – where no body at all is permitted to rule permanently. For to fill that void would allow for a part to speak on behalf of the whole. “We the People” might become, as political theorist Nadia Urbinati notes, “Me the People.”97 It would thus force homogeneity upon plural societies as leaders with controversial viewpoints purport to represent everyone as they make and implement policy. Moreover, the usurpation of this space would undermine the depersonalization of power inherent in the idea of a fictional popular sovereign and, importantly, the rule of law and not of men.98 If the place of power remains empty because all citizens contribute in some way to lawmaking, then we can credibly claim that it is law, not our politicians, who rule.

As a result, it can be no objection to agency policymaking that it usurps authority from the popular sovereign. Because if we take popular sovereignty literally, so, too, do elected representatives. They likewise cannot logically or credibly speak with the voice of the sovereign people.99 Thus, insofar as theories of non-delegation and legislative primacy rely on an organ-body theory of popular sovereignty,100 they are misplaced. Attacks against the “technocratic” power wielded by administrative officers may likewise overstate the democratic credentials of the Congressional legislation against which such power is compared – and found wanting. Indeed, it is at least possible that administrative agencies can be made consistent with the requirements of constitutional popular sovereignty.101 Namely, the question is whether and to what extent they operate according to procedures that allow citizens to understand themselves as co-equal participants in shaping agency action. Finally, that independent administration is “headless” is not, as feared by contemporary New Deal critics, fascist or totalitarian.102 It may in fact be a necessary precondition for liberal democracy. A Leviathan with a single head with a single mouth, purporting to speak for all, can be monstrous indeed.

### CP Section 5

#### The Federal Trade Commission should

#### The CP uses congressionally defined FTC powers to regulate anticompetitive practices – that solves

Vaheesan 17 – Regulations Counsel, Consumer Financial Protections Bureau.

Sandeep Vaheesan, May 11 2017, “RESURRECTING “A COMPREHENSIVE CHARTER OF ECONOMIC LIBERTY”: THE LATENT POWER OF THE FEDERAL TRADE COMMISSION,” UPenn Journal of Business Law, https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1548&context=jbl

Under progressive leadership, one federal agency, the FTC, could resurrect antitrust law as “a comprehensive charter of economic liberty.”22 Modern administrative law and Congressional delegation of policymaking authority grant the FTC expansive power to interpret the antitrust provision of Section 5 of the FTC Act.23 In enacting this statute, Congress articulated a grand progressive-populist vision of antitrust. It wanted the FTC to police “unfair methods of competition” that injure consumers, prevent rivals from competing on the merits, and allow large corporations to dominate our political system.24 Congress intended the FTC’s antitrust authority to encompass more than the prohibitions in the Sherman and Clayton Acts and to nip anticompetitive problems in the embryonic stage before corporations gained undue power over consumers, small suppliers, competitors, and the American political system.25

Since the early 1980s, the FTC has championed antitrust law centered on economic efficiency. In 2015, the FTC codified this approach in a Statement of Enforcement Principles laying out its interpretation of Section 5’s prohibition on unfair methods of competition.26 The FTC stated that it would use its Section 5 authority to advance “consumer welfare,” which is functionally similar to the allocative efficiency goal, and apply the rule of reason framework.27 In articulating this narrow interpretation of Section 5, the FTC contradicted Congress’s political economic vision in 1914, which sought to prevent not only short-term injuries to consumers, but also exclusionary practices by large businesses and the accumulation of private political power. And in making the rule of reason the centerpiece of its analytical framework, the FTC adopted a convoluted test that cannot advance the Congressional vision underlying Section 5.

Despite being a champion of the efficiency paradigm since 1981, the FTC under progressive leadership in the future could still change course and be true to the Congressional intent from when the agency was created more than a century ago. In setting out an interpretation of Section 5, whether through enforcement actions or rulemakings, the FTC should anchor Section 5 in the expansive political economic vision of Congress. By enacting the FTC Act, Congress sought to prevent—rather than remedy after the fact—three principal harms from concentrated economic power: wealth transfers from consumers and producers to monopolies, oligopolies, and cartels; private blockades against entry and competition in markets; and the accumulation of economic and political power in corporate hands. To advance Congress’s antitrust vision, the FTC should adopt presumptions of illegality for a variety of competitively suspicious conduct, such as mergers in concentrated industries, exclusionary practices by firms with market dominance or near-dominance, and restraints on retail competition; and challenge monopolies and oligopolies that inflict significant harm on the public. When seeking to preserve or restore competitive market structures, the FTC should pursue simple structural remedies over complicated behavioral fixes.

#### And gives them Chevron Deference

**Carlson 14** --- Vanderbilt University, J.D.; University of Oxford, M.Sc. (forthcoming); Colorado College, B.A.

Christian, 2014, “Antitrusting the Federal Trade Commission: Why Courts Should Defer to Federal Trade Commission Antitrust Decision Making”, Vanderbilt University Law.

As it turns out, the answers to these questions are not so simple. The FTC was founded to rein in judicial decision-making and place the expert decisions with the experts. However, the FTC does not serve the institutional role that Congress sought in 1914. One Senator sought "an administrative body of practical men thoroughly informed in regard to business, who will be able to apply the rule enacted by Congress to particular business situations, so as to eradicate evils with the least risk of interfering with legitimate business operations."' This Senator's charge, and the charge of his fellow Congressman, has not been heeded.

Courts have acted contrary to congressional desires and not deferred to the independent expert body tasked with preventing unfair competition, the FTC. This is particularly troubling today, as modern antitrust economics have made courts increasingly less able to make normatively appropriate decisions. 2 Courts themselves have recognized this, erecting procedural and substantive barriers to protect themselves from disturbing the market status quo.3 Yet, at the same time, they have chosen not to defer to the FTC, the expert body tasked with regulating the market.4 Courts have usurped agency decision-making power with occasionally questionable results.5 The FTC should assert, and courts should grant, Chevron deference when the FTC makes antitrust legal decisions in order to mitigate judicial error and protect FTC expert decisions from the generalist judiciary's institutional shortcomings.

#### Which Allows the FTC to crack down on pay-for-delay.

**Zeisler 14** --- J.D. Candidate 2014, Columbia Law School; B.S., B.A. 2012, University of British Columbia.

Royce, 2014, HEVRON DEFERENCE AND THE FTC: HOW AND WHY THE FTC SHOULD USE CHEVRON TO IMPROVE ANTITRUST ENFORCEMENT, Columbia Law Review.

As a final example, this Note examines pay-for-delay liability. 162 The history of this problem can be summarized briefly. For over a decade, the FTC has cracked down on pay-for-delay settlements. 163 During this time, appellate courts consistently rejected the FTC's theory of liability because of the statutory presumptions inherent to patent law and the Hatch-Waxman Act.164 Eventually, the FTC succeeded in creating a circuit split, giving rise to the Actavis decision, where the Court held that a settlement "can sometimes violate the antitrust laws."16 5 From the perspective of this Note, what makes pay-for-delay important is that it provides a retrospective lesson-the FTC could not have forced this change earlier by taking advantage of Chevron deference-as well as a prospective opportunity- the FTC has a unique occasion to promulgate notice-and-comment rules.

Turning first to the retrospective lesson, understanding the logic of these courts' holdings leads to the conclusion that the FTC could not have used notice-and-comment rulemaking or Chevron deference to hasten this change. The FTC's rulemaking grant does not permit direct regulation of patents, nor does it empower interpretations of the HatchWaxman Act. 167 Circuits that have ruled against pay-fordelay settlements would also find that the FTC lacked authority to promulgate such regulations. In a sense, there is an inverse Chenery principle at work. In Chenery, the Supreme Court explained that the SEC's mandate included the ability to proceed either through litigation or adjudication.168 In the pay-for-delay context, the FTC can proceed with neither rulemaking nor litigation. Once a court determines that a substantive legal issue falls outside of an agency's mandate through litigation, rulemaking is also likely to be found inappropriate. As a larger jurisprudential insight, this reveals a powerful method that courts can use to check the FTC. If a court can justify a presumption on broader regulatory grounds, and not merely antitrust law, then the FTC lacks authority to regulate this conduct.

Moving to the post-Actavis antitrust regime, the FTC is now in a different situation. In Actavis, the Court created a new sphere of antitrust liability and left "to the lower courts the structuring of the present rule-of-reason antitrust litigation. 1 69 Faced with this new precedent, the FTC has three reasons to begin exercising its rulemaking authority. First, the FTC correctly identified reverse settlements as potentially anti-competitive while lower courts remained skeptical. The FTC's characterization of this conduct will carry a certain rhetorical force that can be leveraged toward more assertive regulation. Second, and building on the first point, the FTC's institutional advantages and capabilities to form presumptions in this regulatory arena are at their height. Indeed, as Professor Hemphill argues, the FTC's ability to aggregate data gives it the unique ability to form the presumptions required for understanding the pay-fordelay regulatory structure. 170 Third, FTC regulation can provide crucial guidance to businesses. In creating, but not defining, the scope of liability, the Court has created considerable uncertainty around settlements. 171 Concededly, while FTC regulation cannot shield a corporation from liability under the Sherman Act, it can provide initial guidance for conduct likely to lead to liability in this unsettled area.

#### Limited patent protection is best for pharma innovation – the CP maintains incentives while avoiding stagnation.

Kotlikoff 08 - Professor of Economics Boston University

Laurence J. Kotlikoff, “Stimulating Innovation in the Biologics Industry: A Balanced Approach to Marketing Exclusivity,” September 2008, http://people.bu.edu/kotlikof/New%20Kotlikoff%20Web%20Page/Kotlikoff\_Innovation\_in\_Biologics21.pdf

But my main focus will be to amplify the point raised immediately below, namely, that extended periods of exclusivity pose a threat to sustaining a rapid rate of innovation. This analysis forms the basis for my recommendation that when it comes to promoting biologic competition Congress should stick with what works, namely Hatch-Waxman, with its very limited exclusivity. Economic theory speaks clearly here. So does the evidence. There are, quite simply, no compelling differences between the chemical-based and protein-based medication industries to justify deviating from a policy that has succeeded for over a quarter of a century in both dramatically reducing drug prices and stimulating innovation. Indeed, to the extent there are differences, they generally favor less exclusivity. A key example here is the likelihood that obtaining FDA approval of generic biologics will take considerably longer than obtaining FDA approval of a chemical entity.9 If this proves true, it will automatically provide brand companies with an extended period of effective exclusivity even absent any legislated exclusivity.

Can Extended Periods of Exclusivity Threaten Innovation?

Raising this question may sound surprising given that some period of exclusive marketing rights is required to incentivize discovery. But starting a train is not the same as keeping it moving, let alone getting it to run at the proper speed. When it comes to innovation, each “discovery” builds on prior knowledge, with progress measured by the next innovation, not the last, and by how fast the next innovation gets to market.10 Policies that lengthen the time between innovations may do little to stimulate more innovation; instead, they may simply reduce the pace of innovation (the number of discoveries per unit of time) on which the economy’s growth so critically depends. The key problem with providing excessive monopoly protection is that once an invention has been made, the inventor faces different incentives. The main goal becomes marketing and protecting one’s intellectual property, not developing a dramatically different and better version of the product. Doing so would diminish, if not vitiate, the value of the initial invention, which may have been undertaken at considerable cost. Hence, at least within a given product line, yesterday’s inventors are much less likely to be either today’s innovators or tomorrow’s. This point comes across clearly in the economics literature starting with the seminal 1959 paper on intellectual property by Nobel laureate Kenneth Arrow.11 In the years since Arrow showed that “the incentive to invent is less under monopolistic than under competitive conditions,” numerous economists have developed alternative models of the innovation process, but they invariably reach the same conclusion — monopolists don’t innovate. The reason is simple: bringing new products to the market undercuts a monopolist’s revenues on his existing products.

#### Extinction---generic D doesn’t apply

Arturo Casadevall 12, Leo and Julia Forchheimer Professor and Chair of the Department of Microbiology and Immunology at Albert Einstein College of Medicine, M.S. and Ph.D. in Biochemistry from New York University, “The future of biological warfare,” Microbial Biotechnology, Volume 5, Issue 5, pp. 584–587, September 2012, Wiley

Existential threats to humanity

In considering the importance of biological warfare as a subject for concern it is worthwhile to review the known existential threats. At this time this writer can identify at three major existential threats to humanity: (i) large-scale thermonuclear war followed by a nuclear winter, (ii) a planet killing asteroid impact and (iii) infectious disease. To this trio might be added climate change making the planet uninhabitable. Of the three existential threats the first is deduced from the inferred cataclysmic effects of nuclear war. For the second there is geological evidence for the association of asteroid impacts with massive extinction (Alvarez, 1987). As to an existential threat from microbes **recent decades have provided** unequivocal evidence **for the ability of certain pathogens to cause the** extinction **of entire species**. Although infectious disease has traditionally not been associated with extinction this view has changed by the finding that a single chytrid fungus was responsible for the extinction of numerous amphibian species (Daszak et al., 1999; Mendelson et al., 2006). Previously, the view that infectious diseases were not a cause of extinction was predicated on the notion that many pathogens required their hosts and that some proportion of the host population was naturally resistant. However, **that calculation does not apply to microbes that are acquired directly from the environment and have no need for a host**, such as the majority of fungal pathogens. For those types of host–microbe interactions it is possible for the pathogen to kill off every last member of a species without harm to itself, since it would return to its natural habitat upon killing its last host. Hence, from the viewpoint of existential threats environmental microbes could potentially **pose a much greater threat to humanity than** the **known pathogenic microbes**, which number somewhere near 1500 species (Cleaveland et al., 2001; Taylor et al., 2001), especially if some of these species acquired the capacity for pathogenicity as a consequence of natural evolution or bioengineering.

### DA Innovation

#### There’s a wave of M&A now – companies doubt rule changes will affect them now

David French and Sierra Jackson, Reuters, July 12, 2021, Analysis: Dealmakers see M&A rush, then chills, in Biden's antitrust crackdown

Dealmakers expect a new wave of transformative U.S. mergers and acquisitions (M&A), as companies rush to complete deals before President Joe Biden's antitrust push takes shape, to be followed by a slowdown when regulators start cracking down.

Biden signed a sweeping executive order on Friday to bolster competition within the U.S. economy. This included a call for regulatory agencies to increase scrutiny of corporate tie-ups which have left major sectors such as technology and healthcare dominated by few players. read more

The order came amid an unprecedented M&A frenzy, as companies borrow cheaply and spend mountains of cash they have accumulated on transformative deals to reposition themselves for the post-pandemic world. Almost $700 billion worth of U.S. deals were announced in the second quarter, the highest on record.

The dealmaking bonanza is set to continue, as companies seek to take advantage of the time window during which regulators frame precise rules to implement Biden's order, advisers to the companies said. The M&A slowdown will come only when regulators implement the rule changes, possibly in two years or more, they added.

"The order itself will be less likely to have a chilling effect on strategic M&A than the potential chilling effect of a significant increase in the number of prolonged investigations and merger challenges brought by the agencies," said Michael Schaper, partner at law firm Debevoise & Plimpton.

Spokespeople for the White House and the two main antitrust regulators, the Federal Trade Commission (FTC) and the U.S. Department of Justice (DoJ), did not immediately respond to requests for comment.

Dealmakers were bracing for a tougher antitrust environment under Biden even before last week's executive order. Last month, the DoJ sued to stop insurance broker Aon's (AON.N) $30 billion acquisition of peer Willis Towers Watson (WTY.F). And Biden tapped Lina Khan, an antitrust researcher who has focused her work on Big Tech's immense market power, to chair the FTC.

#### Expanding scope of antitrust liability brings that to a halt—undermines dynamism and global competitiveness

Thierer 21– Adam Thierer is a senior research fellow with the Mercatus Center at George Mason University. Author of several books on antitrust law; former president of the Progress & Freedom Foundation, director of Telecommunications Studies at the Cato Institute, and a senior fellow at the Heritage Foundation.

(Adam Thierer, 2-25-2021, "Open-ended antitrust is an innovation killer," TheHill, https://thehill.com/opinion/technology/540391-open-ended-antitrust-is-an-innovation-killer)

Antitrust reform is a hot bipartisan item today, with Democrats and Republicans floating proposals to significantly expand federal control over the marketplace. Much of this activity is driven by growing concern about some of the nation’s largest digital technology companies, including Facebook, Google, Amazon and Apple.

Unfortunately, the calls for more bureaucracy and regulation emanating from all corners of the political world could have an unintended consequence: discouraging the sort of vibrant innovation and consumer choice that made America’s tech companies household names across the globe.

Sen. Amy Klobuchar (D-Minn.) is leading one charge. Klobuchar, who chairs the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, recently introduced the “Competition and Antitrust Law Enforcement Reform Act.” This sweeping measure seeks to expand the powers and budgets of antitrust regulators at the Federal Trade Commission and the Department of Justice. It also includes new filing requirements and potentially hefty civil fines.

The most important feature is the proposed change to the legal standard by which regulators approve business deals. It would allow the government to stop any deal that creates an “appreciable risk of materially lessening competition,” and it also defines exclusionary behavior as, “conduct that materially disadvantages one or more actual or potential competitors.”

These may sound like simple, semantic tweaks, but – much like some of the other policy ideas currently circulating – they would upend decades of settled law and create a sea change in U.S. antitrust enforcement. This change could undermine business dynamism, innovation and investment in ways that inhibit the global competitiveness of U.S. businesses.

Critics of merger and acquisition (M&A) activity by large tech firms include not only Sen. Klobuchar but also Republicans such as Sen. Josh Hawley (R-Mo.). Hawley recent offered an amendment to a budget bill that would preemptively prohibit mergers and acquisitions by dominant online firms. Klobuchar and Hawley believe that M&A skews the market in favor of today’s largest firms, entrenching their market power and discouraging innovation.

History teaches a different lesson. Consider DirecTV and Skype, both once considered innovative market leaders in their respective fields of satellite TV and internet telephony. Both firms stumbled, however, and they might not even be with us today without creative business deals. DirecTV has been partially or fully controlled by Hughes Electronics, News Corp., Liberty Media and now AT&T. Skype has swapped hands multiple times, moving from eBay, to a private investment firm and now to Microsoft.

These were complex deals, and some didn’t work, leading to divestitures. But each was a learning experience that illustrated how dynamic media and technology markets can be with firms constantly searching for value-added arrangements that serve their customers and shareholders. If we make this type of activity presumptively illegal, we’re imagining that government bureaucrats are better suited to make these calls than businesspeople and the consumers who choose whether or not to buy the product.

Worse yet, legal tests like those Klobuchar proposes – “conduct that materially disadvantages potential competitors” – are remarkably open-ended and could be easily abused. The system will be gamed by opponents of deals for business reasons. They will claim that their own failure to attract investors or customers must all be the fault of more creative rivals. That’s a recipe for cronyism and economic stagnation.

Those who worry about today’s largest tech giants becoming supposedly unassailable monopolies should consider how similar fears were expressed not so long ago about other tech titans, many of which we laugh about today. Just 14 years ago, headlines proclaimed that “MySpace Is a Natural Monopoly,” and asked, “Will MySpace Ever Lose Its Monopoly?” We all know how that “monopoly” ceased to exist.

At the same time, pundits insisted “Apple should pull the plug on the iPhone,” since “there is no likelihood that Apple can be successful in a business this competitive.” The smartphone market of that era was viewed as completely under the control of BlackBerry, Palm, Motorola and Nokia. A few years prior to that, critics lambasted the merger of AOL and TimeWarner as a new corporate “Big Brother” that would decimate digital diversity and online competition.

GOP divided over bills targeting tech giants

Today, we know these tales of the apocalypse ended up instead becoming case studies in the continuing power of “creative destruction.” New innovations and players emerged from many unexpected quarters, decimating whatever dreams of continued domination the old giants once had.

Today’s biggest players face similar pressures, and it’s better to let rivalry and innovation emerge organically, not through the wrecking ball of heavy-handed antitrust regulation.

#### Large-firm dynamism is the only way to maintain tech leadership vis-à-vis china—key to competitiveness and AI

Lee, senior lecturer at the University of Hong Kong Faculty of Business and Economics, ‘19

(David S., “Antitrust action risks holding back US tech giants in competition with China,” <https://asia.nikkei.com/Opinion/Antitrust-action-risks-holding-back-US-tech-giants-in-competition-with-China>)

But the administration should not forget the law of unintended consequences -- effective antitrust measures could stifle the ability of American tech companies to compete with their Chinese challengers. Presumably, that is the last thing the America First president wants to see.

While antitrust has been used to regulate technology companies before, perhaps most notably Microsoft two decades ago, its application against Amazon.com, Facebook, and Google seems different.

For the last half-century or so, U.S. antitrust law has been underpinned by the concept of maximizing consumer welfare, frequently measured by price to consumers. In regulating big technology companies today, however, a new paradigm has emerged, dubbed "hipster antitrust."

Hipster antitrust looks beyond traditional economic harm and includes wider effects such as wage inequality, data privacy intrusions, and sheer size as grounds to invoke the law.

But the wider the antitrust authorities reach, the more likely they are to damage the tech giants' global competitiveness. This applies especially in the key field of artificial intelligence, where the U.S. and China are world leaders.

AI is the engine powering the Fourth Industrial Revolution and the fuel for that engine is data, lots of data. Such data can only be collected at scale, which conflicts with hipster antitrust notions of size. If American antitrust measures compel large technology companies to shrink or in the extreme, to break up, then the U.S. will find itself at a disadvantage to China.

The idea of size is one of many fundamental differences separating Chinese and American technology ecosystems. Chinese government leaders have clearly grasped that scale matters for the technologies they want to dominate, such as artificial intelligence, as well as for the type of digital governance Beijing is striving to implement.

In the U.S., however, the economic value attached to scale is offset by deep-rooted concerns about privacy, bullying behavior and unfair political and social influence. Senator Elizabeth Warren of Massachusetts, a popular Democratic Party candidate for the 2020 presidential election, wrote: "Today's big tech companies have too much power -- too much power over our economy, our society and our democracy."

But in China this is not a hot-button political issue. In a recent fintech course I helped lead comprised of students from different countries, mainland Chinese students considered privacy differently than peers elsewhere. Though aspects of privacy are important to Chinese users, many readily understand there are trade-offs in operating on technology platforms.

Chinese technology platforms such as Alibaba and Meituan have developed so-called "super apps" that serve the same functions that users in the West might find by going to different applications on their devices.

Super apps are designed to be convenient to users so they can handle everything from ride hailing, shopping, food purchases, and payment, all without leaving the digital confines of a single app. This has become the dominant way Chinese citizens consume online. With the most internet users in the world, approximately 750 million, super apps also provide Chinese technology companies an incredible amount of data.

In his book, "AI Superpowers: China, Silicon Valley, and the New World Order," technology executive and investor, Kai-Fu Lee outlined four factors necessary to win the AI race: talent, computing speed, data, and government policy. Though the U.S. has an advantage in many areas, that lead is shrinking, and if China does overtake the U.S. in artificial intelligence, it will likely be a result of advantages in data and government policy.

This combination of data and government policy is perhaps best exemplified by SenseTime, widely considered the world's most valuable artificial intelligence startup. SenseTime boasts world leading facial recognition, which is enhanced because it reportedly has access to Chinese government databases, a rich source of data to further develop models.

Chinese companies like SenseTime have excelled in facial recognition, with some reports estimating that there are almost ten times as many Chinese facial recognition patents filed as American. Chinese surveillance technology is already used in the U.S., including New York City.

This widening gap will have broader implications beyond surveillance, security, and policing. Facial recognition technology will also serve as a biometric identifier for finance, retail, and health. With China moving forward aggressively both domestically and abroad in its use of such technologies, American competitors who are pursuing facial recognition, such as Amazon and Google, may not be able to close the growing competitive chasm.

So while American politicians may see antitrust investigations into large technology companies as necessary, there could be a significant impact on America's ability to compete with China.

Google's former CEO, Eric Schmidt forecast last year that China and the United States would lead the bifurcation of the internet into two spheres. Evidence of this splintering is already apparent. What remains undetermined, however, is which of those spheres will dominate.

Large Chinese technology companies, for example Alibaba Group Holding, are already setting-up far-flung outposts by partnering with and investing in local, non-Chinese technology companies around the world. This form of Chinese technological expansion allows Chinese big tech to shape user privacy norms, establish global networks, and attract more users into their ecosystems, all of which leads to increased user activity and ultimately more data.

While China aggressively expands its technological reach and hones its ability through mining evermore data, it is important that U.S. regulators understand that aggressive antitrust sanctions would risk inhibiting American companies from maintaining the scale necessary to compete with their Chinese rivals.

AI supremacy will be a defining feature of superpower status. And if future researchers one day examine how the U.S. lost the war for artificial intelligence, the hindsight of history may show that the current antitrust debate was the fatal turning point.

#### Failure to beat China in tech incentivizes escalatory nuclear postures that make extinction inevitable

Kroenig and Gopalaswamy 18 – Associate Professor of Government and Foreign Service at Georgetown University and Deputy Director for Strategy in the Scowcroft Center for Strategy and Security at the Atlantic Council; Director of the South Asia Center at the Atlantic Council

Matthew Kroenig and Bharath Gopalaswamy, "Will disruptive technology cause nuclear war?," Bulletin of the Atomic Scientists, 11-12-2018, <https://thebulletin.org/2018/11/will-disruptive-technology-cause-nuclear-war/>

Rather, we should think **more broadly** about how new technology might affect global politics, and, for this, it is helpful to turn to scholarly international relations theory. The dominant theory of the causes of war in the academy is the “bargaining model of war.” This theory identifies rapid shifts in the balance of power as a primary cause of conflict.

International politics often presents states with conflicts that they can settle through peaceful bargaining, but when bargaining breaks down, war results. Shifts in the balance of power are problematic because they undermine effective bargaining. After all, why agree to a deal today if your bargaining position will be stronger tomorrow? And, a clear understanding of the military balance of power can contribute to peace. (Why start a war you are likely to lose?) But shifts in the balance of power muddy understandings of which states have the advantage.

You may see where this is going. New technologies threaten to create potentially destabilizing shifts in the balance of power.

For decades, stability in Europe and Asia has been supported by US military power. In recent years, however, the balance of power in Asia has begun to shift, as China has increased its military capabilities. Already, Beijing has become more assertive in the region, claiming contested territory in the South China Sea. And the results of Russia’s military modernization have been on full displayin its ongoing intervention in Ukraine.

Moreover, China may have the lead over the United States in emerging technologies that could be decisive for the future of military acquisitions and warfare, including 3D printing, hypersonic missiles, quantum computing, 5G wireless connectivity, and artificial intelligence (AI). And Russian President Vladimir Putin is building new unmanned vehicles while ominously declaring, “Whoever leads in AI will rule the world.”

If China or Russia are able to incorporate new technologies into their militaries before the United States, then this could lead to the kind of rapid shift in the balance of power that often causes war.

If Beijing believes emerging technologies provide it with a newfound, local military advantage over the United States, for example, it may be more willing than previously to initiate conflict over Taiwan. And if Putin thinks new tech has strengthened his hand, he may be more tempted to launch a Ukraine-style invasion of a NATO member.

Either scenario could bring these nuclear powers into direct conflict with the United States, and once nuclear armed states are at war, there is an inherent risk of nuclear conflict through limited nuclear war strategies, nuclear brinkmanship, or simple accident or inadvertent escalation.

This framing of the problem leads to a different set of policy implications. The concern is not simply technologies that threaten to undermine nuclear second-strike capabilities directly, but, rather, any technologies that can result in a meaningful shift in the broader balance of power. And the solution is not to preserve second-strike capabilities, but to preserve prevailing power balances more broadly.

When it comes to new technology, this means that the United States should seek to maintain an innovation edge. Washington should also work with other states, including its nuclear-armed rivals, to develop a new set of arms control and nonproliferation agreements and export controls to deny these newer and potentially destabilizing technologies to potentially hostile states.

These are no easy tasks, but the consequences of Washington losing the race for technological superiority to its autocratic challengers just might mean nuclear Armageddon.

### CP States

#### Text: The fifty states and all relevant United States territories should [plan].

#### States have the right to enforce federal antitrust law and enact and enforce their own antitrust laws---those state-level laws are not inherently Congressionally preempted.

HLR 20 – Harvard Law Review

“Note: Antitrust Federalism, Preemption, and Judge-Made Law,” Harvard Law Review, Vol. 133, June 2020, LexisNexis

I. THE ANTITRUST FEDERALISM LANDSCAPE

Antitrust federalism, meaning the space carved out for the states in the more generally federal antitrust arena, can be thought of as made up of two "swords" -- the first the states' ability to bring suit under federal antitrust law and the second their ability to enact and enforce their own state antitrust laws -- and one "shield" -- immunity from federal antitrust law for state actions. The swords allow states to attack antitrust offenders, while the shield allows states to defend against federal antitrust action.

All three elements of antitrust federalism find their roots in congressional action or the courts' interpretation of congressional inaction. The power to enforce federal antitrust law as parens patriae for full treble damages -- the first sword -- was granted to the states by Congress in Hart-Scott-Rodino. On the judicial front, the Supreme Court acknowledged state immunity from federal antitrust actions -- the shield -- in Parker v. Brown, noting that the Sherman Act did not explicitly mention its application to state action. Finally, when the Court confirmed that states' ability to make their own antitrust laws -- the second sword and the one discussed in this Note -- was not preempted in California v. ARC America Corp., it considered the same Sherman Act silence.

### DA FTC

#### The plan forces tradeoffs in FTC enforcement efforts – they’re in a merger tsunami and barely staying afloat, but the plan drowns them

Rose ’19 - Department Head and Charles P. Kindleberger Professor of Applied Economics in the MIT Economics Department. She served as Deputy Assistant Attorney General for Economic Analysis in the Antitrust Division of the DOJ from 2014 to 2016, and was the director of the National Bureau of Economic Research Program in Industrial Organization from 1991 to 2014.

Nancy Rose, FTC Hearing #13: Merger Retrospectives, April 12, 2019, <https://www.ftc.gov/news-events/events-calendar/ftc-hearing-14-merger-retrospectives>

So I want to start with the last question that was on the set that Dan and Bruce circulated for this panel. Should the FTC devote more resources to retrospectives, even at the cost of current enforcement? And I was delighted to see Commissioner Slaughter be so passionate in her defense of the need for more resources. This goes to what I feel is the most significant, and yet still largely invisible message, in the ongoing debate over competition policy, which is that antitrust enforcement in the United States is chronically and substantially underfunded.

For years, the appropriation requests have been modest in their increases. Oversight hearings and interactions with the Hill have too often featured the mantra, “when business picks up, our talented and hardworking staff just do more with less.” I will say I think the career staff at both the FTC and the DOJ Antitrust Division are among the most dedicated, highly-skilled, and hardest-working professionals.

It was my great privilege to work with a number of them at DOJ, and I know that colleagues who have worked at the FTC feel the same way. They deserve our greatest appreciation and applause and not just from those of us who work in antitrust policy, but from the entire American public, on whose behalf they tirelessly work.

But there is a limit to the number of hours in a day and the number of days in a week and the well below market compensation for the lawyers and economists who work in the agencies, which is another significant problem, is insufficient to demand that staff give up all rights to leave their buildings, occasionally see their families, or catch up on sleep.

So I think it’s inevitable that if we’re asking agencies to reflect on the effectiveness of their decision-making through programs like retrospective programs, it is going to come out of someplace else. And I fear that given the ongoing intensity of the merger wave, that’s going to come out of enforcement.

We are amid an ongoing sustained, what’s been called by some, tsunami of mergers. Each year there are thousands of mergers noticed to the agencies and thousands more below the HSR thresholds, that work by Thomas Wollmann at the University of Chicago suggests, skate through to consummation with practically no probability of review or action, the occasional consummated merger enforcement action notwithstanding.

The dollar volume of mergers is at historic levels and that suggests that there are a lot of mega mergers competing for enforcement resources. In addition, litigation costs continue to climb, both for challenging mergers or bringing Section actions, especially as parties with especially deep pockets escalate litigation defenses, correctly calculating that even adding some tens of millions of dollars in antitrust litigation costs would be just rounding error in their merger financing.

And, finally, I would say it’s inconceivable to me that there are not at least some counsel that are advising parties that a good time to bring marginal mergers forward is when the agencies are stretched thin by major investigations or multiple litigations.

#### Despite short resources, FTC is effectively regulating hospital mergers – the plan halts that progress

Muris ’20 – Professor of Law at George Mason, former Chairman of FTC, Senior Counsel at Sidney Austin LLP, JD from UCLA,

Timothy Muris, “Response to Subcommittee on Antitrust, Commercial, and Administrative Law Committee on The Judiciary U. S. House of Representatives” April 17, 2020, <https://judiciary.house.gov/uploadedfiles/submission_from_tim_muris.pdf>

Finally, the Committee asks about agency resources and performance. The last section below briefly addresses the continual need for the antitrust agencies to address business practices as they evolve, as well as their own performance record. Such evaluation is necessary: ever a UCLA Bruin, I remain devoted to legendary coach John Wooden‘s maxim that “when you are through learning, you are through.” The section thus offers multiple examples of successful and bipartisan FTC efforts to improve enforcement to the benefit of consumers. In the key healthcare sector, American consumers continue to benefit from the FTC’s hard work. After losing seven consecutive hospital merger challenges before I arrived, upon my direction the FTC worked to devise a new enforcement plan by incorporating fresh economic thinking and issuing retrospective case studies showing that several hospital mergers had indeed harmed consumers. This plan resulted in a successful challenge to a consummated hospital merger that served as a template for future enforcement, leading to Obama administration victories in three separate courts of appeal endorsing the FTC’s approach. Such success did not require abandonment of the consumer welfare standard, nor a dramatic increase in agency resources. Indeed, as discussed below, my predecessor as FTC chairman, Bob Pitofsky, did much more for American consumers using the consumer welfare standard with just 1,000 staff than did the agency in the 1970s when it had far greater resources (1,800 staff by the turn of the decade), but was motivated by an antitrust policy that was, instead, at war with itself.

#### Long term per-person healthcare costs will collapse the economy from a bubble burst or terminal budget overstretch – no alt causes – restoring competition in hospital markets is key to reduce costs

Evan Horowitz, Fivethirtyeight, January 11, 2018, The GOP Plan To Overhaul Entitlements Misses The Real Problem, <https://fivethirtyeight.com/features/to-cut-the-debt-the-gop-should-focus-on-health-care-costs/>

There is no wide-reaching entitlement funding crisis, no deep-rooted connection between runaway debts and the broad suite of pension and social welfare programs that usually get called entitlements. The problem is linked to entitlements, but it’s much narrower: If the U.S. budget collapses after hemorrhaging too much red ink, the main culprit will be rising health care costs.

Aside from health care, entitlement spending actually looks relatively manageable. Social Security will get a little more expensive over the next 30 years; welfare and anti-poverty programs will get a little cheaper. But costs for programs like Medicare and Medicaid are expected to climb from the merely unaffordable to truly catastrophic.

Part of that has to do with our aging population, but age isn’t the biggest issue. In a hypothetical world where the population of seniors citizens didn’t increase, entitlement-related health spending would still soar to unprecedented heights — thanks to the relentlessly accelerating cost of medical treatments for people of all ages.1

What’s needed, then, is something far more focused than entitlement reform: an aggressive effort to slow the growth of per-person health care costs. Or — if that’s not possible — some way to ensure that the economy grows at least as fast as the cost of health care does.

Diagnosing the debt: It’s not about demographics

America’s long-term budget problem is very real. Already, the federal government has a pile of publicly held debts amounting to around $15 trillion, or about 75 percent of the country’s entire gross domestic product. That’s the highest level since the 1940s, yet the debt burden is expected to double by 2047 and reach 150 percent of the GDP, according to the Congressional Budget Office.2

It makes sense to list entitlement spending among the culprits for the growing national debt, given that these programs have grown from costing less than 10 percent of the GDP in 2000 to a projected 18 percent in 2047. Part of this is simple demographics: As America ages, more of us become eligible for Social Security and Medicare, thus driving up expenses.3

But there’s a crack in this demographic explanation: It only makes sense for the next 10 to 15 years. That’s the period of rapid transition when graying baby boomers will boost the population of seniors from around 50 million to more than 70 million. A change like that should indeed produce a surge in entitlement spending as those millions submit their enrollment forms.

By 2030, however, this wave will start to ebb, leaving the elderly share of the population at a roughly stable 20 to 21 percent all the way through 2060, based on the size of the population following the boomers and slower-moving forces like lengthening lifespans.

But think what this should mean for entitlement spending. As the population of seniors levels out in those later years, costs should naturally stabilize — at least, if demographics were really the driving factor.

This is exactly what you see for Social Security. The CBO expects total Social Security spending to leap up over the next decade but then settle at just over 6 percent of the GDP, at which point it will cease to be a major contributor to rising entitlement spending or growing debts. Social Security is thus a minor player in our long-term budget drama; if you cut the program to the bone, shrinking future payouts so that they won’t add a penny to the deficit, the federal debt would still reach 111 percent of the GDP in 2047.4

Likewise, cuts to welfare and poverty-related entitlements like food stamps and unemployment insurance are unlikely to improve the debt forecast. In fact, spending on these entitlements has been dropping since the high-need years around the Great Recession and is expected to shrink further in the decades ahead — partly because payouts aren’t adjusted to keep up with economic growth, and partly because the birth rate has been falling and several programs are geared to families with children.5

But the scale of the problem is totally different when you turn to health care. Spending on entitlement-related health programs — including Medicare, Medicaid and subsidies required by the Affordable Care Act — will never shrink or stabilize, according to projections. The CBO predicts these costs will grow over 65 percent between now and 2047 — and then go right on growing after that, heedless of the fact that the percentage of the population that’s over 65 should no longer be increasing.

Why is health care eating the budget? Per-person costs

Demographics aren’t responsible for the projected explosion in health care costs. More important than the growing number of elderly Americans is the growing cost per patient — the rising expense of treating each individual

The CBO found that the lion’s share — 60 percent — of the projected increase in health spending comes from costs that would continue to increase even if our population weren’t getting older.

The reasons for this are many, including the rising cost of prescription drugs and the fact that hospital mergers have reduced competition. But since 2000, per capita health costs in the U.S. have, on average, grown faster than the GDP. And while these costs rose more slowly after the Great Recession and the implementation of the Affordable Care Act, analysis from the Centers for Medicare and Medicaid Services suggests this slower growth rate won’t last.

Which is bad news for these programs, because if the problem were demographic, it’d be easier to solve. By mixing the kind of program cuts Republicans generally support with targeted tax increases favored by some Democrats, you could meet the short-term challenge posed by retiring baby boomers and raise enough money to cover the larger — but stabilizing — population of eligible seniors. But with ever-rising costs, there is no stable future to prepare for. To keep these programs funded, you’d need a wholly different approach — indeed a whole new perspective on mounting federal debt and the role of entitlements.

The future is a race between rising health care costs and economic growth, a race that the economy is losing. Each time health costs outpace the GDP, it creates what the CBO calls “excess cost growth,” which feeds the federal debt. If the government could close this gap, the long-term budget outlook would be a lot rosier.

There are two ways to solve this issue: Either contain health care costs — say through price regulation or more competitive markets — or boost economic growth enough to pay for this expensive health care. Success on either front would make health care spending look more manageable over future decades and lighten the debt load.

Entitlement reform needs health care reform to work

Few of the proposals that commonly fall under the heading of entitlement reform target the health care cost problem, which limits their ability to reduce the long-term debt.

Even when they do address health care, often the result is to shift — rather than solve — the problem. Say lawmakers decide to dramatically cut Medicare. That would indeed ease the government’s debt problem. But the underlying dynamic — the race between health costs and the GDP — wouldn’t really change. Seniors would still need health care, and per-person costs would likely still grow (maybe even faster, since Medicare is a relatively efficient program).

On top of all this, there’s also a deep-seated political barrier: It’s no good if one party picks its favored solution only to watch the other party dismantle it when they next take over. You need political consensus to make changes stick, and America is notably short on consensus right now.

In the end, though, it won’t do to just throw up our hands. Absent some workable solution, spending on health care will sink the federal budget, generating levels of debt that would hold back the economy and potentially spark a global crisis of confidence in the United States’ ability to borrow.

#### Sustained economic depression triggers world war

* Distinct from Covid because that was only 1 year

Walt 20 – Stephen M. Walt is a columnist at Foreign Policy and the Robert and Renée Belfer professor of international relations at Harvard University.

Stephen Walt, May 13 2020, “Will a Global Depression Trigger Another World War?” Foreign Policy, https://foreignpolicy.com/2020/05/13/coronavirus-pandemic-depression-economy-world-war/

If one takes a longer-term perspective, however, a sustained economic depression could make war more likely by strengthening fascist or xenophobic political movements, fueling protectionism and hypernationalism, and making it more difficult for countries to reach mutually acceptable bargains with each other. The history of the 1930s shows where such trends can lead, although the economic effects of the Depression are hardly the only reason world politics took such a deadly turn in the 1930s. Nationalism, xenophobia, and authoritarian rule were making a comeback well before COVID-19 struck, but the economic misery now occurring in every corner of the world could intensify these trends and leave us in a more war-prone condition when fear of the virus has diminished.

### Adv 1 – harmonization

#### Market concentration doesn’t reduce competition and is *positively correlated* with productivity gains – they can’t solve productivity

**Litan 18** – B.S. in Economics, the Wharton School; J.D., Yale Law School; Ph.D., Yale University. Non-Resident Senior Fellow at the Brookings Institution; previously Vice President and Director of Economic Studies

(Robert Litan, “A Scalpel, Not an Axe: Updating Antitrust and Data Laws to Spur Competition and Innovation, September 2018, <https://www.progressivepolicy.org/wp-content/uploads/2018/09/PPI_AntitrustandDataLaws_2018.pdf>)

National market concentration measures, however, do not necessarily prove that actual competition is declining. Carl Shapiro, one of the nation’s leading industrial organization economists and former chief economist for the Justice Department’s antitrust division, has shown that national concentration measures of product or service markets do not always constitute a relevant geographic market where competition takes place.23 Shapiro identifies several industries where this difference is important. Although national chains may account for larger shares of revenue in these industries, there is (yet) no evidence of reduced competition at the local level where these firms tend to compete: accommodations and food, finance, health care, professional services, property, retail trade, transport and warehousing, utilities, and wholesale trade.24

Nonetheless, the growth rate of labor productivity in the U.S. has remained low by historical standards – at around 1 percent – over the past decade. This is worrisome because productivity growth is the key to rising living standards.

One reason for the productivity growth slowdown may be the decline in the rate of formation of new firms, which, over the past two centuries, have been disproportionately responsible for commercializing disruptive innovations.25 Likewise, workers are moving less frequently than they once did – either between firms in the same city or between cities.26

The temptation is great also to blame poor productivity performance on increasing industry concentration, but it should be resisted for several reasons. For one thing, as already noted, trends in national concentration statistics are poor measures of the state of competition. Moreover, as Shapiro has noted, even the increases in concentration that have occurred in narrowly defined industries at the national level – some of which can be attributed to relaxed merger enforcement by the Department of Justice after it updated its Merger Guidelines in 1982 – are mostly in unconcentrated industries and not of a magnitude that would indicate any material diminution of competition.27 And, if competition has not materially declined, then the state of competition cannot be linked to the decline in productivity growth or other measures of economic “dynamism” such as startup activity or worker mobility.

Statistical studies also do not support any connection between the modest increases in national industry concentration and the decline in productivity growth. David Autor and colleagues, who have been critical of increased concentration for its impacts on the labor market, have found a statistically positive relationship between an industry’s concentration level and its productivity improvements.28 Likewise, there is evidence linking investment in information technology (which is productivity enhancing for the firms making the investment), with more industry concentration. However, Bessen argues that – because much IT investment is proprietary and not diffusing to the rest of the economy – the economy-wide impact on productivity may be less than optimal.29

#### Antitrust is the wrong instrument for tech regulation – it’s a blunt tool that doesn’t examine the realities of the market

**Rosoff 21** – Matt Rosoff, Editorial Director, Digital at CNBC

Matt Rosoff, “Op-ed: This week showed how the Big Tech antitrust campaign is totally misguided,” June 30, 2021, CNBC, <https://www.cnbc.com/2021/06/30/op-ed-antitrust-crusade-against-big-tech-is-misguided.html>

On Wednesday, the tech industry saw five companies debut on public stock markets. One of them, Chinese ride-hailing giant Didi, is worth nearly $70 billion. Two others, Taboola and Integral Ad Science, compete in the online advertising industry -- one of the markets that has supposedly been ruined by Alphabet (in particular) and Facebook.

More generally, this year has seen the hottest IPO market in years, and investors continue to pile into start-ups at a record pace -- Q1 saw more than $64 billion in venture funding, a record.

This does not look like a deserted wasteland of stifled innovation and broken dreams.

Meanwhile, the general public doesn’t see tech power as a particularly pressing issue. In a survey funded by a tech industry group, 44% of respondents ranked tech industry regulations as the lowest priority on a list of five options, behind the economy, public health, climate change and infrastructure. Yes, 53% of the respondents thought some legislation was a good idea. But that does not mean the public wants Congress and the courts to aim the antitrust cannon at these giants.

As I wrote four years ago, antitrust is the wrong approach here.

None of these companies have monopolies over meaningfully defined relevant markets -- you really have to stretch and squeeze the market definitions for their dominance to come into clear view. The real state of the tech industry is an all-out business war between the five giants, a constantly shifting landscape of rivalries and backbiting -- think Great Powers Europe before World War I -- with numerous well-funded competitors of all sizes waiting to seize any opportunity and fill any gap they leave open.

For instance:

Google dominates search and Facebook is the biggest social media company by far. But the main source of their revenues is online advertising, and they compete bitterly for every available online ad dollar, with Amazon coming quickly up behind. And yet, there’s still enough space for TikTok, Twitter, Snap and a dozen small ad-tech competitors to build sustainable, thriving ad-supported businesses.

Amazon, Microsoft and Google are locked in a hard-knocking three-way war for supremacy in cloud computing infrastructure. And yet, there are dozens of companies delivering thriving cloud services on top of or alongside these platforms, including Snowflake, which debuted last year and is now worth more than $70 billion, and Zoom, which went public in 2019, and is worth almost $115 billion.

Facebook hates Apple and complains about its control over iPhone apps every chance it gets -- except, Mark Zuckerberg now admits that Facebook might actually be stronger after Apple’s recent privacy changes to the iPhone. Meanwhile, Apple’s iOS is actually a minority competitor, as Google’s Android operating system is the dominant mobile platform in the world -- and Microsoft just signed a deal with Amazon to support Android apps on Windows.

To be perfectly clear: Yes, it is in the public interest to regulate these tech giants more strictly.

For instance, Facebook and Google’s YouTube exercise an enormous amount of influence over public discourse and politics by allowing misinformation to spread almost unchecked.

Amazon and Apple control extremely valuable marketplaces that reach hundreds of millions of people, and can use this control to pit suppliers against each other and extract arguably onerous fees.

Union advocates allege Amazon illegally interfered in a recent attempt to unionize in Alabama, and many workers have complained about working conditions in warehouses and delivery vehicles.

All of the companies have used acquisitions to enter adjacent markets and, arguably, to stifle potential competitors before they got too big -- a tactic also used by companies outside the Big Five, such as Oracle in past years and Salesforce more recently.

Several of their founders are now centi-billionaires, a perfect example of the runaway income inequality that many progressives believe must be curbed.

But all of these activities can be addressed with targeted regulations or stricter enforcement of existing laws. Antitrust is a blunt instrument meant to address major market distortions created by true monopolists. Being big, in itself, is not illegal. Applying antitrust law to these companies is misguided, wrong, and will not have the desired effect of curbing their power in meaningful ways.

#### Econ not key to deterrence—mpirics prove no relationship between fluctuations in hard power, GDP, or grand strategy and violence

Fettweis 17

Christopher Fettweis, Associate Professor of Political Science—Tulane University, Unipolarity, Hegemony, and the New Peace, Security Studies 26.3, 5/8/2017

How does one measure polarity? Power is traditionally considered to be some combination of military and economic strength, but despite scores of efforts, no widely accepted formula exists. Perhaps overall military spending might be thought of as a proxy for hard power capabilities; perhaps too the amount of money the United States devotes to hard power is a reflection of the strength of the unipole. When compared to conflict levels, however, there is no obvious correlation, and certainly not the kind of negative relationship between US spending and conflict that many hegemonic stability theorists would expect to see. During the 1990s, the United States cut back on defense by about 25 percent, spending $100 billion less in real terms in 1998 that it did in 1990.68 To those believers in the neoconservative version of hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace,” argued Kristol and Kagan at the time.69 The world grew dramatically more peaceful while the United States cut its forces, however, and stayed just as peaceful while spending rebounded after the 9/11 terrorist attacks. The incidence and magnitude of global conflict declined while the military budget was cut under President Clinton, in other words, and kept declining (though more slowly, since levels were already low) as the Bush administration ramped it back up. Overall US military spending has varied during the period of the New Peace from a low in constant dollars of less than $400 billion to a high of more than $700 billion, but war does not seem to have noticed. The same nonrelationship exists between other potential proxy measurements for hegemony and conflict: there does not seem to be much connection between warfare and fluctuations in US GDP, alliance commitments, and forward military presence. There was very little fighting in Europe when there were 300,000 US troops stationed there, for example, and that has not changed as the number of Americans dwindled by 90 percent. Overall, there does not seem to be much correlation between US actions and systemic stability. Nothing the United States actually does seems to matter to the New Peace. It is possible that absolute military spending might not be as important to explain the phenomenon as relative. Although Washington cut back on spending during the 1990s, its relative advantage never wavered. The United States has accounted for between 35 and 41 percent of global military spending every year since the collapse of the Soviet Union.70 The perception of relative US power might be the decisive factor in decisions made in other capitals. One cannot rule out the possibility that it is the perception of US power—and its willingness to use it—that keeps the peace. In other words, perhaps it is the grand strategy of the United States, rather than its absolute capability, that is decisive in maintaining stability. It is that to which we now turn. Conflict and US Grand Strategy The perception of US power, and the strength of its hegemony, is to some degree a function of grand strategy. If indeed US strategic choices are responsible for the New Peace, then variation in those choices ought to have consequences for the level of international conflict. A restrained United States is much less likely to play the role of sheriff than one following a more activist approach. Were the unipole to follow such a path, hegemonic-stability theorists warn, disaster would follow. Former National Security Advisor Zbigniew Brzezinski spoke for many when he warned that “outright chaos” could be expected to follow a loss of hegemony, including a string of quite specific issues, including new or renewed attempts to build regional empires (by China, Turkey, Russia, and Brazil) and the collapse of the US relationship with Mexico, as emboldened nationalists south of the border reassert 150-year-old territorial claims. Overall, without US dominance, today’s relatively peaceful world would turn “violent and bloodthirsty.” 71 Niall Ferguson foresees a post-hegemonic “Dark Age” in which “plunderers and pirates” target the big coastal cities like New York and Rotterdam, terrorists attack cruise liners and aircraft carriers alike, and the “wretchedly poor citizens” of Latin America are unable to resist the Protestantism brought to them by US evangelicals. Following the multiple (regional, fortunately) nuclear wars and plagues, the few remaining airlines would be forced to suspend service to all but the very richest cities.72 These are somewhat extreme versions of a central assumption of all hegemonic-stability theorists: a restrained United States would be accompanied by utter disaster. The “present danger” of which Kristol, Kagan, and their fellow travelers warn is that the United States “will shrink its responsibilities and—in a fit of absentmindedness, or parsimony, or indifference— allow the international order that it created and sustains to collapse.” 73 Liberals fear restraint as well, and also warn that a militarized version of primacy would be counterproductive in the long run. Although they believe that the rule-based order established by United States is more durable than the relatively fragile order discussed by the neoconservatives, liberals argue that Washington can undermine its creation over time through thoughtless unilateral actions that violate those rules. Many predicted that the invasion of Iraq and its general contempt for international institutions and law would call the legitimacy of the order into question. G. John Ikenberry worried that Bush’s “geostrategic wrecking ball” would lead to a more hostile, divided, and dangerous world.74 Thus while all hegemonic stability theorists expect a rise of chaos during a restrained presidency, liberals also have grave concerns regarding primacy. Overall, if either version is correct and global stability is provided by US hegemony, then maintaining that stability through a grand strategy based on either primacy (to neoconservatives) or “deep engagement” (to liberals) is clearly a wise choice.75 If, however, US actions are only tangentially related to the outbreak of the New Peace, or if any of the other proposed explanations are decisive, then the United States can retrench without fear of negative consequences. The grand strategy of the United States is therefore crucial to beliefs in hegemonic stability. Although few observers would agree on the details, most would probably acknowledge that post-Cold War grand strategies of American presidents have differed in some important ways. The four administrations are reasonable representations of the four ideal types outlined by Barry R. Posen and Andrew L. Ross in 1996.76 Under George H. W. Bush, the United States followed the path of “selective engagement,” which is sometimes referred to as “balance-of-power realism”; Bill Clinton’s grand strategy looks a great deal like what Posen and Ross call “cooperative security,” and others call “liberal internationalism”; George W. Bush, especially in his first term, forged a strategy that was as close to “primacy” as any president is likely to get; and Barack Obama, despite some early flirtation with liberalism, has followed a restrained realist path, which Posen and Ross label “neo-isolationism” but its proponents refer to as “strategic restraint.” 77 In no case did the various anticipated disorders materialize. As Table 2 demonstrates, armed conflict levels fell steadily, irrespective of the grand strategic path Washington chose. Neither the primacy of George W. Bush nor the restraint of Barack Obama had much effect on the level of global violence. Despite continued warnings (and the high-profile mess in Syria), the world has not experienced an increase in violence while the United States chose uninvolvement. If the grand strategy of the United States is responsible for the New Peace, it is leaving no trace in the evidence. Perhaps we should not expect a correlation to show up in this kind of analysis. While US behavior might have varied in the margins during this period, nether its relative advantage over its nearest rivals nor its commitments waivered in any important way. However, it is surely worth noting that if trends opposite to those discussed in the previous two sections had unfolded, if other states had reacted differently to fluctuations in either US military spending or grand strategy, then surely hegemonic stability theorists would argue that their expectations had been fulfilled. Many liberals were on the lookout for chaos while George W. Bush was in the White House, just as neoconservatives have been quick to identify apparent worldwide catastrophe under President Obama.78 If increases in violence would have been evidence for the wisdom of hegemonic strategies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the relationship between US power and international stability suggests that the two are unrelated. The rest of the world appears quite capable and willing to operate effectively without the presence of a global policeman. Those who think otherwise have precious little empirical support upon which to build their case. Hegemonic stability is a belief, in other words, rather than an established fact, and as such deserves a different kind of examination.

#### COVID-induced economic decline thumps – created unprecedented economic problems on multiple fronts

Bauer et al 20 – Fellow in Economic Studies at the Brookings Institution; associated with the Hamilton Project, an economic policy initiative with the Brookings Institution.

Lauren Bauer, Kristen Broady, Wendy Edelberg, and Jimmy O’Donnell, “Ten facts about COVID-19 and the U.S. economy,” *The Brookings Institution*, 17 September 2020, https://www.brookings.edu/research/ten-facts-about-covid-19-and-the-u-s-economy/.

The coronavirus 2019 disease (COVID-19) pandemic has created both a public health crisis and an economic crisis in the United States. The pandemic has disrupted lives, pushed the hospital system to its capacity, and created a global economic slowdown. As of September 15, 2020 there have been more than 6.5 million confirmed COVID-19 cases and more than 195,000 deaths in the United States (Johns Hopkins University n.d.). To put these numbers into context, the pandemic has now claimed more than three times the American lives that were lost in the Vietnam War (Ducharme 2020; authors’ calculations). The economic crisis is unprecedented in its scale: the pandemic has created a demand shock, a supply shock, and a financial shock all at once (Triggs and Kharas 2020).

On the public health front, the spread of the virus has exhibited clear geographic trends, starting in the densely populated urban centers and then spreading to more-rural parts of the country (Desjardins 2020). Figure A shows the weekly number of deaths caused by COVID-19 in each U.S. region from late February to late August 2020. Early on, COVID-19 cases were concentrated in coastal population centers, particularly in the Northeast, with cases in New York, New Jersey, and Massachusetts peaking in April (Desjardins 2020). By April 9 there had been more COVID-19–related deaths in New York and New Jersey than in the rest of the United States combined (New York Times 2020). COVID-19–related deaths then peaked in the New England and Rocky Mountain regions during the third week of April, followed by the Great Lakes region in the fourth week of April, and the Mideast (excluding New York and New Jersey) and the Plains regions during the first week of May. The Southeast, Southwest, and Far West regions all experienced their peaks at the end of July and first week of August.

The COVID-19 crisis has also had differential impacts among various racial and ethnic groups. Inequities in the social determinants of health—income and wealth, health-care access and utilization, education, occupation, discrimination, and housing—are interrelated and put some racial and ethnic minority groups at increased risk of contracting and dying from COVID-19 (Centers for Disease Control and Prevention [CDC] 2020c). Inequities in infectious disease outcomes are the byproduct of decades of government policies that have systematically disadvantaged Black, Hispanic, and Native American communities (Cowger et al. 2020). For example, as a result of policies that have helped to determine the location, quality, and residential density for people of color, Black and Hispanic people are clustered in the same high-density, urban locations that were most affected in the first months of the pandemic (Cowger et al. 2020; Hardy and Logan 2020). In addition, Black people and Native American people disproportionately use public transit, which has been associated with higher COVID-19 contraction rates (McLaren 2020).

Relatedly, those demographic groups came into the crisis with a higher incidence of preexisting comorbidities including hypertension, diabetes, and heart disease, which also increase one’s risk of contracting and dying from COVID-19 (Yancy 2020; Ray 2020). Compared to white, non-Hispanic Americans, Black Americans are 2.6 times more likely to contract COVID-19, 4.7 times more likely to be hospitalized as a result of contracting the virus, and 2.1 times more likely to die from COVID-19–related health issues (CDC 2020b). While non-Hispanic white people are dying in the largest numbers (CDC 2020a), Black and Hispanic people are dying at much higher rates relative to their share of the U.S. population (see figure B1); moreover, this disparity is true for every age group (figure B2).

While voluntary social distancing and lockdowns that took effect in March 2020 worked initially to isolate and drive down infections, those actions precipitated a severe economic downturn. The demand shock resulting from quarantine, unemployment, and business closures dealt a blow to consumer services (Bartik, Bertrand, Cullen, et al. 2020). Lockdown measures and social distancing reduced the economy’s capacity to produce goods and services (Brinca, Duarte, and Faria-e-Castro 2020; Gupta, Simon, and Wing 2020).

The National Bureau of Economic Research (NBER) determined that a peak in monthly economic activity occurred in the U.S. economy in February 2020, marking the end of the longest recorded U.S. expansion, which began in June 2009 (NBER n.d.). Figure C shows the percent difference in real (inflation-adjusted) gross domestic product (GDP) from the peak of a business cycle through the quarter when GDP returned to the level of the previous business cycle peak for recent recessions. From the most recent peak in the fourth quarter of 2019, the United States experienced two consecutive quarters of declines in GDP; it even recorded its steepest quarterly drop in economic output on record, a decrease of 9.1 percent in the second quarter of 2020 (Bureau of Economic Analysis [BEA] 2020a; authors’ calculations). To put this contraction into historical context, quarterly GDP had never experienced a drop greater than 3 percent (at a quarterly, nonannualized rate) since record keeping began in 1947 (Routley 2020).

Figure D shows the percent change in employment relative to business cycle peaks. COVID-19–related job losses wiped out 113 straight months of job growth, with total nonfarm employment falling by 20.5 million jobs in April (BLS 2020b; authors’ calculations). The COVID-19 pandemic and associated economic shutdown created a crisis for all workers, but the impact was greater for women, non-white workers, lower-wage earners, and those with less education (Stevenson 2020). In December 2019 women held more nonfarm payroll jobs than men for the first time during a period of job growth; by May 2020 that relationship was reversed, in part reflecting job losses in the leisure and hospitality industry, where women account for 53 percent of workers (Stevenson 2020).

The COVID-19 crisis also led to dramatic swings in household spending. Retail sales, which primarily tracks sales of consumer goods, declined 8.7 percent from February to March 2020, the largest month-to-month decrease since the Census Bureau started tracking the data (U.S. Census Bureau 2020a). Although some areas (e.g., grocery stores, pharmacies, and non-store retailers) saw increases in demand as lockdown measures began, others (e.g., clothing stores, furniture and appliances stores, food services and drinking places, sporting and hobby stores, and gasoline stations) saw declines. In early May, as some states lifted social distancing restrictions, sales began to recover in most goods sectors (U.S. Census Bureau 2020a). Overall, U.S. retail sales increased 17.7 percent from April to May, the largest monthly jump on record, recouping 63 percent of March and April’s losses (U.S. Census Bureau 2020a). Growth in retail sales continued through the summer: by August, retail sales were 2.6 percent above their August 2019 level (U.S. Census Bureau 2020a).To help put those swings in such spending into historical context, figure E shows the percent change in real advance retail and food sales from the peak of a business cycle during recessions between 1980 and 2020.

In addition to consumer spending, the COVID-19 crisis has damaged the nation’s industrial production (i.e., output in the manufacturing, mining, and utility sectors). As shown in figure F, U.S. industrial production dropped sharply in March and has since only partially rebounded. This decline poses a host of challenges for the U.S. manufacturing sector, which employs nearly 13 million workers (Federal Reserve Bank of St. Louis [FRED] 2020a), especially those that depend on workers whose jobs cannot be carried out remotely.

### Adv 2 – telecommunications

#### China has structural advantages in the tech race – companies have international ambitions, and the state gives enormous financial backing

Olsen 20 – Singapore-based co-founder of the strategic consultancy MetisAsia and a commentator on Chinese-Western relations. Former British Army intelligence officer.

Sam Olsen, “China is winning the war for global tech dominance,” *The Hill*, 4 October 2020, https://thehill.com/opinion/technology/518773-china-is-winning-the-war-for-global-tech-dominance.

Unfortunately for those hawkish on Huawei, the vast majority of the world remains open to using the company’s technology. Huawei has a presence in more than 170 countries, including dozens in Europe, and even Canada has yet to be persuaded to block the Chinese Communist Party-linked company.

This is a reflection of the reality that America finds itself in today — namely, that China appears to be winning the war to build the world’s technology infrastructure.

China’s push to dominate technology is being coordinated through a program called the Digital Silk Road (DSR), a subset of the more widely known Belt and Road Initiative. Launched in 2015, the DSR is a private-sector agenda heavily supported by the state with the aim of extending China’s digital presence abroad, and thereby enhancing its commercial and political influence.

The DSR is answering the demand for connectivity from Asia to Africa to Latin America. Chinese companies have built out much of the world’s digital foundations, including fiber-optic cables and telecommunication network schemes. Data centers have been constructed, and projects set up in smart education and online surveillance. The global pandemic is providing new opportunities for Chinese companies in the fast-growing digital health care sector, with both Huawei and Alibaba sharing their coronavirus detection systems abroad.

Beijing is heavily supporting this expansion. Huawei’s success has been eased by a state-backed credit line that at one point reached $100 billion and made sure that it was able to outbid all its rivals not only on price, but on R&D too. Billions of dollars of loans have been given to countries to buy Chinese tech in the name of development aid, and such is the DSR’s positive impact on global digital infrastructure that the program is now being referenced by the United Nations as a way to advance its own Sustainability Development Goals.

On the face of it, American technology firms are doing very well versus their Chinese counterparts. Microsoft and Alphabet, for example, are far more valuable than, say, Alibaba or Tencent. Yet in the race for the world, many American company boards simply don’t have the appetite to spend money outside of their core Western and allied markets; Oracle, one of America’s tech titans, has just a third of the global presence of Huawei. When American firms do try to invest in emerging market infrastructure, they run the risk of accusations of “digital colonialism.”

Taking a mainly commercial view means that Western companies are being eclipsed by their Chinese rivals across much of the world. This should be a concern for the U.S., given what China wants to do with its tech superiority.

Later this year, we expect the release of the “China Standards 2035” plan, which aims to set global standards for evolving technologies such as the internet of things, artificial intelligence (AI), and 5G over the next 15 years. With Chinese technology infrastructure dominating in so many countries, the 2035 plan will cement China’s standards as the norm and give its companies a significant, and perhaps permanent, business advantage over their American competitors.

The Chinese capture of advanced technologies is happening. Baidu, which is sometimes called the “Google of China,” has developed the world’s first open source autonomous vehicle platform. It now has 130 partners, including many of the European carmakers.

Beijing has aspirations in blockchain, too. It has launched the “Blockchain Service Network” (BSN), a government-controlled platform that it wants to make dominant not only in China, but worldwide. In the half-year since its announcement, the BSN has established a presence in dozens of countries, including Japan, Australia and the United States.

Then there is the internet itself. China has stated plans to replace the technological architecture that has supported the internet for the past half-century with one radically different in form. The design, created by Huawei, calls for a new internet protocol (the so-called “New IP” proposal) that would allow the internet to be controlled by nation states. Although unlikely to be adopted internationally soon, the proposal is a stark reminder of how technology is not an ethics-neutral domain, but instead is underpinned by subjective values that can be challenged.

This is the real issue that Chinese technological control creates. Beijing wants to define the standards of important future technologies such as AI, and the values upon which they are based — a move that will tilt the world away from American commercial and political influence.

The world is hungry for more connectivity, and China is satisfying that demand. America needs its own “Digital Silk Road” equivalent if it is to keep its long-term influence broader than its fellow Huawei hawks.

## 2NC

### K

#### Our interpretation enhances the understanding of antitrust – Antitrust reform requires a philosophy of how to guide it which means debating about that philosophy is a core part of this topic

**Khan 18** – Chairwoman of the Federal Trade Commission and associate professor of law at Columbia Law

Lina Khan, “The Ideological Roots of America's Market Power Problem,” The Yale Law Journal Forum, 6/4/18, https://heinonline.org/HOL/Page?collection=journals&handle=hein.journals/yljfor127&id=962&men\_tab=srchresults

As public recognition of this problem grows, increased attention is focusing on antitrust law. Politicians, advocacy groups, academics, and journalists have all questioned whether the failure of antitrust is to blame for declining competition, and whether the law must be reformed in order to tackle the monopoly problems of the twenty-first-century. For example, members of the House of Representative recently created an Antitrust Caucus, a forum for Congress to study and address monopoly issues. Democrats, meanwhile, last year identified renewed antitrust as a key pillar of their economic agenda, promising to "revisit our antitrust laws to ensure that the economic freedom of all Americans - consumers, workers, and small businesses - come before big corporations that are getting even bigger."' The interest is bipartisan: a Republican Attorney General, for example, is leading an antitrust investigation into Google, explaining, "We need to have a conversation in Missouri, and as a country, about the concentration of economic power." In recent months, The American Prospect, The Nation, and The New York Times Magazine have all devoted stories to America's monopoly problem." No longer the exclusive purview of a small group of lawyers and economists, antitrust is going mainstream.

The Yale Law journal's recent series on the future of antitrust, "Unlocking Antitrust Enforcement," offers potential solutions to our market power problem. Generally, the authors seek to map out paths for stronger enforcement under current law. They do so by identifying (1) areas where cases could fix past judicial errors;12 (2) areas where enforcers have not brought cases that they could;" and (3) areas requiring enforcers to recognize traditional harms in new settings.14

The commentary offered by many of these Features is timely and valuable. What is missing from these pieces, however, is any discussion of what philosophy should guide antitrust law and its enforcement. Some of the authors explicitly ratify the current "consumer welfare" approach, which holds that out- put maximization is the proper goal of antitrust." Others do not address the topic directly, but nonetheless offer recommendations embedded in the current frame.16 And for others, perhaps, this question falls beyond the scope of the project: because the goal is to identify opportunities for more enforcement under the current regime, debating the guiding framework of the law is to them merely academic.

But neglecting this question is misguided. The sweeping market power problem we confront today is a result of the current antitrust framework. The enfeebled state of antitrust enforcement traces directly to an intellectual movement that fundamentally rewrote antitrust law - redefining its purpose, its orientation, and the values that underlie it. Addressing the full scope of the market power problem requires grappling with the fact that the core of antitrust has been warped. To be sure, many of the ideas the Features authors introduce are worth pursuing. But they pick at the symptoms of an ideology rather than the ideology itself.

Engaging the issue, by contrast, will go to the heart of why the current regime is crippled, enabling us to tackle the underlying theories and assumptions that have defanged antitrust. It will help ensure that calls for reinvigorated enforcement are not misdirected or exploited, and help ensure that doctrine develops to promote - and not undercut- the proper values of antitrust. Doing so is also likely to reveal or illuminate additional areas of unused authority, underused doctrine, or contestable areas of both.

Moreover, politicians and public figures are debating the framework head-on: a Senate hearing last December asked whether "consumer welfare" is the right standard," while a cable TV host in January said our current approach to antitrust undermines key freedoms." Strikingly, critiques of the current philosophy have come from The American Conservative and The Nation alike." Ignoring the broader conversation risks reinforcing the latent sense that antitrust experts are blind to the society-wide impacts of their profession and dismissive - or even unwelcoming - of the public's interest.20

This Response explains why addressing America's market power problem requires recognizing its ideological roots. Part I describes the Chicago School's interventions in antitrust. Part II explains how this ideological intervention bears on enforcement. Part III considers how the recommendations offered in the Col- lection are useful but will likely prove inadequate to address the scope of the problem, and Part IV offers some concluding thoughts.

#### Aggregate demand – neoliberalism concentrates wealth into the hands of elites crushing the worth of the dollar and diminishing demand

Bivens 17 – Director of research at the Economic Policy Institute. He has a PhD in economics from the New School for Social Research.

Josh Bivens, “Inequality is slowing US economic growth,” *Economic Policy Institute*, 12 December 2017, pp. 3-9, https://files.epi.org/pdf/136654.pdf.

This new attention to the crisis of American pay is totally proper. The failure of wages of the vast majority of Americans to benefit from economy-wide growth in productivity (or income generated in an average hour of work) has been the root cause of the stratospheric rise in inequality and the concentration of economic growth at the very top of the income distribution. Had this upward redistribution not happened, incomes for the bottom 90 percent of Americans would be roughly 20 percent higher today. 3 In short, the rise in inequality driven by anemic wage growth has imposed an “inequality tax” on American households that has robbed them of a fifth of their potential income.

There would be huge benefits to American well-being from blocking or reversing this upward redistribution. This welfare gain stemming from blocking upward redistribution is the primary reason to champion policy measures to boost wage growth and lead to a more equal distribution of income gains. Put simply, a dollar is worth more to a family living paycheck to paycheck than it is to families comfortably in the top 1 percent of the income distribution.

Proponents of increases in the minimum wage and other measures to boost American wages have often argued that there are benefits to these policies besides the welfare gains stemming from pure redistribution. These proponents have often argued that boosting wages would even benefit aggregate economic outcomes, like growth in gross domestic product (GDP) or employment.

Recent evidence about developments in the American and global economies strongly indicate that these arguments are correct: boosting wages of the bottom 90 percent would not just raise these households’ incomes and welfare (a more-than-sufficient reason to do so), it would also boost overall growth. For the past decade (and maybe even longer), the primary constraint on American economic growth has been too-slow spending by households, businesses, and governments. In economists’ jargon, the constraint has been growth in aggregate demand lagging behind growth in the economy’s productive capacity (including growth of the labor force and the stock of productive capital, such as plants and equipment). Much research indicates that this shortfall of demand could become a chronic problem in the future, constantly pulling down growth unless macroeconomic policy changes dramatically.

Our rising inequality is being driven by the slowdown in wage growth for the bottom 90 percent

It is now well-known that incomes in America grew much less equally after 1979. Probably the most important fact about this growing inequality is that it has overwhelmingly been driven by trends in market-based income rather than in the taxes and transfers component of income. Table 1 shows the sources of income growth for the top 1 percent of households in the three decades before the Great Recession. It uses Congressional Budget Office (CBO 2016) data on comprehensive household income, which includes noncash market-based income such as employer contributions to health insurance premiums as well as non–market-based income such as government transfers. The CBO data show that inequality is increasing (the share of all income that is going to the top is rising) because the top 1 percent are getting a greater share of each type of market income and because the types of market income that are most concentrated at the top (particularly capital gains and business income) constitute a growing share of all income, whereas income from less-concentrated sources (particularly labor compensation) is falling as a share of overall income. The data in the table also indicate that the direct, arithmetic influence of taxes and transfers has been minimal, with rising inequality of market incomes explaining more than 100 percent of the rise in the after-tax income share of the top 1 percent.4

The first block of columns simply shows the top 1 percent share of overall household income and of various income types as identified in CBO (2016). A clear finding is that the top 1 percent share of every source of income except government transfers rose significantly between 1979 and 2007. The share of overall income held by the top 1 percent more than doubles (rising from 8.9 to 18.7 percent of total income) between 1979 and 2007. And even with the enormous blow to top 1 percent incomes dealt by the 40 percent loss in the stock market from 2007 to 2010, the top 1 percent share in 2012 of 17.3 percent was almost double its 1979 level. Particularly salient to this analysis is the rough doubling of both labor and total capital shares claimed by the top 1 percent from 1979 to 2007 and 2012.

The next block of columns shows each income category’s share of overall household income. The most striking finding here is the large decline in the labor compensation share of total income, falling from 70.6 percent in 1979 to 61.0 percent in 2007 and 2012. Correspondingly, the share of total capital and business income (driven by capital gains and business income) rose substantially, from 17.5 percent in 1979 to 22.1 percent in 2007. 5 Due to the stock market crash in 2007 and the hangover from that crash through 2010, capital income shares (and thus total capital and business income) remained lower in 2012 than in 2007, but still above the 1979 levels. Finally, pension payments and transfer incomes have risen steadily over time as shares of total income.

The third block of columns calculates how much growing concentration within each income category contributed to the increasing top 1 percent share of income from 1979 to 2007 and from 1979 to 2012. The growing concentration of particular income types in the top 1 percent of households contributed 7.2 percentage points to the 9.8 percentage-point increase in the top 1 percent’s income share from 1979 to 2007, accounting for essentially three quarters of the rise. The vast majority of this concentration within income sources is accounted for by labor and capital incomes. The last block of columns summarizes how much the shift from less-concentrated (labor) income to more-concentrated (capital) incomes boosted the top 1 percent share of overall household income. The sum of these shifts contributed 2.6 percentage points to the growth of the top 1 percent share from 1979 to 2007, and 0.4 percentage points from 2007 to 2012.

One way to summarize what these data tell us is that the vast majority of households (those outside the top 1 percent) are losing out in claiming their proportionate share of total income growth in two significant ways. First, workers as a group are losing out to capital owners, with the shift from labor to capital income explaining a significant portion of the rise of the top 1 percent. Second, the bottom 99 percent of income earners in America are able to claim only an ever-shrinking portion of the overall wage bill, with the highest-paid workers in the top 1 percent more than doubling their share of labor income over the last three and a half decades.

In our view, these are simply two sides of the same coin: a pronounced reduction in the collective and individual bargaining power of ordinary American workers that led to pay growth lagging productivity so badly in recent decades. If wages of the bottom 99 percent had kept pace with productivity growth for most of the past generation (the way that typical workers’ wages did in the post-WWII generation), then most of the increase in income inequality we have seen simply would not have had space to develop, as concentration within labor incomes would not have grown and the share of total output available to be claimed by capital owners would have been significantly smaller. 6

But wages for the vast majority of workers stopped keeping pace with economy-wide productivity growth in the late 1970s, and the cumulative wedge between productivity and typical workers’ pay has risen ever since, as shown below in Figure A. This figure shows growth in economy-wide productivity, defined as the amount of income and output generated in an average hour of work in the economy. While the pace of productivity growth slowed down in the late 1970s, productivity still grew steadily in the following decades. The figure also shows a measure of hourly pay (including both wages and benefits) for production and nonsupervisory workers in the U.S. economy. This nonmanagerial group includes roughly 80 percent of the private-sector workforce. After growing right in line with productivity for decades following World War II, hourly pay for these workers all but stagnated after 1979. Because productivity kept growing but pay for 80 percent of the private-sector workforce stagnated, this means that the economy continued to generate growing incomes on average each year, but pay for typical workers slowed radically. In short, the growing wedge between these lines represents the disproportionate share of economic growth claimed by those at the top after 1979.

Table 1 and Figure A together tell a clear story about the rise in American inequality: it has been made possible by the suppression of wage growth for the vast majority of American workers. Until this wage suppression ends and hourly pay for the vast majority of workers begins rising in lockstep with economy-wide productivity, there is very little reason to hope that rising inequality can be arrested. This makes focusing policy attention on boosting wage growth absolutely crucial.

“Secular stagnation,” or, the chronic shortage of aggregate demand constraining economic growth

A useful (if admittedly too-simple) way to think about an economy’s growth is as an interplay between the economy’s productive capacity and the level of aggregate demand. The economy’s productive capacity is a measure of potential that includes three major “inputs” of production: the labor force, the capital stock, and the state of technology. However, for these potential inputs to be fully utilized, aggregate demand—or spending by households, businesses, and governments—must be strong enough to mobilize them. Take the example of a hotel’s economic fortunes from 2007 to 2010. In 2007, the building and physical plant existed, the systems for taking reservations existed, and there were plenty of workers, both actual employees and potential workers willing to take jobs at the right wages. Also in that year, there were customers; rooms were likely booked to capacity and the owners may have even considered adding rooms. In 2010, this hotel still had a physical plant and reservation systems, and while their own staff was likely much smaller because of layoffs in the wake of the Great Recession, there was a huge increase in potential workers looking for jobs that could have been hired. But what kept the hotel’s hiring constrained and profits low in 2010 was lack of customers, not slow growth in the economy’s potential (or productive capacity).

Recently, a number of economists have noted that evidence over recent decades indicates that growth has been constrained more by slow growth in aggregate demand than by slow growth in the economy’s productive capacity. For example, the full business cycle between the peaks of 2001 and 2007 saw the slowest economic growth then on record. The result of this slow growth was that the unemployment rate never returned to prerecession levels, and the prime-age employment-to-population (EPOP) ratio never approached prerecession levels. (See Bivens and Irons 2008 for a full accounting of this business cycle’s place in historical comparisons.) All of this indicates that the slow growth that took hold even before the Great Recession hit was likely a function of too-slow growth in aggregate demand—or spending by households, businesses, and governments.

Before the Great Recession, most macroeconomists would have rejected the idea that economic growth could be constrained for long periods of time by too-slow demand growth relative to the economy’s productive capacity. The typical view was that growth in productive capacity was driven by long-run trends that did not change very fast, such as the aging of the population (which determines the pace of potential labor force growth), the accumulation of plants, equipment, and buildings that is the result of decades of past investment, and accelerations and decelerations of technology that were largely exogenous (unrelated to the state of the business cycle). In this view, ensuring that growth in productive capacity (or growth in potential GDP) is fully realized essentially means ensuring that aggregate demand grows quickly enough to keep resources (labor and capital) fully employed.

In past decades, policymakers considered it relatively easy to keep aggregate demand growing fast enough high enough to fully utilize the economy’s productive capacity. In fact, macroeconomic policymakers thought their most difficult task was restraining, not boosting, growth in aggregate demand. When aggregate demand for economic output outstrips the economy’s productive capacity to meet that demand, the result is inflation. So policymakers focused on controlling inflation—or ensuring that aggregate demand did not run chronically too fast. Of course, the U.S. economy underwent recessions during which demand growth lagged behind potential GDP growth, but it was thought that the demand shortfalls could be easily solved by the Federal Reserve reducing short-term interest rates to spur more spending. Because aggregate demand was thought to need policy restraint, not stimulus, this implies that overall growth was constrained by how fast the economy’s productive capacity could grow. Any worry that persistently slow growth (say lasting more than one year) in aggregate demand could be a primary constraint on economic growth over a meaningfully long time period was largely dismissed. We now know that this dismissal was premature, and that sluggish demand growth can pull down economic growth for long periods of time.

The data show we are in such a period, and likely have been for over a decade. The extraordinarily weak GDP growth between 2001 and 2007 was accompanied by decelerating wage growth, and low inflation and interest rates. These trends are strong indicators that demand was lagging growth in productive capacity. This weakness in demand was especially striking given that aggregate demand (or spending by households, businesses, and governments) was buoyed in those years initially by near-zero interest rates (set by the Federal Reserve in the early 2000s) and then by an enormous asset bubble in residential real estate that increased household wealth in the mid-2000s. The housing bubble burst, ushering in the Great Recession. The recovery from that recession was even slower than the recovery from the 2001 recession, despite extraordinarily expansionary monetary policy in the wake of the Great Recession.

#### Financialization – instead of regulating markets, the government bails them out which creates inefficient investment efforts that trigger economic collapse and ruins innovation

**Mazzucato 21** – Professor in the Economics of Innovation and Public Value at University College London (UCL), where she is Founding Director of the UCL Institute for Innovation & Public Purpose (IIPP)

Mariana Mazzucato, “MISSION ECONOMY: A Moonshot Guide to Changing Capitalism,” Penguin Publisher, 1/28/21, https://www.penguin.co.uk/books/315/315191/mission-economy/9780241419731.html

Finance is financing FIRE

The first problem is that the financial sector has largely been financing itself. Most finance goes back into finance, insurance and real estate rather than into productive uses. The acronym for this is FIRE (finance, insurance, real estate) – appropriate in the sense that it is burning the foundations on which long-term economic growth rests. In the USA and the UK, only about a fifth of finance goes into the productive economy (such as companies that want to innovate, infrastructure that needs building). And in the UK, 10 per cent of all UK bank lending helps non-financial firms; the rest supports real estate and financial assets.18 In 1970 real estate lending constituted about 35 per cent of all bank lending in advanced economies; by 2007 the figure had risen to about 60 per cent.19 The current structure of finance thus fuels a debt-driven system and speculative bubbles which, when they burst, bring banks and others begging for government bailouts. Some of these institutions are deemed ‘too big to fail’, as were banks in the 2008–9 financial crisis: if they failed, the entire system would come crashing down with them. So the banks got the bailouts: FIRE profits are private; FIRE losses are public. Bailing out the banks involved ‘moral hazard’ because, being judged too important to fail, they lived with an implicit government guarantee which tempted them to take excessive risks without having fully to face the consequences if their bets went wrong.

Business is focusing on quarterly returns

The second problem is that business itself has become financialized. In recent decades, finance has generally grown faster than the economy and, within non-financial sectors, financial activities and their accompanying attitudes have come to dominate business. An ever greater share of corporate profits has been used to boost short- term gains in stock prices rather than provide long-term investment in areas like new capital equipment, R&D and worker training: skills are insufficiently developed, too many jobs are ‘McJobs’ and insecure, and wages stay low.20 Indeed, one of the reasons for the high level of private debt in the USA and the UK – driven by a form of capitalism that is aimed at maximizing the returns to shareholders, not all stakeholders – is that many workers need to take on debt to maintain their living standards but cannot earn enough to reduce or pay it off.21 But, unfortunately, the problem goes even further in

Scandinavia, where deregulation of the financial sector has also led to a rise in private debt (also due to home equity withdrawal-based consumption) and overinvestment in FIRE sectors.22

By purchasing its own shares, a corporation can artificially boost its stock price and that of its executives, who are paid in these stocks. In just the ten years to 2019, total buybacks by the Fortune 500 (an annual list of the 500 biggest US companies compiled by Fortune magazine, measured by revenues) exceeded nearly $4 trillion, with many companies spending over 100 per cent of their net income on a combination of buybacks and dividend pay- outs, thus raiding their capital reserves. Over the same period, six of America’s biggest airlines spent an average of 96 per cent of their free cash flow on stock buybacks – the aircraft manufacturer Boeing spent 74 per cent of its free cash flow on stock buybacks – which didn’t deter these companies from asking for federal government help when the COVID-19 crisis struck.23

The excuse often heard from business for doing this is that there are no ‘opportunities for investment’. But, given that the greatest buybackers are in industries where opportunities clearly exist – pharmaceuticals and energy – this is unconvincing. Are there really no opportunities for innovation in antibiotics or treatments for tropical diseases that mostly affect poor people in developing countries, not to mention vaccines? (This question became particularly pertinent with the arrival of COVID-19.) Are there really no opportunities for aircraft manufacturers to invest in renewable energy and other green technologies? The chief culprit is a form of corporate governance obsessed with ‘maximization of shareholder value’ – essentially, maximizing stock prices. Even Jack Welch, the late CEO of General Electric, one of America’s biggest companies, later in life called shareholder value ‘the dumbest idea in the

world’. He explained: ‘Shareholder value is a result, not a strategy ... Your main constituencies are your employees, your customers and your products. Managers and investors should not set share price increases as their overarching goal ... Short-term profits should be allied with an increase in the long-term value of a company.’24

In practice, maximizing shareholder value has often involved loading companies with debt – a supposedly efficient model which leverages a company’s capital base – with the risk that the company is dangerously exposed to unexpected turns of events, such as a pandemic or a market downturn. In 2017, for example, the USA suffered a severe retail slump. The long-established US retailer Toys ‘R’ Us went into liquidation. It had been acquired in 2005 by two private equity firms, Bain Capital and Kohlberg Kravis Roberts, and a real estate firm, Vornado Realty Trust. To buy the company they used the usual private equity formula, saddling it with debt to increase the return later.25 Indeed, company debt rose soon after the takeover from $1.86 billion to nearly $5 billion. By 2007 debt interest payments were 97 per cent of the company’s operating profit. The retail slump of the following years was severe, but the high debt burden imposed on Toys ‘R’ Us impaired its ability to adapt and increased its vulnerability to the downturn.26 The excessive financialization of companies and remorseless pursuit of shareholder value has left many other major companies open to similar charges of moral hazard: ingenious financial structures benefit owners more than other stakeholders such as workers, suppliers and customers – let alone the wider communities in which companies operate.

#### But the alt solves those issues – equitable distribution of power boosts productivity

**Vaheesan 20** – Policy Counsel at the Open Markets Institute. Former regulations counsel at the Consumer Financial Protections Bureau

Sandeep Vaheesan, “Privileging Consolidation and Proscribing Cooperation: The Perversity of Contemporary Antitrust Law,” UC Davis Journal of Law and Political Economy, 2020, https://escholarship.org/content/qt8cj0z1tq/qt8cj0z1tq.pdf

An antitrust policy that seeks to promote a more equitable distribution of power and wealth would have radically different foundations. Replacing the consumer welfare objective with the economic and political objectives that animated the Congresses that enacted the Sherman, Clayton, and Federal Trade Commission Acts is a critical step. Consumer welfare captures a relatively thin slice of corporate power. Equally important is rewriting the rules of antitrust to both curtail the consolidation and monopolization of business property and permit certain forms of coordination between independent actors.

Restrictions on mergers should be a core part of a progressive antitrust. Merger policy should be greatly strengthened for narrow consumer welfare grounds alone. Mergers and acquisitions fail to produce the promised efficiencies and often lead to higher prices and profit margins. But more importantly, mergers combine business assets and centralize power. Larger businesses, whether measured by market share or size, wield greater power over consumers, suppliers, workers, and citizens. A strong anti-consolidation norm should be a mainstay of progressive antitrust, as it was from 1950 through the early 1980s.20

An anti-merger norm would not be a categorical ban on business growth but would instead encourage growth through other means. The Clayton Act’s anti-merger provisions restrict corporate growth through mergers, not corporate growth in general (Peritz 1996). It channels growth strategy away from buying rivals, suppliers, and distributors toward investment in new facilities and technologies. An implicit presumption of an anti-merger statute is that corporations will grow through internal expansion. Philadelphia National Bank, 473 U.S. at 370. Even accepting the unsupported theory that corporate consolidation yields more efficient enterprises, a strong anti-merger rule is not a recipe for stunted firms and a loss of productive efficiencies. Indeed, it could be the basis for a far more productive and technologically dynamic corporate sector.21

Along with hostility toward corporate consolidation, antitrust law and policy should adopt a more nuanced view of collusion among independent actors. As a threshold matter, recognizing that antitrust law permits certain forms of coordinated activity, including mergers and acquisitions, is critical. As Sanjukta Paul has written, antitrust allows business firms to coordinate the activity of their employees, including across separate corporate entities under common ownership (Paul 2020). For instance, if antitrust law categorically promoted competition, it would prohibit two divisions of a single corporation or two members of a joint venture from setting prices—but the Supreme Court has clearly rejected such rules and treated these arrangements as the action of a single entity (Paul 2020). See Copperweld, 467 U.S. at 771; Dagher, 547 U.S. at 6. Instead it singles out price-setting among independent actors. The ban on collusion means small players are robbed of the one mechanism that allows them to govern markets while maintaining their independence (Paul 2020).

The tolerance of certain forms of collusion (or cooperation) is already built into the body of antitrust law. For instance, the courts have interpreted the Clayton Act, Norris-La Guardia Act, and National Labor Relations Act as permitting employees (though not other workers) to engage in some forms of coordinated activity. Apex Hosiery Co. v. Leader, 310 U.S. 469, 512 (1940). In agriculture, the Capper- Volstead Act, 7 U.S.C. § 291, allows “[p]ersons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers” to undertake collective action as sellers without running afoul of antitrust law.

Instead of viewing these legislative exemptions as ad hoc “concessions” to certain groups, progressive antitrust advocates, enforcers, and scholars should treat them as a core part of an anti-monopoly program. Congress enacted the antitrust laws to constrain the power of monopolists and trusts, not to promote “competition”—even a socially destructive competition that further weakens the positions of workers and small firms—indiscriminately across the economy (Vaheesan 2019). Accordingly, a progressive antitrust should be built on constraining the autonomy of powerful corporations and protecting the freedom of workers, professionals, and small firms to join in solidarity. To put it in concrete terms, medium-sized and large corporations would face tight restrictions on acquiring rivals and controlling markets, whereas workers, professionals, and small firms would have the freedom to organize and engage in collective action against more powerful actors (Vaheesan and Schneider 2019).22 (Importantly, small-player coordination should not be carte blanche for all forms of cooperation: for example, small firms should not be permitted to collude against their workers and keep their wages down.)23 Such an antitrust regime would redistribute and democratize power downward (Paul and Vaheesan 2019) and even lay the groundwork for a radical transformation of corporations and the entire American economy (Schneider and Vaheesan 2019).

#### Cap can’t increase tech growth – market logics discourage collaboration and investment in R&D which stifles tech innovation and diffusion – only a strong administrative state can spur communication and confidence

**Bailey et al. 19** – Birmingham Business School, University House, Birmingham, UK [1]

School of Architecture and Planning, Massachusetts Institute of Technology, Cambridge, Massachusetts, USA [2]

Centre for Governance, Regulation & Industrial Strategy (CGR&IS), School of Management, and Institute for Policy Research, University of Bath, Claverton Down, Bath, UK [3]

Department of Land Economy, Silver Street, Cambridge, UK [4]

David Bailey, Amy Glasmeier, Philip R Tomlinson, Peter Tyler, “Industrial policy: new technologies and transformative innovation policies?,” Cambridge Journal of Regions, Economy, and Society, 5/17/19, https://academic.oup.com/cjres/article/12/2/169/5490915

New technologies and transformative innovation policy

Especially in the context of innovation policy, the advent of new technologies became a particular focus of Post-War industrial policy. Two related developments encourage the latest round of technology-rich industrial innovation. First, policymakers increasingly foster initiatives to enhance technologies positively. Innovative activities are expected to generate new ‘value’, a key stimulant of increasing productivity and economic growth. As such, public investment in science and technology is generally politically considered palatable. Harkening back to the recognised importance of specificity and distinction, countries are seen to embody historically specific and differential advantages: the military might of the USA unleashed a plethora of innovations related to discoveries made during World War 2.

A new model of industrial prowess emerges that is centred on the nexus of science and technologies embedded in a matrix of industry, government and higher education. Japan’s post-War reconstruction included the formation of strong central government institutions, like the Ministry of International Trade and Industry (MITI) that directed national industrial policy for decades (see Johnson, 1982). Furthermore, a new model is made essential since private investment in R&D can be sub-optimal given that, at a point in time, firms may lack the ability to appropriate the full return of their investment due to the public-goods nature of (new) knowledge (Stoneman and Vickers, 1988). Also, uncertainty and asymmetric information can hinder markets in nurturing effective collaboration between firms, universities and state agencies to enhance innovation.

Similarly, a lack of knowledge about new technologies (and their applications) can stifle market demand and technological diffusion. In each case, the state—through its various agencies—can facilitate new network connections (Block, 2011) while also validating and demonstrating new technologies to raise confidence and enhance adoption (Hauser, 2014). Beyond the private/social wedge, the state—often through international state collaboration—also plays a critical role in addressing risky and long-term societal missions such as space exploration and tackling climate change (Mazzucato, 2013).

The present day

The revived interest in industrial policy comes at a time of a new technological transformation, and the arrival of radical and disruptive technologies associated with the applications of artificial intelligence, automation and machine learning. Industry 4.0 (I4.0) and the so-called ‘Fourth Industrial Revolution’ embody technologies such as advanced robotics, increased automation, digitalisation and data exchange in manufacturing technologies supported by artificial intelligence, cyber-physical systems, platform economy innovations and cloud computing. Further development of these technologies can unleash a significant disruptive process, requiring changes in the organisation of production from within and outside the workplace, among firms, and across the manufacturing and services sectors. These new technologies rely on platforms that utilise big data analytics to identify and enable new business opportunities and facilitate more significant interaction between producers and consumers in the process of customising products (Bailey and De Propris, forthcoming). The increasing advance of such technologies poses real challenges for industrial policy and wider socioeconomic cohesion. With new capital intensive technologies capable of displacing labour, much speculation exists as to whether beneficiaries will reside in more dynamic regions exacerbating and extenuating further socioeconomic and regional divides.

#### Firms amass power and don’t invest

**Sell 20** – School of Regulation and Global Governance, Australian National University, Acton, ACT Australia

Susan K. Sell, “What COVID-19 Reveals About Twenty-First Century Capitalism: Adversity and Opportunity,” National Center for Biotechnology Innovation, 2020, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7644989/

Going beyond the broad ‘neoliberalism’ label, John Braithwaite has described capitalism as ‘variegated’; he identified two aspects that are particularly relevant to global health—‘Wall Street’ capitalism and ‘monopoly capitalism’ (Braithwaite 2019). Wall Street capitalism captures the globalization of finance and the increased economic and political power of the financial sector. Financial markets, motives, institutions and elites have come to dominate the global economy affecting everything from production, consumption, regulation and health (Epstein 2005). Monopoly capitalism, or ‘intellectual monopoly capitalism’ (Pagano 2014), captures intellectual property (e.g., patents, copyrights and trademarks) owners’ preference to avoid competition. Ownership of intellectual property (IP) gives owners the right to exclude others from using the IP, reduce competitive supply and increase prices.

The quest to be competitive in global markets has led to economic concentration, oligopolies and a reduction in competition (Azmanova 2018). Economic power has shifted from the mainstays of the real economy (commodity producers and traders) to the controllers of global value chains (GVCs) who own intangibles such as intellectual property and financial instruments. According to Medeiros and Trebat,’the “core” business of every TNC (transnational corporation), irrespective of its particular branch, is to control and capitalize on these intangible assets’ in order to maximize shareholder value and generate large rents (Medeiros and Trebat 2017: 407). Firms that are relatively immune to competitive pressure are ‘less compelled to invest’ in the real economy (Durand and Milberg 2018: 34). As Azmanova points out, ‘competition-induced productivity … does not condition growth on employment’ and has resulted in so-called ‘jobless growth’ and ‘jobless recovery’ after economic crises (Azmanova 2012: 453). Economic globalization has reduced the power of labour and has accelerated an increase in ‘labour flexibility’ that translates into precarious employment. Post-the 2007–2008 global financial crisis, austerity programs, cuts in social spending and labour market transformation have had negative effects on health outcomes and health equity (De Vogli 2014).

#### That’s uniquely true in climate change tech – capitalism utilizes negative emissions tech to maintain fossil fuel emissions which not actually making the situation any less existential

Carton 19 – Associate Senior Lecturer at the Lund University Centre for Sustainability Studies. Carton’s research areas include political ecology, climate change mitigation, carbon forestry, carbon sequestration, perennial agriculture, carbon dioxide removal, negative emissions, political economy, socio-ecological theory, environmental geography, and environmental justice.

Wim Carton, “‘Fixing’ Climate Change by Mortgaging the Future: Negative Emissions, Spatiotemporal Fixes, and the Political Economy of Delay,” *Antipode*, 2019, [http://sci-hub.tw/https://onlinelibrary.wiley.com/doi/full/10.1111/anti.12532](http://sci-hub.tw/https:/onlinelibrary.wiley.com/doi/full/10.1111/anti.12532)

This essentially means that vast amounts of fossil fuel assets risk becoming stranded on the road to climate change mitigation (Surprise 2018). This would entail a fixed capital devaluation of epic proportions and can rightly be seen as the capitalist crisis that commentators have described it as. But note that this crisis for capital does not follow directly from the biophysical conditions associated with a changing climate. It is a crisis that first and foremost exists in socially mediated form, meaning that the direct “threat” comes from increasing social demands for mitigation and the political drive towards regulation rather than from increasing temperatures or rising sea levels. This is directly reflected in the way fossil fuel companies articulate the problem. Shell, for example, one of the world’s largest oil and gas companies, in its 2017 annual report for the first time acknowledged that climate change poses a risk to its operations (Shell 2018a). Yet it nowhere mentions actual climate change as a problem; rather, it is “rising climate change concerns” that are the issue, because they “have led and could lead to additional legal and/or regulatory measures which could result in project delays or cancellations, a decrease in demand for fossil fuels, potential litigation and additional compliance obligations” (Shell 2018a:13). As I discussed above, it is well worth taking seriously this distinction between the social articulation of climate change and its biophysical basis, given how it speaks directly to the different fixes that are, and can be pursued. Among others it suggests that one does not necessarily need to mitigate climate change at all in order to fix (i.e. displace and defer) the crisis of legitimacy that it produces.

The negative emissions concept illustrates this. Negative emissions take the carbon budget concept to its inevitable conclusion, by accounting not just for carbon “expenditures” (i.e. emissions), but also a range of proposed carbon “incomes”. This idea takes its inspiration from a number of biological (e.g. photosynthesis) and chemical (e.g. weathering of rocks) processes that remove CO2 from the atmosphere, and imagines that these could be deployed at a massive scale in order to make a limited carbon budget stretch further. The aforementioned BECCS is one example of such negative emissions technology (NET), but there are many others, including afforestation, soil carbon sequestration, direct air capture, enhanced weathering of rocks, etc. Because of the scale at which these technologies would need to be implemented, and the fact that their commercial and technological viability is in many cases unknown, models assume that NETs will only be operational at scale in the second half of the century. Essentially, this means that the negative emissions concept acts as a debt mechanism: the carbon budget for the first half of the 21st century can be extended on the basis of the assumption that large amounts of carbon will be removed in the second half (Geden 2016, 2018; Parson 2017). As Geden (2018:381) puts it, integrated assessment modellers have in this way “adopted the standard approach pursued by most governments instead of disciplining them: run huge deficits, betting on payback by future generations”.

The significant, negative social and environmental consequences that one could expect with the actual implementation of some NETs have already been alluded to in the introduction. The negative emissions concept—as modelled in IAMs— however has concrete implications already now (Beck and Mahony 2018). By enabling a pathway to the 2°C target in the face of a tight carbon budget, it helps preserve a sense of normality in climate policy, fostering the notion that current policy commitments are appropriate and sufficient, that ambitious climate targets are still within reach and that governments are putting in place adequate measures to achieve them (Anderson and Peters 2016; Beck and Mahony 2017; Geden 2016; Pielke 2018). As Larkin et al. (2018:692) note, “IAM outputs risk delivering overly optimistic, unrealistic and potentially flawed message about future change [in which] challenging, but incremental energy policy is sufficient to deliver on the Paris Agreement”. The negative emissions concept in this way helps in “masking political inaction” (Geden 2016:794) and serves to legitimise mainstream climate policy in the face of 30 years of institutionalised delay. It does this without any NETs actually being implemented, indeed, irrespective of whether they will ever be implemented at all, but merely on the basis of its promised future arrival by climate models (Geden 2016; see also Markusson et al. 2017). Despite their so-far immaterial form, negative emissions help to pre-empt a crisis of political legitimacy by seemingly answering calls for ambitious climate action, all the while deferring the most difficult questions to the future.

#### the alt solves anyway without re-entrenching social inequality and reliance on the market – only critical analysis of carbon removal tech solves

Wakefield 18 – charity sector worker in the UK with an interest in climate change, geoengineering, and sustainable agriculture.

James Wakefield, “Avoiding Climate Imperialism: A Leftist Vision of Geoengineering,” *The Trouble*, 18 October 2018, <https://www.the-trouble.com/content/2018/10/18/avoiding-climate-imperialism-a-leftist-vision-of-geoengineering>

“Carbon dioxide removal” is the other wing of geoengineering, drawing down and sequestering carbon from the atmosphere rather than reflecting sunlight away. Its methods range from afforestation, biochar (storing carbon in the soil), iron fertilization and ambient air capture, aiming to address the source of the climate crisis: greenhouse gas emissions.

As deforestation is a significant source of greenhouse gas emissions (by some estimates the second largest source of carbon dioxide emissions after fossil fuels), the reforestation and afforestation of areas of Earth is an obvious method to reduce levels of carbon dioxide in the atmosphere. Described as the most efficient and environmentally benign method of geoengineering, it can have a “significant impact” on atmospheric carbon dioxide levels on a long-term basis.

“Carbon farming” is another geoengineering technique. This involves changing agricultural practices, including the use of biochar and agroforestry to enhance carbon sequestration. This coupled with reforestation can incidentally also help to reverse the desolation of the world’s soils and mitigate the declining carbon sequestration ability of existing forests, and help to contribute to what Murray Bookchin called radical agriculture.

Moving from land to the sea, the “fertilization” of phytoplankton blooms with iron nutrients is another method of carbon drawdown that avoids land-use conflicts, although scientific uncertainty persists. The sequestering of carbon as organic detritus that fall to the ocean floor can remove carbon from the carbon cycle for thousands of years, but as the plankton decay they can create oxygen-deprived dead zones. Some phytoplankton species can produce dimethyl sulfide, which on a large enough scale can enhance cloud cover and increase cloud albedo, but like other forms of solar radiation management would negatively affect precipitation and water resources in Europe and parts of Africa and the Middle East. Plantations of algae is another method of drawing down carbon dioxide while avoiding competition for agricultural land or freshwater, and will prove extremely effective when integrated with bioenergy.

Another method is to utilize what the Royal Society called “carbon capture and storage infrastructure”. This involves extracting carbon dioxide from the air and using the captured gases for agriculture or synthetic fossil fuels. This machine-driven carbon capture may be necessary if biological limits are reached, but it is easy to see how such approaches can be absorbed into existing capitalist practices -- in 2015 Bill Gates was the world’s top funder of geoengineering research.

All of these techniques are huge steps towards reducing atmospheric carbon dioxide levels. But the necessity of scaling them up to be effective will have negative effects. Based on current estimates, the land requirements for forest carbon sequestration could be immense, affecting food security by competing for fertile soils in the same way biofuels did earlier this century. The researchers behind the Atlas for the End of the World are more direct: there will not be enough land “to utilize forestry as the single mechanism for carbon sequestration.” As Holly Jean Buck writes, Carbon Dioxide Removal is complex and possibly perilous -- and it needs to be talked about.

All forms of geoengineering need to be reviewed and scrutinized, but some of these techniques will be more conducive to a leftist approach, whereas others are likely to entrench capitalist power structures. Whether geoengineering is a leftist project or a capitalist project depends on the extent to which it can be used to maximize democracy and accountability, broad participation, and produce a fair distribution of its consequences. If a technique would further entrench economic inequality, give power to a small ruling elite, and maintain an extractivist, ecocidal approach to the natural world, it must be jettisoned. A capitalist geoengineering is another way for capitalism to extend its tentacles into the web of life, maintaining its extractivist nature, wasteful levels of production, and providing a “lifeline” for the survival of business-as-usual. It is a geoengineering that is already taking place.

Dozens of countries currently maintain cloud seeding programs, with China’s weather modification over Tibet occupying the boundary between tweaking rainfall and full-blown geoengineering. In the future, individual countries -- pursuing their own agendas and self-interest -- will not hesitate to pursue geoengineering programs to save themselves in a warming world, reducing local negative impacts regardless of the impact on their neighbours. This would encourage the weaponization of the climate, ENMOD be damned -- “one nation’s emergency can be another’s opportunity.”

This would be a world disciplined not just by capital but by a technocratic elite, profiting from climate inaction and patented geoengineering technologies while allowing climate-induced scarcity to ravage the rest of us: a world of green and gated oases of affluence surrounded by a population under siege.

But what would a leftist geoengineering look like?

Socialism is the democratization of production. This would involve democratically-organized, decentralized, coordinated control of the technologies that can modify the atmosphere, on small and large scales. It would involve collective control over energy technologies and industrial processes with the removal of the profit motive from all decision-making. It would be a high-tech planned economy, in which greenhouse gas levels are monitored via remote sensing technologies and local observatories via horizontal coordinating committees.

The science behind proposed geoengineering must be sound and transparent. Under capitalism there is a disincentive to communicate information -- knowledge is patented, hidden, squirrelled away for short-term competitiveness, encouraging technocratic cultishness. We need “socially responsible science” in the interests of wider society, not for the interests of capitalism and the state. Something like the Durham Resolution, written by the British Society for Social Responsibility in Science, is a good starting point.

The infrastructure required for socially just geoengineering is in the hands of the capitalist class -- like all means of production, it needs seizing and utilizing for the global good. It will cost trillions of dollars to sequester enough carbon dioxide to stave off climate catastrophe. This will be a Herculean feat, something never before achieved. It is imperative that the working class controls and steers these programs, or the biosphere will be the latest (and maybe last) victim sacrificed to the appetite of capital.

To paraphrase Albert Camus, geoengineering is a danger only in the way that it would be employed under capitalism. The benefits must be accepted even if its ravages are rejected.

Leftist or not, geoengineering is not a silver bullet**.** Technocratic solutions which reject popular participation or understanding will do nothing to rectify the climate crisis. As science fiction author Kim Stanley Robinson emphasized, the best geoengineering technology is “a rapid shift to social justice and an end to capitalism.” And we have reasons to be hopeful -- we already have the know-how to properly mitigate the climate crisis. It won’t be easy, but it is possible.

But geoengineering has a part in a broader leftist strategy to halt the biocrisis and evolve beyond capitalism. It has to work together with systems of degrowth, reducing economic growth and redistributing wealth. Geoengineering can easily mesh with the goal of full decarbonization and 100% renewable energy generation.

At the same time, it can help soften the blows of climate change impacts too late to stop, helping us to create socially-just adaptation infrastructures, promoting networks of mutual aid, resistance, and disaster communism.

The left must not be afraid to make demands for a progressive geoengineering. Reforestation projects with mass public participation, improving soil carbon stocks on local farms, calling for the public ownership of carbon removal infrastructure, demands for public investment and research into the risks and uncertainties of geoengineering -- these are just some ways to integrate geoengineering into our climate demands and at the same time time educating the public on what a leftist geoengineering would look like.

To ignore the possibility of large-scale environmental modification leaves the battlefield of ideas open to exploitation by the forces of reaction, of distant technocrats and remorseless capitalists.

We cannot let the planet’s thermostat be controlled by the invisible hand. We’re stewards of this world, whether we want the role or not.

#### Governments are key actors in technological innovation because they are the ones who feel comfortable to take on risk!

**Mazzucato 21** – Professor in the Economics of Innovation and Public Value at University College London (UCL), where she is Founding Director of the UCL Institute for Innovation & Public Purpose (IIPP)

Mariana Mazzucato, “MISSION ECONOMY: A Moonshot Guide to Changing Capitalism,” Penguin Publisher, 1/28/21, https://www.penguin.co.uk/books/315/315191/mission-economy/9780241419731.html

The role of top management is to identify essential data and make sure it reaches the right people; it’s also to be constantly refocusing on the problem in a process of communication where information flows freely up and down the hierarchy and across departments. Staff in implementing agencies can consolidate project results from the portfolio to see what works best. Missions therefore need the freedom to say how resources are allocated within and between projects and to decide on progress milestones and technical goals during a project’s life.

Running a mission-oriented system of innovation requires leadership that – like NASA – encourages risk-taking and adaptation and can attract the best talent. It is important that agencies carrying out missions have sufficient autonomy to take risks without their authority being questioned. Autonomy also makes room for the organizational flexibility necessary for a mission-oriented body to respond quickly to changing conditions and the development of novel technologies. Allowing autonomy in pay helps agencies to recruit top talent with the skills to manage complex networked missions. With this combination of autonomy, flexibility and support from high levels in government, implementing agencies can empower their staff to embrace the inherent risk and push forward the projects that emerge to carry out the mission, while turning off the funding tap for those that turn out to be less promising.

Risk-taking and learning in government require working outside of the usual silos, coordinating across policy fields and finding the synergies that turn the components of cooperation into a whole that is larger than the sum of its parts. A mission can easily span ministries, departments, regional and local government bodies. But the greater the need for organizational transformation, the harder it is to accomplish. This is the ‘complexity paradox’ of modern public policy: the more complex policy issues are, the more compartmentalized policymaking becomes, fragmented into different and sometimes competing government departments and initiatives.10 On top of that, complex organizational structures with rigid, formal processes can limit the flow of information, reduce openness and constrain creativity. Breaking down silos means setting up a more horizontal relationship between departments, as Mueller did. A mission to tackle air pollution, for example, would need to work across all relevant departments, such as energy, environment, transport, health and finance. Each department retains clear responsibility for its contribution, but the synergies arise from co-ordination from the top of government, while stimulating the innovation from below, as described above. Organizational innovation is both a necessary propellant of missions and a result of them.11

NASA’s decentralization, with delegation of authority to laboratories such as the Jet Propulsion Laboratory (JPL) in Pasadena California (part of Caltech), was key to its success. So was its ability to sidestep the usual bureaucratic procedures. As discussed by Arnold Levine in his study of management inside NASA, vital for its dynamism and speed was the ability to ‘negotiate contracts up to a specified amount, to transfer funds between programs, to start new research tasks without seeking specific authorization, to shift manpower from one division to another, and so on. The strategy of senior management was to give the centers what they needed to get the job done but not so much that their work would lose its relevance to the agency’s mission.’12 Furthermore, dynamic procurement and HR practices allowed NASA to attract talent and contract to the most innovative firms. As Levine further writes:

Another element in the success of the NASA organization was flexibility: flexibility for the Administrator to appoint to excepted positions, to award major R&D contracts without competitive bidding, to reprogram within appropriation accounts and to transfer between them, to devise and administer a custom-tailored entrance examination, and the like. Examples such as these represent flexibility within the system, not a departure from it; variances from the norm were allowed by Congress, the Bureau of the Budget, and the Civil Service Commission. This flexibility allowed for that ‘free play of the joints’ without which institutional rigor mortis sets in. The use of excepted positions, for example, served not only to retain employees within the organization but also to bring in new blood and to expose NASA to outside influences.13

In 1958, the same year as NASA was founded, the US government also set up DARPA, the innovation agency of the US Department of Defense – most noted for its investment in what became ARPANET, today’s internet. Both were results of Cold War investments. And, similarly to NASA, DARPA’s key characteristics are its organizational flexibility, which includes independence from government, flat internal structures, hiring outside of standard government processes, and flexible contracts.14 The organization encourages bottom-up design, which means that design is left to people like programme managers. They allow discretion in project choice and offer active project management. And indeed, without DARPA there would be no internet to have fuelled the twenty-first- century innovations. Better understanding the organizational structures that have encouraged problem- solving, risk-taking and horizontal collaborations is thus key to understanding the wave of future radical change.

Spillovers: serendipity and collaboration

The successes of organizations that take risks and are directed at large goals are often unpredictable. Innovation itself is often characterized by unpredictable spillovers: the search for one thing leads to the discovery of another – unexpected technological benefits from R&D that can also produce wider managerial, social and economic benefits. Viagra, for example, was initially intended to treat heart problems and then was found to have another application. Innovation is fuelled best when serendipity is allowed, so that multiple paths are pursued, bringing advances in unknown areas. Embracing that uncertainty and serendipity is key for any entrepreneurial organization, whether in the public or private sphere. And as the story below illustrates, such serendipity in technological innovation can also bring great societal benefits.

#### Empirics – market manipulation and regulations have failed to make any progress for decades

**Bigger and Dempsey 18** – lecturer in the critical geographies group at Lancaster University [Patrick Bigger]

ASSOCIATE PROFESSOR | ASSOCIATE HEAD OF UNDERGRADUATE PROGRAM at the University of British Columbia [Jessica Dempsey]

Patrick Bigger and Jessica Dempsey, “Reflecting on neoliberal natures: An exchange,” Environment and Planning E: Nature and Space, 2018, https://journals.sagepub.com/doi/10.1177/2514848618776864

The lack of action on climate change in this decade is one of the most illustrative and deeply troubling trends. In the past decade, we have witnessed a series of failed, or close to failed United Nations Framework Convention on Climate Change (UNFCCC) negotiations – with the most spectacular being Conference of Parties (COP) 15 in Copenhagen, which crushed many climate activists’ hopes. Along with disappointing supranational agreements, in this decade, we decisively moved from climate change models to climate change impacts. Heat waves (Christidis et al., 2015), forest fires (Abatzoglou and Williams, 2016), aquatic mass die-offs (Hughes et al., 2017): all of it is happening. The decade saw a slew of socio-natural catastrophes, particularly super storms that impact the poor and racialized more than anyone else, from Houston to the Philippines, which experienced 5 of its 10 most deadly typhoons since 2006. Such superstorms can now, at least in part, be attributed to anthropogenic greenhouse gas (GHG) emissions (Harvey, 2018). One of the bright spots in the last decade has been the concerted effort to mainstream climate change as a moral, ethical and/or justice issue, demonstrated perhaps best by the divestment movement’s tagline: if it is wrong to wreck the climate, it is wrong to profit from it.

But even if climate change is increasingly understood in term of injustices along raced and classed lines, the outrageous, take-your-breath-away fact is that world oil production between 2006 and 2016 increased by 11%, and even more tellingly, world proven oil reserves grew by a third over the same time period (BP, 2017). Governments have been loath to impose meaningful restrictions on production, despite knowing that the vast majority of this newly exploitable oil must be kept in the ground. Instead, most states have preferred to dabble with regulations on the consumption side through mechanisms like automobile fuel efficiency standards, while trusting capital markets to regulate hydrocarbon producers through stock valuation. These valuations, according to (neo)liberal orthodoxy, should govern future capacities to extract those fuels, but stable share prices suggest capital markets foresee no impending slowdown in extraction. As Christophers (2017) demonstrates, this is emblematic of neoliberal governance strategies that rely on data disclosure and rational financial actors to achieve desired outcomes; the same logic that defines financial (self)regulation drives hydrocarbon (self)regulation. Yet when it comes to huge and necessary GHG emissions reductions, such strategies have yet to deliver, a point made over and over by critics of mechanisms ranging from disclosure to emissions markets (Carton, 2014; Kama, 2014; Klein, 2015). Zombie climate neoliberalism lurches along, with little sign of the necessary brain-crushing blow to the head (Lane and Stefan, 2014). The gap between an emphasis on disclosure of climate risks in capital markets and the felt effects of climate change on the bodies of poor people of color is appalling.

In many ways, the decade of inaction reflects the sine qua non of neoliberal natures – the shift from government to governance, or the re-placing of critical regulatory functions from the state to non/quasi-state actors, driven by policy failures (a la Copenhagen) and also by ideologies that privilege the efficiency and rationality of markets often coupled with a mistrust or outright disdain for direct state regulations. Yet, the deadlock in the governmental sphere is also yielding innovations through the typical power structures of the state, namely the courts. There are a spate of climate justice-like cases that look to make fossil fuel firms and governments accountable for knowingly causing harm from New York to India,3 reflecting the discursive shift to understanding climate change in the terms of uneven costs and benefits that can be tried in court. However, such cases flow against the grain, as governance strategies for actual mitigation of environmental issues tend not only toward self-regulation, but also by actively facilitating new financial incursions into non- human natures.

#### The faith in future tech is a neoliberal method to extract the last bits of profit from the world before we all die – this focus trades off with emissions reductions and is a net negative for the climate

**Mirowski 14** – historian and philosopher of economic thought at the University of Notre Dame. He received a PhD in Economics from the University of Michigan in 1979.

Phillip Mirowski, “Never Let a Serious Crisis Go to Waste: How Neoliberalism Survived the Financial Meltdown,” Verso, 2014, https://www.versobooks.com/books/1613-never-let-a-serious-crisis-go-to-waste

I think most people on the left don’t fully realize that the phenomena of “science denialism,” “carbon permit trading,” and the nascent science of “geoengineering” are not three unrelated or rival panaceas, but together constitute the full- spectrum neoliberal response to the challenge of global warming. The reason this array qualifies as neoliberal is twofold: initially, they were all proposals originating from within the array of think tanks and academic units affiliated with the Neoliberal Thought Collective; and then, if and when they come to be deployed in tandem, the net consequence is to leave the entire problem to be solved, ultimately not by the state, but rather by the market. The promotion of denialism buys time for the other two options; the financialization of carbon credits gets all the attention in the medium term, while appeals to geoengineering incubate in the wings as a techno-utopian deus ex machina to swoop down when the other options fail. At each step along the way, the neoliberals guarantee their core tenet remains in force: the market will arbitrate any and all responses to biosphere degradation, because it knows more than any of us about nature and society. As a bonus from the neoliberal vantage point, perhaps some segments of the left, operating under the quaint impression they can effectively oppose one or more of these options they find anathema by advocating another—say, aiming to defeat science denialism or geoengineering by taking up advocacy of carbon trading— end up being recruited as unwitting foot soldiers for the neoliberal long march.

Each component of the neoliberal response is firmly grounded in neoliberal economic doctrine, and as such, has its own special function to perform. As we have already learned from historians of the tobacco strategy such as Richard Proctor and historians of climate denialism such as Naomi Oreskes, the purpose of science denialism has been to quash all immediate impulses to respond to the perceived biosphere crisis, and to buy time for commercial interests to construct some other eventual market solutions to global warming. Denying the very existence of global warming is cheap and easy to propagate, can be fostered quickly, and tends to draw attention away from issues of appropriate responses to crisis. The neoliberal think tanks behind the denial of climate change don’t seriously believe they are going to win the war of ideas within academic science in the long run, just as the tobacco strategy never envisioned disproving the smoking-cancer link. Yet, nevertheless, even the existing denial of the science displays its neoliberal bona fides. The first response to a political challenge should always be epistemological, in the sense that the marketplace of ideas has to be seeded with doubt and confusion. This is the core of the agnotological project. Furthermore, human science will never fully comprehend nature in real time. Neoliberals have assumed the equivalent stance hostile to intellectuals dating back to Hayek’s attack in 1949, and no one gets more aggrieved about the lack of deference shown by the intelligentsia than your median neoliberal.21 Bashing pointy-headed elites lends them a certain populist caché; and it plays to an incipient fondness among the uneducated for the fuzzy conviction that wishing can make anything so. This is short-term politics in pursuit of short-term aims. Neoliberal doctrine maintains that anyone should be free to propound any wonky falsehood they may wish, because the final arbiter of truth is the market, and not some clutch of experts who represent sanctioned science. If it just so happens to resonate with the commercial propaganda interests of the oil companies, well, so much the better.

The project to institute markets in pollution permits is a neoliberal mid-range strategy, better attuned to appeal to neoliberal governments, NGOs, and the more educated segments of the populace, not to mention the all-important FIRE sector of the economy. In effect, this strategy is an elaborate bait-and-switch, where political actors originally bent upon using state power to curb emissions are instead diverted into the endless technicalities of the institution and maintenance of novel markets for carbon permits, with the not unintended consequence that the level of emissions continues to grow apace in the interim. Furthermore, professional economists are brought in to shill for this strategy, largely because they enjoy conflicts of interest in this area of a magnitude commensurate with those they have nurtured with the financial sector in general. The neoliberal genealogy of this approach is conventionally traced back to the MPS member Ronald Coase, who first proposed that pollution could be optimized by submitting it to a market calculus.22

The chequered history of traded carbon permits and their mind-numbing technicalities of the ways in which these markets were foisted upon well-meaning reformers has been explained in a number of excellent papers by Larry Lohmann, which deserve to be much better known among environmentalists and the left in general. For purposes of brevity, I will just summarize the case that trading carbon permits doesn’t work, and was never intended to do so.23 The major intentional stratagem is that, once the framework of permit trading is put into place, the full force of lobbying and financial innovation comes into play to flood the fledgling market with excess permits, offsets, and other instruments, so that the nominal cap on carbon emissions never actually stunts the growth of actual CO2 emissions.24 This, in turn, leads to persistent falls in prices of the permits, which continually trend toward utter collapse. This has happened a number of times in the European Emissions Trading System since its inception in 2005.25 Indeed, prices of the ETS dropped to zero in the first phase in 2007, and have been falling again, as demonstrated in Figure 6.1, even though concurrently emissions have risen more or less continuously, with a hiccup during the early phases of the financial crisis. But wild swings in the markets do not perturb neoliberals, since they take the longer view.

The engineered glut of permits is not temporary, since in this system, unused permits can be “banked” for use in future years, although it might not be the most prudent course to hoard an asset of falling value. Indeed, trading systems tend to reinforce oligopoly power, since they always grandfather in the largest emitters, and tend to penalize new entrants. And it is well understood that trading systems tend to stifle further technological measures to curb emissions. Money that might have been used productively to alter the energy infrastructure instead gets pumped into yet another set of speculative financial instruments, leading to bubbles, distortions of capital flows, and all the usual symptoms of financialization.26

So “cap-and-trade” does not work at ameliorating global warming, primarily because it was never really intended to do so. But as that intentional consequence becomes clear, it gets displaced by the long-game neoliberal solution. The final neoliberal fallback is geoengineering, which derives from the core neoliberal doctrine that entrepreneurs, unleashed to exploit acts of creative destruction, will eventually innovate market solutions to address dire economic problems. This is the whiz-bang futuristic science fiction side of neoliberalism, which appeals to male adolescents and Silicon Valley entrepreneurs almost as much as do the novels of Ayn Rand. Geoengineering is a portmanteau term covering a range of intentional large-scale manipulations of the earth’s climate, often proposed to counteract existing man-made climate change, such as global warming. It proudly flaunts the neoliberal precept that if the economy screws up, just double down on the same sorts of things you have been doing already. It encompasses such phenomena as Earth albedo enhancement through “solar radiation management” (injecting reflective particles into the stratosphere, space mirrors, desert covering); CO2 sequestration (through ocean seeding or churning, burying biochar, introduction of special genetically modified organisms, or CO2 extraction at point of emission); and direct weather modification (hygroscopic cloud seeding, storm modification).

Geoengineering has close ties to the Neoliberal Thought Collective. The American Enterprise Institute has a full-time geoengineering project, and a number of other neoliberal think tanks, such as Cato, the Hoover Institution, and the Competitive Enterprise Institute, have produced studies. Chicago School SuperFreakonomics has come out in hearty open endorsement. Of course, it might seem a bit tactless for units that have prior histories of support for climate denial now getting behind geoengineering; but that simply demonstrates that this is another component of a full- spectrum neoliberal project. The real objective is to get the idea injected into general political discourse; and one indication that they are succeeding is an article that appeared in The New Yorker in 2012, which actually treats the idea as a serious prospect.27 Unfortunately, this article somehow managed to skip over all the daunting reasons why the entire program is sheer lunacy: that there is no way it could be tested ahead of time; that it involves unilateral actions that violate many international treaties; that it imagines a few corporations might hold the entire globe hostage for the sake of some short-term profit; and last but not least, all of the variants of interventions could at best be short-term expedients, since none actually could rectify the true underlying problem, which is the careening acceleration of CO2 emissions worldwide. It gleefully diverts attention to Band-Aids while the patient is dying of heat exhaustion. But maybe that is the point of the exercise.

#### Inequality – it boosts the propensity for emissions – lowering inequality is better for combatting climate change.

Schmidt & Juijn 21 – Associate professor of political philosophy at the University of Groningen in the Netherlands; Researcher at CE Delft, an environmental research and consultancy firm

Andreas T. Schmidt, Daan Juijn, “Economic inequality and the long-term future,” Global Priorities Institute, May 2021, https://globalprioritiesinstitute.org/wp-content/uploads/Inequality-and-the-Long-Term-Future\_Andreas-Schmidt-and-Daan-Juijn-reupload.pdf

Many studies indeed find a positive relationship between GDP and carbon emissions, although the estimated effect sizes tend to be bigger for developing countries than for rich nations (Acaravci and Ozturk 2010; Holtz-Eakin and Selden 1992; Ramanathan 2006). Unfortunately, these studies do not control for inequality. Furthermore, since aims to reduce emissions have been widely embraced by developed nations, we cannot simply extrapolate previous findings. It is hence difficult to draw immediate conclusions from the apparent link between GDP and a country’s carbon footprint. We can, however, investigate the direct relationship between domestic income inequality and a country’s carbon emissions after controlling for GDP. A few early studies have found a negative relationship between income inequality and national carbon emissions (Heerink, Mulatu, and Bulte 2001; Ravallion, Heil, and Jalan 2000). Later research showed a nonsignificant relationship instead (Gassebner, Lamla, and Sturm 2011). Recently, larger datasets have become available and an early consensus has emerged. In the last decades, the association between income inequality and carbon emissions in high-income countries has shifted from negative to positive, suggesting that in recent years, more income inequality increases carbon emissions. In lower-income nations, however, the relationship has stayed negative (Grunewald et al. 2012; Jorgenson et al. 2015; 2016).

Grunewald et al. provide an explanation of the negative effect found in low-income countries (Grunewald et al. 2012). In low-income countries, many poor citizens effectively live outside the carbon economy. If inequality in such countries decreases, previously poor citizens become richer and start to emit carbon (for instance, they might buy their first car). In rich countries, most citizens are part of the carbon economy already. So, this negative contribution is not observed. Conversely, multiple pathways could explain the positive effect recently found in wealthy nations. First, high inequality may encourage conspicuous consumption as the fight for material status increases. Moreover, average working hours tend to increase as inequality rises (Bowles and Park 2005). In addition, longer working hours might be associated with a larger carbon footprint (Fitzgerald, Jorgenson, and Clark 2015; Knight, Rosa, and Schor 2013). Second, income inequality may also increase a nation’s carbon emissions by eroding social trust. In unequal countries, citizens might be less tempted to start pro-environmental social movements or promote socially responsible behaviour (Cushing et al. 2015). Third, concentration of economic power and, with it, political power can prevent pro-environmental action and regulation (Knight, Schor, and Jorgenson 2017). Which pathway is most influential, and which one holds up empirically, does not matter much here. For empirical data and theory seem to point in the same direction: improving conditions for the bottom 40% of households might boost growth more sustainably than relying on other pro-growth mechanisms. So, if anything, a concern around climate change also supports economic equality.

#### Their scenario for “improving quality of life is a lie” neoliberalism guarantees racialized economic subordination – rejecting current technocratic antitrust norms is key to solve

Greer and Rice 21 – Jeremie Greer and Solana Rice are Co-founders and Co-executives of Liberation in a Generation, a national movement-support organization working to build the power of people of color to transform the economy.

Jeremie Greer and Solana Rice, “Anti-Monopoly Activism: Reclaiming Power Through Racial Justice,” *Liberation in a Generation*, March 2021, pp. 3-14, https://www.liberationinageneration.org/wp-content/uploads/2021/03/Anti-Monopoly-Activism\_032021.pdf.

In spite of this suffering and sacrifice, the future for predominantly white corporate monopolists has never been brighter. Excessive and unrestrained capitalism has enriched a small group of wealthy elite corporations and individuals by concentrating the nation’s economic and political power under their control—a mutually reinforcing, vicious cycle. Between March 18 (the unofficial beginning of the pandemic in the US) and November 24, 2020, 644 billionaires increased their combined wealth by $931 billion dollars (from $2.95 trillion to $3.88 trillion, or a rise of 31.6 percent).2 This occurred even as poverty deepened and the October unemployment rate hit nearly double its pre-pandemic low. Some in this elite class of corporations and individuals have used their accumulated power to concentrate markets that are fundamental to human thriving (e.g., technology, agriculture, financial services, and health care) by forming massive corporate monopolies.

Corporate monopoly is bad for workers, consumers, and for our democracy. Our nation’s founders were keenly aware of the danger of monopoly. In fact, the US revolution was sparked by anger directed at the monopolistic power of the British Crown. Though popularly taught as being about unjust taxation, the Boston Tea Party was actually a rebellion ignited by rage directed at the East Indian Trading Company, a monopoly chartered by the British monarchy.3 Additionally, in 1787, Thomas Jefferson wrote to James Madison that the proposed US Constitution should include a Bill of Rights that explicitly excluded monopolies.4 Though the language did not make it into the final Constitution, this letter demonstrates that the distrust of monopoly is justified and runs deep in our nation’s ethos.

Efforts to rein in the “robber barons” of the Gilded Age (i.e., Andrew Carnegie, J.D. Rockfeller, Cornielius Vanderbelt, and J.P. Morgan) are monumental in the history of anti-monopoly government action in the US. Victories following this period include government action to break up several large monopolies in the railroad and oil and gas industries. Additionally, this period normalized many worker protections that we take for granted today, such as a 40-hour workweek and overtime pay.

Unfortunately, though the start of the 20th century saw robust anti-monopoly government action, the government rapidly retreated from anti-monopoly enforcement in the second half of the century. Since, the federal government and the federal courts have aided—not prevented—the exponential growth in monopoly power in nearly every sector of our economy, including technology, telecommunications, food supply chains, banking, and health care. In 2015, for example, the US saw a record number of corporate mergers, totalling $3.8 trillion in merger and acquisition activity.5 Mergers that year involved massive companies, such as Time Warner Cable, AnheuserBusch, and Berkshire Hathaway, becoming more massive. In 2020, T-Mobile—the third-largest wireless carrier in the US— acquired Sprint,6 and Morgan Stanely acquired online stock trading company E-Trade.7

The economic problems created by monopoly power have been widely studied, and many solutions to curtail it have been developed by experts. Unfortunately, like so many large-scale and so-called “race-neutral” policy efforts, anti-monopoly policy ideation and implementation have left people of color behind. In researching this paper we found limited research or policy ideation on the impact of monopoly power on people of color. We believe that the absence of grassroots leaders of color in anti-monopoly policy conversations can be attributed to this disconnect.

It is critical that grassroots leaders of color are positioned to lead on anti-monopoly policy, as they are uniquely positioned to understand its impact on people of color at the household, community, and societal levels. This gives them a unique perspective in policy ideation efforts that should be valued and validated. These leaders also possess the unique skills to mobilize the people and public power that are necessary to force the government to reclaim its historic role of reining in runaway corporate monopoly power.

We at Liberation in a Generation believe that the power to change our economic systems rests with the organizers of color who are building the political strength of communities of color. Anti-monopoly research and advocacy need to better quantify, center, and reflect what people of color are experiencing and the ways that they are being harmed by monopoly power’s reach. These efforts should also better connect anti-monopoly policy and advocacy as tools to advance the existing priorities of leaders of color, such as the Green New Deal, Medicare for All, closing the racial wealth gap, and a Homes Guarantee. This paper aims to contribute a major step in the long journey of bridging the divide between anti-monopoly researchers and policy advocates and grassroots leaders of color. The first step on that journey is knowledge.

Recognizing that anti-monopoly work is a new policy issue to many grassroots leaders of color, this paper will serve as a primer to 1) educate grassroots leaders on the issue of corporate concentration, 2) connect the issue to racial justice, and 3) recommend a path forward for grassroots leaders as well as the researchers and advocates who need to embrace them. Our hope is that this paper provides a foundation of knowledge that grassroots leaders of color can use to build race-conscious solutions and mobilize for action to rein in runaway corporate monopoly power. To that end, the paper is organized into six sections.

SECTION 1 Monopoly Power Is Corporate Power Magnified and Maximized

In 1975, millions flooded theaters to see the blockbuster thriller Jaws. The story follows a police chief in a small resort town as he risks his life to protect beachgoers from a monstrous man-eating great white shark.

Monopolies are a lot like the shark in Jaws. While enormous, ruthless, dangerous, and scary, the movie’s monster is just a shark, and the police chief uses tools and community to defeat it. Comparatively, while also enormous, ruthless, dangerous, and even scary, monopolies are just corporations, and we, together, can confront them. Their massive power controls the wages we earn, the prices we pay, and the actions of the politicians who are supposed to represent us in DC, the statehouse, and city hall. In a representative democracy, we the people are at the top of the food chain, and it is within our power to make these monopolies fear us— and end their existence in the first place.

Grassroots leaders of color are highly experienced and uniquely skilled at challenging corporate power, and these capacities can and should be used to curb monopoly power. For example,8 the Athena Coalition has successfully leveraged grassroots power to challenge the monopoly power of Amazon, and Color of Change9 has effectively used grassroots digital organizing to challenge the monopoly power of social media platforms such as Facebook. Putting monopolies in the crosshairs of organizers is critical because they best understand the real human and structural devastation caused by monopoly power, which is otherwise all too easily neglected.

Though we believe that grassroots leaders of color have the experience and expertise necessary to challenge monopoly power, the question remains: Why should they lead this fight? Grassroots leaders of color are already engaged in high-stakes battles with the forces of corporate power on fundamental issues, including environmental justice, worker justice, housing justice, prison and police abolition, and voter and democratic justice. We believe that these efforts can be bolstered if anti-monopoly policy development and advocacy were incorporated into these existing efforts but then followed the lead of organizers. For example, the primary opponents of prison and police abolition are private prison monopolies, such as GEO Group and CoreCivic, which profit from the arrest and incarceration of Black and brown people. Opponents of the Green New Deal include energy monopolies BP and ExxonMobile, whose profits are derived from polluting Black and brown communities.

10 Finally, opponents of the Homes Guarantee, and its call for creating 12 million units of social housing outside of the for-profit housing market, include big banks that profit from the commodification of affordable and low-income housing. Challenging these opponents by diminishing their monopoly power could prove to be a powerful weapon in the fight to dismantle unchecked corporate power and its real-life economic impact on people of color.

How Corporate Monopolies Show Up in Today’s World

The distinguishing features of monopolies, when compared to your run of the mill corporation (large or small), are the reach and intensity of the corporate power that they wield. Monopoly power turbocharges the ills of corporate power and creates a wider impact of the overlapping consequences for people. In many ways, monopolies are created when corporate power becomes governing power.11 Their sheer size and market dominance allow them to govern markets, and their expansive wealth gives them the power to manipulate prices, crush workers, and steamroll governments. Ultimately, monopolies’ extreme economic power—which they use to gain outsized political power and then more economic power—undermines the collective power of workers, consumers, small businesses, local communities, and governments.

It has become difficult, and inadequate, to rely on legal definitions to identify monopolies. The legal definition of monopolization is highly technical and complicated by centuries of conflicting jurisprudence. I

t's been narrowed to exclusively focus on the negative impact that anticompetitive actions have on consumers.12 This narrower focus intentionally shielded monopolies from any accountability for anticompetitive harm inflicted on workers, the environment, local communities, government, and democracy. Federal enforcement of monopoly power is confined to the highly specialized legal practice of antitrust law enforcement.13 However, centuries of political power wielded by corporate monopolies and their acolytes (e.g., universities, think tanks, trade associations, and major law firms) have rendered much of antitrust law enforcement toothless.14

In the late 19th and early 20th century, the definition of monopoly was much wider and comprehensive. In this paper, we will expand the definition as well. Recognizing that this definitional work is in many ways a work in progress, we offer our definition as a point of discussion and debate for the larger field of anti-monopoly advocates.

In this paper, we define monopoly as a corporate entity (a single corporation or a group of corporations) whose sheer size and anticompetitive behavior grant it disproportionate economic power and governing influence. This negatively affects the well-being of workers, consumers, markets, local communities, democratic governance, and the planet.

Below are a few major industries that reveal how corporate concentration and monopolistic industries harm the economic lives of workers, consumers, and communities of color.

Big Tech

Four corporations comprise what has come to be known as “Big Tech”: Amazon, Apple, Facebook, and Alphabet (the parent company of Google). Each of these technology firms dominate an enormous share of their respective technology markets. Google, for example, controls 90 percent of the internet search market, and it controls the largest video sharing platform on the internet through its ownership of YouTube. Apple controls 50 percent of the cellphone market,15 and Amazon controls 50 percent of all ecommerce. Facebook and its many subsidiaries (such as WhatsApp and Instagram) dominate the social media and online advertising marketplace.16 Other technology firms, including Uber, Lyft, Microsoft, and Netflix, also demonstrate monopolistic, anticompetitive behavior in their respective markets. In many ways, these companies, and the people who control them, are the “robber barons” of our time.

Big Pharma

The world's largest pharmaceutical corporations, including Johnson & Johnson, Pfizer, Merck, Gilead, Amgen, and AbbVie, together comprise “Big Pharma.” These monopolies build their profits by controlling the prices of critical life-saving pharmaceuticals (e.g., insulin, drugs that regulate blood pressure, and critical antibiotics) and life-altering medical devices (e.g., heart stents and joint replacement devices). Between 2000 and 2018, a disproportionately small number of pharmaceutical companies made a combined $11 trillion in revenue and $8.6 trillion in gross profits.17 In 2014, the top 10 pharmaceutical companies had 38 percent of the industry’s total sales revenue.18 Much of these profits were gained driving up the price of critical drugs , extorting research and development (R&D) funding from the government, and leveraging Big Pharma’s political influence to weaken government oversight of the industry.19

Big Agriculture

Big Agriculture, or “Big Ag,” refers to monopolies that control major aspects of the global food supply chain. This includes companies such as Cargill, Archer Daniels Midland Company (ADM), Bayer, and John Deere. Though once a diffuse network of small farmers and supply chain companies, recent mergers have created a system comprising a small number of corporations that are crowding out smaller, family-run companies including small farms. Similar to Big Pharma, government subsidies are a massive component of the obscene profits made by Big Ag. Further, as often the largest employer in many small rural towns, these corporations often ruthlessly wield their monopoly power to drive down wages and benefits to workers, skirt government safety regulations, and bully (and even buy out) small farmers.

Big Banks

Known as the “Big Five,” five banks control almost half of the industry’s nearly $15 trillion in financial assets: JPMorgan Chase, Bank of America, Wells Fargo, Citigroup, and US Bancorp. Their collective importance to the nation’s financial system has led some to consider them “too big to fail.”20 In fact, in response to the financial crisis of 2008, the federal government provided trillions of dollars in relief to ensure that they did not collapse under the weight of the crisis.21 The Big Five have an incredible influence over the flow of money throughout our economy. They finance critical goods and services, such as housing, higher education, infrastructure, and renewable energy. They also finance extractive elements of our economy, such as fossil fuels and private prisons. But, most importantly, they set the rules for who can and cannot access loan capital, and their exclusionary practices have been widely linked to the growth of racial wealth inequality (as described in Section 3).

These are just four examples of industries that have been taken over by monopolies, but they are in no way exclusive. Many other critical industries in our economy have been corrupted by monopolies, including the energy, health insurance, hospital, for-profit college, and delivery service industries.

One note of caution on monopolies: While all corporate monopolies are harmful, some government monopolies can be critical to providing essential programs and services. Examples of government monopolies include public K–12 schools, publicly owned utilities, and the United States Postal Service (USPS). In fact, the USPS is codified in the US constitution to ensure that all people—even those in remote rural areas—can send and receive mail. Today, the USPS is an important employer to people of color, particularly Black people, in providing competitive wages and quality health and retirement benefits.

The predation of corporate monopolies creates racial wealth inequality. Low-wage employers that employ people of color, such as Walmart—the nation’s largest private employer—often set the wage floor for local communities and the nation.22 Agribusinesses and pharmaceutical monopolies set prices at a “poverty premium” where people of color pay more for food and life saving drugs. Also, bank monopolies set the prices that people of color pay for basic financial services, and they provide capital to predatory lenders, including payday and car title lenders.

#### Tech barriers – its ineffective and can’t be scaled up without increased environmental destruction

**Brown 21** – a founding editor of Climate News Network, is a former environment correspondent of The Guardian newspaper, and still writes columns for the paper.

Paul Brown, “Carbon capture and storage won’t work, critics say,” Eco-Business, 1/19/21, https://www.eco-business.com/news/carbon-capture-and-storage-wont-work-critics-say/

One of the key technologies that governments hope will help save the planet from dangerous heating, carbon capture and storage, will not work as planned and is a dangerous distraction, a new report says.

Instead of financing a technology they can neither develop in time nor make to work as claimed, governments should concentrate on scaling up proven technologies like renewable energies and energy efficiency, it says.

The report, from Friends of the Earth Scotland and Global Witness, was commissioned by the two groups from researchers at the UK’s Tyndall Centre for Climate Change Research.

CCS, as the technology is known, is designed to strip out carbon dioxide from the exhaust gases of industrial processes. These include gas and coal-fired electricity generating plants, steel-making, and industries including the conversion of natural gas to hydrogen, so that the gas can then be re-classified as a clean fuel.

The CO2 that is removed is converted into a liquid and pumped underground into geological formations that can be sealed for generations to prevent the carbon escaping back into the atmosphere.

Fossil fuel CCS is a distraction from the growth of renewable energy, storage and energy efficiency that will be critical to rapidly reducing emissions over the next decade.

Attempts abandoned

It is a complex and expensive process, and many of the schemes proposed in the 1990s have been abandoned as too expensive or too technically difficult.

An overview of the report says: “The technology still faces many barriers, would only start to deliver too late, would have to be deployed on a massive scale at a scarcely credible rate and has a history of over-promising and under-delivering.”

Currently there are only 26 CCS plants operating globally, capturing about 0.1 per cent of the annual global emissions from fossil fuels.

Ironically, 81 per cent of the carbon captured to date has been used to extract more oil from existing wells by pumping the captured carbon into the ground to force more oil out. This means that captured carbon is being used to extract oil that would otherwise have had to be left in the ground.

The report also makes clear that the technology has not lived up to expectations. Instead of capturing up to 95 per cent of the carbon from any industrial process, rates have been as low as 65 per cent when they begin and have only gradually improved.

Despite these drawbacks and a number of failed CCS developments in the UK, the British government has just ploughed another £1 billion (US$1.36bn) into more research and development of the technology, and to provide infrastructure. The report says this reliance by government on CCS means it is unlikely to reach its target of zero emissions by 2050.

The report says that CCS features prominently in many energy and climate change scenarios, and in strategies for meeting climate change mitigation targets. These include the approaches backed by the Intergovernmental Panel on Climate Change, the European Commission, the International Energy Agency and the UK Committee on Climate Change.

But it is apparent that the current trend of CCS deployment worldwide has yet to reach the pace of development necessary for these scenarios to be realised.

If CCS is to have a meaningful role in mitigation, deployment would need to accelerate markedly, the report says.

Policy change needed

Friends of the Earth and Global Witness say that because of the clear failure of the technology to live up to expectations there should be a change of emphasis by governments. Policy should be directed towards renewables, particularly solar, onshore and offshore wind, because they have by contrast exceeded all targets in both cost and deployment and provide real hope of solving the carbon dioxide problem.

These now proven renewable technologies, plus battery and other storage ideas and a much-needed energy efficiency drive, will deliver carbon reductions far more quickly and cheaply, the writers say.

The two organisations add: “It is the cumulative emissions from each year between now and 2030 that will determine whether we are to achieve the Paris 1.5°C goal. With carbon budgets increasingly constrained, the report shows that we cannot expect carbon capture and storage to make a meaningful contribution to 2030 climate targets.

“In this context, fossil fuel CCS is a distraction from the growth of renewable energy, storage and energy efficiency that will be critical to rapidly reducing emissions over the next decade.”

#### Biod – space required for effective CCS destroys complex ecosystems

Carrington 18

Damian Carrington, Environment Editor for The Guardian, cites the European Academies Science Advisory Council, “‘Silver bullet’ to suck CO2 from air and halt climate change ruled out.” The Guardian. February 1, 2018. https://www.theguardian.com/environment/2018/feb/01/silver-bullet-to-suck-co2-from-air-and-halt-climate-change-ruled-out

Ways of sucking carbon dioxide from the air will not work on the vast scales needed to beat climate change, Europe’s science academies warned on Thursday.

From simply planting trees to filtering CO2 out of the air, the technologies that some hope could be a “silver bullet” in halting global warming either risk huge damage to the environment themselves or are likely to be very costly.

Virtually all the pathways laid out by the UN’s Intergovernmental Panel on Climate Change (IPCC) to reach the targets in the Paris agreement require huge deployment of so-called negative emissions technologies (NETs) in the second half of the century.

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This is because cuts in CO2 are expected to be too slow to hit zero emissions quickly enough, so the overshoot has to be recaptured later by NETs. The IPCC calculates that about 12bn tonnes a year will need to be captured and stored after 2050 – the equivalent of about a third of all global emissions today.

“You can rule out a silver bullet,” said Prof John Shepherd, at the University of Southampton, UK, and an author of the report. “Negative emissions technologies are very interesting but they are not an alternative to deep and rapid emissions reductions. These remain the safest and most reliable option that we have.”

The new report is from the [European Academies Science Advisory Council](https://www.easac.eu/)(EASAC), which advises the European Union and is comprised of the national science academies of the 28 member states. It warns that relying on NETs instead of emissions cuts could fail and result in severe global warming and “serious implications for future generations”.

The report assesses the range of possible technologies, including “bioenergy with carbon capture and storage” (BECCS), on which the IPCC scenarios rely heavily. BECCS involves growing trees, which take CO2 from the atmosphere, and then burning them to produce electricity while capturing the emissions and burying them.

But Prof Michael Norton, EASAC’s programme director and another author of the report, said: “There are severe drawbacks.” These include the huge amount of land needed and the energy need to produce and deliver the fuel. Furthermore, it could worsen the enormous loss of wildlife – the [sixth mass extinction](https://www.theguardian.com/environment/2017/jul/10/earths-sixth-mass-extinction-event-already-underway-scientists-warn) – already occurring. “The biodiversity impact at the colossal scale envisaged would be severe,” Norton said.

Planting new forests and improving soils could take CO2 out of the air at relatively low cost, the report found, but currently the world is losing trees and soil and reversing these trends is already a major challenge.

The most high-tech prospect is filtering CO2 directly out of the air, but only [one such plant currently exists in the world](http://www.climeworks.com/), trapping just 1,000 tonnes a year. As well as the technical difficulties, there is also no widespread or significant tax on CO2 emissions. “At the moment no one will do this, as no one will pay,” said Shepherd.

#### Extinction – triggers irreversible tipping points in ecosystems

Barry 13 – Glen Barry, Ph.D. in Land Resources from the University of Wisconsin-Madison, Masters of Science in "Conservation Biology and Sustainable Development" also from Madison, and a Bachelor of Arts in "Political Science" from Marquette University, President and Founder of Ecological Internet, Forest Protection.

February 4, 2013, "ECOLOGY SCIENCE: Terrestrial Ecosystem Loss and Biosphere Collapse", http://forests.org/blog/2013/02/ecology-science-terrestrial-ec.asp#more

From Malthus (1798), through Aldo Leopold's land ethic (1949), to Limits of Growth (Meadows et al. 1972), through the Millennium Ecosystem Assessment (2005), and finally to current planetary boundary and global change science (Rockström et al. 2009, 2009b); a common strand of concern has been expressed regarding human growth's impacts upon Earth's biophysical systems – terrestrial ecosystems in particular – and an interest in requirements for global ecological sustainability, while avoiding biosphere collapse. Our biosphere is composed of Earth's thin mantle of life present at, and just above and below, the Earth's surface. Some have indicated human impacts upon the biosphere are analogous to a large, uncontrolled experiment, which threatens its collapse (Trevors et al. 2010). Little is known what collapse of the biosphere would look like, how long it would take, what are its ecosystem and spatial patterns, and whether it is reversible or survivable. But it is becoming more widely recognized that Earth's ecosystems services depend fundamentally upon holistic, well-functioning natural systems (Cornell 2009).

Accelerating human pressures on the Earth System are exceeding numerous local, regional, and global thresholds; with abrupt and possibly irreversible impacts upon the planet's life-support functions (UNEP 2012). Planetary boundaries provide a framework to study these phenomena, by defining a "safe operating space for humanity with respect to the Earth System" (Rockström et al. 2009). The study of planetary boundaries seeks to set control variable values that are a safe distance from thresholds that avoid cessation of key biophysical processes that determine the planet's ability to self-regulate to maintain conditions conducive to life (Rockström et al. 2009b). This builds upon landmark efforts by Meadows et al. (1972) to first define global limits to growth. They concluded that key resource scarcities would emerge, predictions which have proven remarkably accurate (Turner 2008), albeit delayed – but not avoided – through the advent of computer technology. Ecological and economic warnings since at least Malthus have called attention to economies' dependence upon natural resources. The conclusion that near-exponential growth of human population and economic activity cannot be sustained, far from being disproven, is more valid than ever (Brown et al. 2011).

The initial planetary boundary exercise identified nine global scale processes, including climate change, rate of biodiversity loss (terrestrial and marine), nitrogen and phosphorus cycles, ozone depletion, ocean acidification, freshwater, land use change, chemical pollution, and atmospheric aerosol loading. Thresholds were established for seven of these, and three – rate of biodiversity loss, climate change, and the nitrogen cycle – were found to already have surpassed a preliminary assessment of the safe planetary boundary threshold (Rockström et al. 2009). Many of these changes occur in a nonlinear and abrupt manner, while others are more incremental and subtle, yet both types of change threaten the viability of contemporary human societies by diminishing or destroying ecological life-support systems. If one or more of these boundaries are crossed, it could be "deleterious of even catastrophic" as nonlinear and abrupt environmental change occurs at the continental to planetary scale (Rockström et al. 2009b).

#### Leftist visions of climate policy ensure CCS is effective but isn’t used for disenfranchisement and reification of corporate pollution

Buck 18 – postdoctoral research fellow at UCLA’s Institute of the Environment and Sustainability. She’s interested in how communities can be involved in the design of emerging environmental technologies.

Holly Jean Buck, “The Need for Carbon Removal,” 24 July 2018, *Jacobin*, https://www.jacobinmag.com/2018/07/carbon-removal-geoengineering-global-warming

All of these technologies require both more funding for research and development as well as strong policy incentives to mature, whether that means a robust price on carbon or government pollution controls. On the bright side, perhaps this means they are more likely to be an extension or complement to reducing carbon output rather than a substitute for it.

Without heavy state intervention, it is impossible to imagine CCS scaling up over the century to climate-significant levels. The storage capacity of geological reservoirs is sufficient that there aren’t geological limits to carbon sequestration. Eventually, there would be systemic limits for inputs to CCS — land in the case of bioenergy; renewable energy supply in the case of direct air capture — and so the yearly rate of carbon sequestration would be constrained.

This means that a full carbon-clean up — that is, if the world wanted to bring greenhouse gas concentrations back to pre-industrial levels, as a restoration or recompensation project — could stretch over centuries. But the near-term practical constraints on CCS are grounded only by political will.

In a best-case scenario, carbon capture and sequestration would be the world’s most massive pollution clean-up operation, conducted as a public service. But if the public is paying for it, there’s an obvious problem: most of the technology for removing carbon currently lies in the hands of fossil-fuel polluters who are already experienced in it via enhanced oil recovery (EOR).

With EOR, a well operator injects something — heat, chemicals, water, or gas like carbon dioxide — into an oil well that’s been depleted, which basically flushes the residual oil out, extending the life of the well. Perversely from a climate change standpoint, carbon dioxide is currently being mined for use in enhanced oil recovery from natural sources in Colorado and elsewhere, and piped to areas like West Texas for oil recovery. The US already has a 4,500-mile network of CO2 pipelines primarily for this purpose, and the carbon dioxide supply still can’t meet the demand of the oil producers.

The fact that the industrial tools for carbon clean-up are primarily in the hands of polluters means that worse-case scenarios for large-scale geologic carbon removal are likely: (a) that carbon capture remains used primarily for enhanced oil recovery and fails to scale and achieve net-negative emissions, or (b) that CCS will be a bailout or way forward for the very same industries that put the pollution there, who paradoxically may transform themselves over this century to, in the words of Gavin Bridge and Philippe Le Billon “stewards of underground carbon stocks rather than extractors of oil.”

The oil production network could become a waste-carbon conveyer, dominated by actors who own or control carbon reservoirs.

Carbon removal infrastructure isn’t only a matter of heavy, material capital, but of carbon data and platforms for managing it: tracking the farms and forests where it is stored, as well as the places it is emitted; monitoring the wells where it hopefully stays; and transmitting data for micropayments to carbon-storers, as well as data to regulatory agencies. Along with the Internet of Things, we would see the Internet of Carbon, made possible by emerging sensing and communication technology.

And as K. Sabeel Rahman observes, “If a firm controls infrastructure, it possesses arbitrary power over all those who rely on the infrastructure.” This raises important questions that go beyond those traditionally associated with fossil-fuel politics: We live in an era of “platform capitalism,” in which a small number of tech companies dominate the platforms on which we all carry out all kinds of work. Will we see this sort of dominance in carbon capture, too? Is there hope for a more diffuse, decentralized system of carrying out this work?

Certainly not if there’s no one to advocate for it. But the green groups and climate justice advocates who would need to fight for a more just version of carbon clean-up are predisposed to dislike CCS. At precisely the moment when climate policy at the UN level is poised to revisit carbon capture and storage in the light of “negative emissions” discussions around the 1.5°C target, and when policymakers in the US have actually passed bipartisan legislation to incentivize carbon capture (the 2018 FUTURE Act, reforming a tax credit for CCS), there is not enough engagement around what a progressive and justice-oriented use of these technologies could look like.

From Imagination to Action

Ajustice-oriented carbon removal would need to be designed through a collective and participatory process. On the capture side, carbon removal requires measures to ensure environmental justice throughout the value chain for biofuels, including social safeguards that actually work.

It also requires full-circle, responsible waste disposal from direct air capture facilities and other industrial processes, and open-source platforms and technologies for tracking where the carbon goes. Most critically, a socially just carbon removal plan would require policies that help people access clean energy without higher costs, and fair wages for producers and workers throughout carbon removal systems.

On the sequestration side, just carbon removal projects would require just compensation for use of underground storage (pore) space, clear liability for damages caused by blowouts and accidents, and recognition, reckoning, and restitution for historical and current injustice surrounding extraction and fossil-fuel production — including the injustices towards indigenous peoples and other groups whose land has been taken for extraction and production.

This is just a start. To achieve even part of this agenda, social and environmental justice advocates will need to be extremely strategic. Here are five places to begin.

1. Engage in regulatory processes that are happening right now.

Right now, regulations are being drafted for how CCS will be treated in climate policy. In California, regulators are currently considering whether fuels produced with CCS for EOR will become part of California’s Low Carbon Fuel Standard — the strictest in the nation.

On the national level, the USE IT Act proposes to provide funding for research on direct air capture and pipeline development. The FUTURE Act, passed in February 2018, reforms Section 45Q, the US tax credit for carbon capture and storage — it increased the tax credits for CCS stored via EOR from $10 to $35, and for carbon storage from $20 to $50.

Unsurprisingly, lobbyists from fossil-fuel companies are actively working to weaken the monitoring requirements.

For example, to claim the 45Q tax credit, companies must verify and report to the Environmental Protection Agency that the carbon stays underground. Yet Clean Water Action found that while nearly sixty million metric tons of CO2 were claimed to the IRS as of mid-May 2018, only three million metric tons of CO2 were reported to the EPA for verification. Clean Water Action’s demand is “No Sequestration Without Verification.”

The very idea of offering tax credits for EOR, moreover, illustrates a broader challenge: that polluters are first in line to benefit from carbon capture. A letter signed by organizations such as 350.org, Greenpeace USA, Clean Water Action, Friends of the Earth, and others called the FUTURE Act a “handout to oil companies,” because it extends tax credits for enhanced oil recovery. They also point out that EOR affects people of color and disadvantaged communities, who disproportionately live near oil fields.

These challenges illustrate why it’s critical for the Left to be involved in shaping the means of developing and scaling up these technologies: we can’t leave them up to the oil companies.

2. Carefully target the worst industrial offenders — while discussing the problems of these stranded assets collectively and publicly.

Behind discussions of carbon removal lurks a key question: what do we do with fossil-fuel interests?

From the standpoint of these actors, “negative emissions” could be used to compensate for some amount of their “residual emissions” — continued emissions from fossil-fuel-intensive sectors like heavy industry, aviation, or shipping. Carbon removal could provide a conceptual lifeline to these industries. Social justice advocates will have to articulate a view of carbon removal for the people, not for companies, to avoid stranded assets.

According to a report by the Carbon Disclosure Project, just one hundred companies are responsible for 71 percent of the world’s emissions — and half of industrial emissions can be traced to just twenty-five companies. It then seems simple to say we could just shut these companies down.

The challenge is, of course, that fossil fuels aren’t just a corporate asset —

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they’re also embedded in public revenues worldwide. Three-quarters of oil extraction is not done by oil “majors” like Exxon and Shell, but by national oil companies. Even where private companies are prevalent, oil producer governments still capture a large part of revenues — on average, 70 percent of revenues, from 40 percent in the US to 95 percent in Iran.

Consumer governments also raise revenues from taxing fossil fuels. And privately held companies are largely owned by pension funds, meaning that all kinds of citizens are caught up in their fates. If oil prices went back up to $100 a barrel, the 1,700 billion barrels of oil in reserves would add up to $170 trillion of unburnable carbon — two years’ worth of global GDP.

The infrastructure at stake is also worth tens of trillions. “Negative emissions” to stretch out continued emissions for the life of these infrastructures will be enticing not only to corporate interests, but to governments.

The entanglement of states, citizen investors, and fossil-fuel producers also means that if the turn away from fossil fuels truly happens, the public will be left holding a lot of debt and liabilities. Getting off of fossil fuels may mean we’re headed for bailouts that make the post-2008 bank bailouts look like crumbs.

This implies two things: (1) if private firms like oil companies are the vehicle for providing carbon removal services but they go bankrupt, the carbon won’t get removed after all, and (2) transforming these firms into publicly run carbon removal entities might be the best option out of a host of dismal options.

Nationalization also needs to be on the table, though done poorly it can bolster corrupt regimes without power going to workers. There needs to be a broader discussion that recognizes how entwined these companies are with the state; anticipates bailout actions or clean-slate bankruptcies in a forward-thinking, offensive way; and conceptualizes and legislates carbon removal in ways that clearly mandates that farms, forests, and carbon capture plants aren’t removing carbon just so that industrial interests can continue to profit and save assets from being stranded.

3. Create our own narrative around carbon removal, and formulate demands.

There are already NGOs, educators, and environmental and social justice advocates working to change the narrative around climate change to one of proactive action around drawdown, regeneration, and carbon removal. They have different approaches, but a shared message is that it’s necessary and possible to reduce climate risk and make a better world by removing carbon from the air.

The Left can take this narrative further by examining the possibilities for restorative justice — for example, that emitters with historical carbon responsibility pay for carbon removal. Reconceptualizing CCS in particular leads the way to make use of these techniques for redistributive ends.

Of whom do we demand carbon removal? The state, first and foremost. History provides an example of the role of the state in providing investment — including the construction of the automobile and oil infrastructure we have now.

The demands need to be both very specific and very broad. We are just at the beginning of public debate, but demands could include public funding for research and development, public ownership of carbon removal technologies and data, public sector jobs in carbon removal, and more.

4. Work in solidarity with rural organizations and producers.

A society dedicated to carbon removal at climate-significant scales could be an opportunity for rural reinvigoration — or one for rural oppression, dispossession, land grabs, and a continued transfer of wealth out of the countryside, furthering inequality and environmental injustice, in both the developed and developing world. In either case, carbon removal should be seen as a rural economic development issue.

Carbon removal policy could provide economic opportunities for farmers who take up regenerative agriculture, with support from urban consumers. On the infrastructure side, building out carbon capture and storage with direct air capture or BECCS would offer jobs with a similar skillset as those from the oil and gas industry, provided an effort was made to retrain workers into this similar field.

Connecting with unions and workers would be key here, as part of a wider just transition — though at present, the policy discussion on carbon capture virtually ignores workers of all kinds, with the exception of the work of alliances like Trade Unions for Energy Democracy.

5. Redirect subsidies and investments towards carbon removal and environmental justice.

Changing the subsidies for fossil fuels are what people point out as the first and most obvious step to decarbonization — the world currently subsidizes fossil fuels at $500 billion per year, or $15 per ton of carbon dioxide emissions. We should be paying for the damages instead of subsidizing what’s driving them. We should also be continuing the pressure to divest in fossil fuels, while pointing out social investment opportunities in carbon removal.

In California, Assembly Bill 1550, building on Senate Bill 535, requires that 25 percent of funds from California’s cap-and-trade program go to projects within disadvantaged communities, and another 10 percent go to benefit low-income households and communities. These types of legislative action, driven by many environmental justice advocacy groups, can provide ideas for how carbon removal funding could proceed — actions like these would be initial steps in making sure that the benefits from carbon capture programs accrue to people who have suffered from environmental injustice, and to alleviate inequality while transitioning to a carbon-negative society.

A Moment of Opportunity

This is the time for the Left to shape the agenda proactively rather than reactively. We need decarbonization — and then more. Settling for more warming when we have the capacity to lower carbon dioxide concentrations amounts to rich-world complacency.

The longer we wait to engage, the more likely that a big tech company will have built out the platform for carbon removal on its own terms, not public ones; the more likely that policymakers will have instituted a complex accounting scheme for “residual emissions” that lets industrial corporations keep polluting while small farmers are driven off their land so it can be forested to compensate.

Or — more likely — these high tech and high eco-modernist visions will never materialize, and the world will simply warm, and species and lives and islands and ice will be lost forever.

The establishment’s ambiguity about CCS over the past few decades — the reluctance of elites to actually build the clean-up infrastructure they themselves suggest is possible, as they wait for the moment when they are forced to — leaves an opening for citizens in fields, factories, and labs to shape the development of these technologies. This is a moment where we might be able to shape the platforms upon which they are organized, where their benefits flow to, and who pays for it all. We can start this work as an extension of decarbonization, right now.

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#### It’s not inevitable – it’s the result of specific reversable polices

**Mazzucato 21** – Professor in the Economics of Innovation and Public Value at University College London (UCL), where she is Founding Director of the UCL Institute for Innovation & Public Purpose (IIPP)

Mariana Mazzucato, “MISSION ECONOMY: A Moonshot Guide to Changing Capitalism,” Penguin Publisher, 1/28/21, https://www.penguin.co.uk/books/315/315191/mission-economy/9780241419731.html

None of the difficulties we are suffering are inevitable. They are a result of how we have chosen to govern our system. There is nothing in the stars that compels the financial sector to fail to invest in the real economy, or to invest only with short-term profit objectives. We have rewarded it for doing so – for example by reducing taxes on capital gains, by allowing interest payments on debt to be offset against corporate taxes, by permitting investment banking and retail banking to operate within the same corporate group and by wholesale deregulation.33 There is nothing inevitable that makes an over-financialized business sector focus excessively on the short term. There is nothing inevitable about the public sector always being in reactive mode. And there is nothing inevitable about our planet continuing to warm, rendering it increasingly hostile to humans, plants and animals. These are choices that we collectively make. We have not demanded that the private sector does otherwise – even as a condition for accessing key public investments critical for private-sector profits, such as the $40 billion a year in publicly funded health innovation in the USA. The public sector has shown too little regard for voters’ concerns about clean air, robust public-health systems, the regulation of business and planetary health.

The case for radical change is thus overwhelming. But to drive this change, we have to see the problem through a particular lens – concentrating on rethinking government in order to stimulate improvements across the economy. Why? The reason is simple: only government has the capacity to steer the transformation on the scale needed – to recast the way in which economic organizations are governed, how their relationships are structured and how economic actors and civil society relate to each other.

Indeed, rethinking corporate governance must be high on the agenda too. We have to shift business from focusing only on maximizing shareholder value to being driven by a range of stakeholders. Traditional corporate social responsibility is too limited to bring about this transformation. What’s needed is clarity about what value is being created in the first place and a new way of working along the entire value chain to produce it. A revitalized sense of purpose is required across both government and business and how they work together. For example, it is possible for government activity to be structured in a way that rewards types of corporate behaviour that move us towards achieving sustainability targets. Such goals cannot be tackled simply by changes to corporate governance – through metrics like ESG (environmental social and corporate governance). They also require a fundamentally different way for business and the state to interact. If, for example, businesses’ access to public subsidies was conditional on their meeting social and environmental targets, ‘purpose’ would also be embedded in contracts and inter-relationships.

#### The preservation of the core tenants of “competition policy” means that every time economic crisis happen we embark on surface level changes to the economy that fail millions – this reinforces neoliberalism while making pivots to other economic systems impossible – wholescale rejection is key

**Saad-Filho 19** – Alfredo has degrees in Economics from the Universities of Brasilia (Brazil) and London (SOAS). He has worked in universities and research institutions based in Brazil, Canada, Japan, Mozambique, Switzerland and the UK, and was a senior economic affairs officer at the United Nations Conference on Trade and Development (UNCTAD)

ALFREDO SAAD-FILHO, “CRISIS IN NEOLIBERALISM OR CRISIS OF NEOLIBERALISM?,” Socialist Register, 1/25/19, https://brill.com/view/book/9789004393202/BP000018.xml

NOT MOVING FORWARD

The financial collapse delivered a stunning blow to the neoliberal consensus, as was aptly illustrated by Alan Greenspan’s confession of ‘shocked disbelief’.25 The Economist was nothing less than apocalyptic:

[E]conomic liberty is under attack and capitalism ... is at bay ... but those who believe in it must fight for it ... In the short term defending capitalism means, paradoxically, state intervention. There is a justifiable sense of outrage ... that $2.5 trillion of taxpayers’ money now has to be spent on a highly rewarded industry. But the global bailout is pragmatic, not ideological ... If confidence and credit continue to dry up, a near-certain recession will become a depression, a calamity for everybody.26

For a few weeks in 2008 global capitalism seemed to bleed uncontrollably, as losses reportedly climbed towards US$ 40 trillion or, alternatively, 45 per cent of the world’s wealth.27 Several states nationalized key financial institutions, guaranteed deposits and financial investments, cut interest rates and implemented expansionary fiscal policies and so-called ‘quantitative easing’ to support finance, aggregate demand and employment. It is impossible to calculate the cost of these initiatives. They included central bank purchases of temporarily worthless financial assets, which may gain value as the global economy stabilises, ‘Keynesian’ initiatives to protect employment, which partly pay for themselves through additional tax revenues and reduced social security transfers, and a significant amount of borrowing to fund regular spending, which became necessary because of the crisis-driven decline in taxation. These measures were unsurprising: they reflect, on the one hand, the post-Great Depression consensus that aggressive expansionary policies can avert a deflationary spiral, and, on the other, the neoliberal claim that financial sector stability is paramount.

Heavy state spending and the socialization of losses and risks stemmed the haemorrhage of bank capital and postponed the collapse of some large manufacturing conglomerates, especially the old US automakers. However, they did not revive bank credit, and their huge costs have triggered severe fiscal problems especially in the US, UK, peripheral European economies and fragile Gulf states. As Joseph Stiglitz put it,

[T]he very actions that saved the economies of the world have presented a new problem for fiscal policy, as questions are being raised about governments’ ability to finance their deficits. There are speculative attacks against the weakest countries, which find themselves caught between a rock and a hard place ... The financial markets that caused the crisis – which in turn caused the deficits – went silent as money was being spent on the bailout; but now they are telling governments they have to cut public spending. Wages are to be cut, even if bank bonuses are to be kept.28

Despite their tactical proficiency, instantly coming up with trillions of dollars to support the banks and shore up the global economy, the neoliberal bourgeoisies and their paid economists have demonstrated a staggering lack of strategic imagination. Even the most promising recovery scenarios offers only slow growth, a decade of austerity and a wave of unemployment which may last for an entire generation. The emerging consensus is that the system of accumulation can be fixed with a little financial regulation, marginal exchange rate adjustments, a rebalancing between exports and domestic demand in Germany and East Asia, and austerity for wages and public consumption in the UK and eventually in the US. These cosmetic changes are unlikely to rebalance the global economy or make much of a contribution to managing the ongoing restructuring of accumulation. Their simplicity is symptomatic of the mainstream’s superficial understanding of the crisis; they point to a slow and very bumpy recovery, with the emergence of deep financial, fiscal, exchange rate and unemployment crises in one country after another, and over a long period of time.

Most recovery plans bypass the need for an alternative mechanism of social integration, fail to recognise that the manipulation of personal debt will be insufficient to stabilise demand and employment, and ignore the fact that the contraction of credit, wages and pensions and the need for fiscal retrenchment will compromise long term demand growth. Although state spending has plugged the gap during the crisis, this is unsustainable without significant changes in taxation and the distribution of income, but these are not currently on the cards.29 Recovery plans also presume that contractionary fiscal policies are essential to protect state credit ratings in the short-run and avoid inflation in the long-run, and envision that, after the return of ‘normal’ conditions, the manipulation of interest rates should become once again the most prominent macroeconomic policy tool. That is, the neoliberal camp essentially expects the global system of accumulation to get back to its pre-crisis state (plus or minus some marginal tinkering) after a prolonged and rather costly period of instability.30

Even more alarmingly, although many proposals to address the crisis and prevent a repeat have been aired, three years after the onset of the crisis and two years after the collapse of Lehman Brothers very little of substance has actually happened. The ideas on the table or being discussed in the world’s legislatures include a devaluation of the dollar to help rebalance the US economy, a coordinated set of higher inflation targets to erode public debts while preventing explosive capital movements to low inflation countries,31 the taxation of bank assets and financial transactions, a review of supervisory agency responsibilities, the prohibition of certain types of short-selling, regulatory changes requiring the financial institutions to prepare ‘living wills’ and/or buy insurance against possible failure, and rules to increase capital requirements countercyclically, constrain leveraging and speculation, ban proprietary trading, restrict the hedge funds and cap bonuses. Other suggestions include stricter regulation of the credit rating agencies, increased transparency in derivatives trading (for example, through the creation of centralized exchanges), and stronger consumer protection against predatory lending.32

However, no significant macroeconomic adjustments have taken place yet, and the financial institutions have been lobbying ferociously against any attempt to curb their operations. They argue that the US and UK should not deliberately maim a large industry in which they have a comparative advantage, and that taxation or regulation would lead to the mass exodus of banks, hedge funds and traders to Switzerland, Singapore or the Gulf.33 Their well-funded campaign is only part of the problem.

Macroeconomic adjustments have been hamstrung by a number of major economic challenges that remain in place. A first is the conflicting pressures on the dollar (it must fall to help correct the US current account deficit, but it tends to rise whenever there is uncertainty elsewhere, especially in the systemically important countries or the Eurozone); China’s parallel unwillingness to let its currency appreciate is a second. Structural contradictions within the Eurozone are a further difficulty: between surplus and deficit countries; between entrenched monetary conservatism and the need to deploy expansionary policies to address the crisis in the smaller countries; and – more fundamentally – between monetary unification and continuing fiscal fragmentation.

A fourth obstacle is the extraordinarily inflexible monetary policy apparatus that has remained in place to lock in low inflation.34 Its rigidities are compounded by significant monetary policy differences between the US, Japan, the UK and the Eurozone. For example, the first two do not have legally binding inflation targets to raise, the UK cannot act in isolation, and the ECB has been built to enforce low inflation, and its governance structure makes it difficult to change course.35 Complications of a different order would arise if inflation rose too fast in certain countries, because governments would be compelled to limit their fiscal stimuli and raise interest rates, potentially stalling the recovery.

Finally, another set of difficulties concerns reaching legislative agreement about how to tax the financial sector, set capital requirements, dismantle institutions that are too big to fail (and, therefore, that have in-built incentives to behave recklessly), and unscramble players’ incentives (bonuses are outrageously high in the good times, and absurd when the financial sector refuses to lend even though it is being propped up by the state). These difficulties are especially visible in the debates surrounding the financial market reform bill in the US Congress. In conclusion, the largest economic crisis since 1929 has demonstrated that transferring control of capital to finance fosters speculation and systemic instability and does not improve macroeconomic performance. Yet, the institutional imperatives of reproduction of neoliberalism make it difficult for governments to introduce a new economic policy framework.

#### Current conceptions of antitrust must be completely rejected – they rely on years of junk judicial decisions completely divorced from congressional intent

**Vaheesan 19** – Policy Counsel at the Open Markets Institute. Former regulations counsel at the Consumer Financial Protections Bureau

Sandeep Vaheesan, “The Profound Nonsense of Consumer Welfare Antitrust,” The Antitrust Bulletin, 2019, https://journals.sagepub.com/doi/pdf/10.1177/0003603X19875036

Consumer welfare antitrust is built on three profound falsehoods. First, it is based on false history. Congress, in enacting the primary antitrust statutes, had broader aims than protecting “consumer welfare.” Second, it is based on a false conception of the market. The state constructs and structures the market through legal rules: The market is not a force of nature as the law and economics ideology underpinning antitrust presumes. Third, it is based on false economics. Extensive empirical research has shown, for example, that mergers do not promote consumer welfare and that predatory pricing is real. Despite this evidence, the federal antitrust agencies and courts continue to evaluate mergers and predatory pricing claims relying on simplistic toy models of the world.

These myths have freed corporations from antitrust rules and supercharged their power over the economy, politics, and society. First, antitrust enforcers and federal judges have rewritten legislative intent to focus exclusively on one manifestation of corporate power and downplay or outright ignore other aspects of it. Second, they have naturalized corporate prerogatives and omitted their foundation in law and policy. Third, they have developed and disseminated theories that depict the enhancement and exercise of corporate power as generally beneficial to consumers. Jointly, the three myths function as a potent punch for entrenching corporate privilege.

The present state of antitrust demands fundamental reconstruction. A project to strengthen antitrust rules based on empirical economics is worthwhile but wholly inadequate. It would not address the other foundational nonsense on which contemporary antitrust is based. A coherent antitrust requires deeper change and will be built on law and realism, not myths. Going forward, antitrust should be true to congressional intent, acknowledge the legal and political construction of the market, and informed by real-world evidence. Current-day antitrust is built on a bed of nonsense—false history, false concepts, and false economics—that have been useful to powerful corporate interests and deeply damaging for everyone else.

### DA Innovation

#### Antitrust is a terrible instrument for addressing hold-ups---wrong remedies and fails to deter future anticompetitive conduct.

**Contreras 11** – Jorge L. Contreras is a Visiting Associate Professor at American University–Washington College of Law

Jorge Contreras, “Equity, Antitrust, and the Reemergence of the Patent Unenforceability Remedy,” October 2011, The Antitrust Source, <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1187&context=facsch_lawrev>

Agency Enforcement and the Failure of Antitrust Remedies to Address Standards Hold-Up

Public actions to enforce the antitrust laws may be brought by the Department of Justice, the FTC, and state attorneys general. Recently, the FTC has been the most active in seeking to curb deceptive conduct and standards hold-up by means of antitrust enforcement. In Dell Computer, the FTC alleged that Dell’s deception of the Video Electronics Standards Association (VESA) constituted unfair competition affecting commerce and thus violated Section 5 of the FTC Act. In the resulting Consent Agreement, Dell was prohibited from enforcing the asserted patents against any implementer of VESA’s VL-bus standard. The breadth of this remedy flows from the FTC’s broad authority to redress market harm under Section 5. 18

The Dell decision shaped the debate regarding standards hold-up for more than a decade and may have emboldened the agency to exercise its Section 5 authority to police the standard-setting world more broadly. It did so most notably to redress the now-notorious conduct of Rambus both during and after its participation in the Joint Electron Device Engineering Council (JEDEC). As has been discussed at length in numerous books and articles, Rambus allegedly deceived JEDEC participants regarding the patenting of standards on semiconductor DRAM technology. When Rambus began to seek patent royalties from implementers of these standards, the FTC brought an action charging Rambus with violation of Section 5(b) of the FTC Act and Section 2 of the Sherman Act. In 2006 the Commission ruled against Rambus under both theories of liability and ordered, among other things, that Rambus license its patents to all implementers of the standards at specified royalty rates. 19 In 2008, however, the D.C. Circuit reversed the Commission’s ruling, holding that it failed to establish that Rambus’s deceptive conduct harmed competition for purposes of the Sherman Act (i.e., that the relevant standards would not have been adopted but for Rambus’s conduct). The court also cast doubt on the Commission’s Section 5 theory, questioning its generous reading of the vague JEDEC intellectual property policy and its conclusions regarding common practices and expectations within the standard-setting community.

Though the validity of the D.C. Circuit’s reasoning in Rambus has been widely debated, 20 a number of commentators argue that antitrust law has proven to be a suboptimal theory for addressing issues of standards hold-up. 21 The weaknesses of antitrust law arise both when it is used as a theory of liability and also when it is used to fashion remedies (two distinct but inextricably related sides of the antitrust coin). Antitrust suffers as a theory of liability because, as the D.C. Circuit reasoned, a showing of antitrust harm is necessarily tied to market-wide effects on competition, rather than effects on individual competitors. Absent proof of market harm, antitrust injury cannot exist. Indeed, the dissent in Dell made this point in 1995, taking the view that the allegations of the Commission’s complaint failed to demonstrate that Dell obtained market power as a result of its alleged misstatements to the SDO.

Antitrust law also falls short in enabling appropriate remedies for standards hold-up. Thus, while the FTC in Dell fashioned a sweeping order under Section 5 that prohibited Dell from enforcing its patents against any implementer of the VL-bus standard, 22 the Commission’s order eleven years later in Rambus exhibits a significant retreat from this early expansive posture. Perhaps influenced by public commentary and the briefs of the parties or a more refined understanding and appreciation of the market harm arising from such conduct, the FTC in Rambus required that Rambus license its patents to any implementer of the JEDEC standard but also permitted Rambus to collect a specified royalty with respect to this license (a royalty that was lower, of course, than Rambus requested, but significant nonetheless). The rationale for this seeming generosity toward a company that the Commission found to have engaged in a “deliberate course of deceptive conduct”23 can be explained by the Commission’s need to fashion a remedy calculated to address perceived market harm. Indeed, the Commission noted that imposing a requirement of royalty-free licensing on Rambus would be justified only to the extent “necessary to restore the competitive conditions that would have prevailed absent Rambus’s misconduct.”24 Instead, the Commission proceeded to construct an elaborate “reasonable royalty” analysis based on a series of assumptions about how the potential DRAM market would have looked “but for” Rambus’s deceptive conduct, and to set royalty rates for Rambus patents accordingly. While the FTC’s remedy opinion was rendered moot by the D.C. Circuit’s reversal of its liability holding, the fact that the FTC’s analysis would have resulted in the award of ongoing royalties to Rambus despite its deceptive conduct suggests that antitrust remedies may not address all of the harms that are likely to arise in the context of standards hold-up and that perhaps other remedial regimes are more likely both to penalize those engaging in standards hold-up and to deter future instances of hold-up behavior. 25

### Harmonization

#### No hegemony under Trump --- he promises hardball tactics, with tit for tat arrangements that hollow out international agreements

Norrlof 18 Carla Norrlof, [Carla Norrlof](http://www.carlanorrlof.com/bio/) is Associate Professor of Political Science at the University of Toronto. Her [research](http://www.carlanorrlof.com/research/) is on theories of international cooperation with a special focus on great powers particularly US hegemony in the areas of money, trade and security. “Hegemony and inequality: Trump and the liberal playbook.” International Affairs. Volume 94. 2018. <https://www.chathamhouse.org/sites/files/chathamhouse/images/ia/INTA94_1_5_262_Norrlof.pdf>

\*\*\*LIO=Liberal International Order

Since the end of the Second World War, the United States has served as leader of the ‘free’ world, providing security guarantees and promoting open economic exchange and individual freedoms in a rules-based system. The election in late 2016 of Donald J. Trump as US president raised justifiable and widespread fear for the survival of the liberal international order (LIO). Not since the 1970s, when academics expressed alarm that US decline would result in a more disorderly international system, has the expert community been so pessimistic about the durability of the postwar order. President Trump promises to ‘make America great again’ by playing hardball with allies, overturning the LIO if necessary. On the international stage, the principle of ‘America first’ is aimed at preventing the United States from incurring losses through cooperation in the form of higher security bills, lower commercial benefits and greater monetary burdens. To ‘make America great again’, the United States must ‘win, win, win’, negotiating more aggressively with other nations, threatening to leave international agreements and alliances if necessary.1 Trump is not alone in his criticism of the LIO. Academics have worried about America’s outsized global commitments since the 1980s.2 Even before the Trump administration began complaining about freeloading allies and unfair traders, proponents of a grand strategy of restraint lamented the costs of ‘liberal hegemony’, also known as ‘deep engagement’.3 US support for the LIO in the form of liberal hegemony and deep engagement has aimed to promote the twin goals of security and prosperity by building security alliances and an economic order rooted in strong institutions and liberal values.4 In this article, I argue that the challenge confronting the United States today is not an international redistribution problem but a domestic redistribution problem, which ‘America first’ will only make worse. Internationally, ‘America first’ is premised on zero-sum logic that cannot ‘make America great again’. In fact, it will do the reverse by putting all countries last, thus shrinking the size of the available gains to create more severe distributive pressures. Domestically, ‘white America first’ promises to restore lost greatness to whites, thus aggravating economic and political inequality in the United States. I provide comprehensive evidence that the United States has benefited tremendously from the LIO, and show how critics understate both those benefits and the risks of selective disengagement. I also argue, however, that the gains have been unevenly distributed within the United States. The unequal distribution of gains from international economic exchange is a recognized problem in the theoretical literature advocating a liberal economic order.5 Globalization can create an enduring division between winners and losers unless investments are made in education and health, so that new generations can compete, and unless labour market adjustment programmes facilitate workers’ transition from declining to expanding industries. Redistributive policies, including access to post-secondary education, are necessary to ensure that more Americans partake in the gains from international involvement and to shore up the domestic foundations of the LIO. In exploring how economic and political inequality within the United States has impinged on its ability to assert hegemonic leadership, I argue that an ‘us vs them’ sentiment, internationally vis-à-vis other countries, and domestically vis-à- vis non-white ethnic groups, was the primary force behind Trump’s electoral triumph. While previous presidents have more or less recommitted the United States to an internationalist foreign policy in the face of rising inequality, Trump detected festering economic and political wounds within the United States. The announcement of an intention to ‘make America great again’ resonated strongly with citizens of a Great Power who hardly felt economically privileged in relation to the rest of the world, and with white non-college-educated voters who were told they benefited from ‘white privilege’ while experiencing economic hardship and political alienation. Thus, contrary to Stiglitz, for example, who sees income inequalities in ‘white America’ as the main threat to the LIO—but does not problematize why white voters voted differently from other Americans in the same income bracket—I see political inequalities, particularly the appeal of ‘white America first’ among the white non-college-educated electorate, as a major threat to the LIO.6 The article is structured as follows. First I present the criticism of the LIO embodied in the ‘America first’ agenda as expressed on the campaign trail and in Trump’s inaugural promises. Second, I draw on International Relations (IR) theory to better understand both criticisms of the LIO and the rise of Trumpism. Third, I propose an alternative reading of the challenges the LIO confronts in both its international and it domestic foundations, as well as the relationship between the two. The final section offers concluding thoughts. What’s wrong with the LIO? Trump’s campaign and inaugural promises President Trump’s campaign and inaugural speech promised an ambitious redistributive programme, vowing to rebalance global wealth and power. Like populists in other advanced countries, Trump argues for a fundamental revision of the international order, proposing a recasting of the prevailing principles to foster a global system tailored to US interests. The leitmotiv for this new order is ‘America first’. The term has historical origins in an isolationist movement protesting America’s involvement in the Second World War. President Trump’s version of ‘America first’ was clarified in the policies he first proposed during the 2016 campaign and then reiterated in his January 2017 inaugural speech and at the Conservative Political Action Conference (CPAC) the following month.7 This programme targets three theatres of the LIO: security, trade and money. I will discuss each in turn, demonstrating the connection between Trump’s proposed policies and the logic of free-riding allies and unfair burden-sharing. The security plank In a bid to open up a new era, the Trump administration has sought to reorientate US grand strategy by advocating policies which repudiate the LIO. On the campaign trail, Trump insisted that America’s allies in NATO and similar alliances pay their ‘fair share’ of the world’s national security expenses. In a New York Times interview, he stated that if allies failed to adequately share in the defence burden he would tell them: ‘Congratulations, you will be defending yourself.’8 Trump’s stance on US security provision is not new. Asked by Larry King in an interview 30 years ago: ‘We are kind of the world’s keeper, are we not?’, Trump responded: I don’t believe we should be. I think Japan should certainly make a contribution … one of the reasons they’re so successful is they don’t have to worry about defense. Because why should they worry about defense when the United States will do it for nothing. I mean it’s crazy.9 Trump’s position on this point has in fact remained remarkably consistent since the late 1980s. In his inaugural address, he said the United States has ‘subsidized the armies of other countries while allowing for the very sad depletion of our military. We’ve defended other nations’ borders while refusing to defend our own.’10 And in his February address to Congress, he said: ‘We expect our partners—whether in NATO, the Middle East, or in the Pacific—to take a direct and meaningful role in both strategic and military operations, and pay their fair share of the cost.’11 Even Secretary of Defense General James Mattis, who generally favours alliances, said: ‘America will meet its responsibilities, but if your nations do not want to see America moderate its commitment to this alliance, each of your capitals needs to show support for our common defence.’12 And after German Chancellor Angela Merkel’s visit to the White House, Trump tweeted: ‘I had a GREAT meeting … Nevertheless, Germany owes … vast sums of money to NATO & the United States must be paid more for the powerful, and very expensive, defense it provides to Germany!’13 After a meeting with NATO’s Secretary-General, Jens Stoltenberg, Trump partially retreated from his previous comments about NATO being ‘obsolete’, citing the organization’s commitment to fight terrorism and the Secretary-General’s efforts to increase allied burden-sharing as reasons for this shift.14 By either abandoning or neglecting commitments, or seeking to put pressure on allies to deliver better deals, the Trump administration hopes to staunch what the President sees as a security-driven financial haemorrhage that has transferred wealth from the United States to other countries. But US security alliances are not a drain on the public purse or some optional add-on to the liberal order; they are its very foundation. Never before in postwar history has a US president voiced such a fundamental break with the organizing principle of US security provision, replacing the understanding of the United States as ‘leader of the free world’ with appeals to the white man’s burden to ‘unite the civilized world’.15 The trade plank Concerns about other countries gaining disproportionately from international cooperation are not confined to security relations but extend to economic relations. President Trump has opposed the multilateral economic bargains of the postwar era, and has been an especially fierce opponent of the international trade order. For many decades, we’ve enriched foreign industry at the expense of American industry … The wealth of our middle class has been ripped from their homes and then redistributed across the entire world … We must protect our borders from the ravages of other countries making our products, stealing our companies and destroying our jobs. Protection will lead to great prosperity and strength In reality it is automation, not trade, that accounts for the overwhelming proportion of US job losses in the manufacturing sector.17 That said, automation has not diminished US employment more than trade has in all bilateral relationships. US job losses as a result of imports from China between 1999 and 2013 are estimated by economists at between 2 million and 2.4 million.18 Thus, President Trump has correctly identified Chinese imports as a source of declining US employment. But imposing punitive tariffs on China is not the appropriate policy response. For one thing, US exports to China, though significantly smaller than US imports from China, still contribute to US job growth. Second, unless measures taken by the US administration are consistent with WTO rules, imposing tariffs on China could spark retaliation and a mutually harmful ‘tariff war’ with lasting economic damage. Third, any effort to reduce trade with China must weigh the benefit of protecting American workers (around 2 million laid off so far) against the cost of denying American citizens (around 300 million) savings from cheaper Chinese imports. If the aim is to alleviate the plight of low-earning Americans, who spend a higher proportion of their income on imports than their wealthier compatriots, and who therefore are the largest beneficiaries of trade, these different considerations must be balanced very carefully.19 Trump has already made good on his promise to upend trade agreements. He has withdrawn the United States from the twelve-nation Trans-Pacific Partnership (TPP);20 and, striking at the very fabric of the free trade system, he has threatened to renegotiate NAFTA and possibly to withdraw from the regional agreement altogether. He has also proposed to impose 45 per cent tariffs on Mexico and China—in violation of WTO rules—and the Office of the United States Trade Representative (USTR) has sought to depart from WTO dispute settlement procedures.21 The Trump administration has also raised the spectre of replacing multilateral and regional trade agreements with bilateral agreements. We’re going to make trade deals, but we’re going to do one-on-one … and if they misbehave, we terminate the deal. And then they’ll come back and we’ll make a better deal. None of these big quagmire deals that are a disaster.22 Prioritizing bilateralism contradicts the prevailing wisdom in trade. Economists generally regard multilateralism as preferable to regionalism and bilateralism.23 That is because preferential trade agreements (PTAs) create an unruly system with overlapping, often contradictory, agreements in a ‘spaghetti bowl’ mess.24 Though PTAs need not reduce global welfare, they risk damaging it both directly and indirectly by undermining support for multilateral trade institutions.25 Even economists sympathetic to PTAs ask how they can be streamlined with a multilateral approach rather than suggesting they should replace international agreements.26 Bilateral deals are also politically less efficient to negotiate than regional or multilateral deals, since they cover fewer countries and issues, and have to be ratified one by one in Congress. The USTR has started to put Trump’s protectionist inclinations into concrete form via an ‘America first trade policy’.27 According to the USTR’s 2017 report, it is time for a new trade policy that defends American sovereignty, enforces US trade laws, uses American leverage to open markets abroad, and negotiates new trade agreements that are fairer and more effective both for the United States and for the world trading system.28 According to the USTR, ‘section 301 can be a powerful lever to encourage foreign countries to adopt more market-friendly policies’.29 Allegations of unfair trading practices tend to surface as US trade deficits deepen. These types of complaint also figured prominently in the 1980s when the United States was grappling with serial trade deficits. The US President has far-reaching executive authority to retaliate against ‘unjustifiable, unreasonable, or discriminatory’ foreign trade practices outside the GATT/WTO framework through a set of legal instruments.30 Section 301 of the 1974 Trade Act allows American firms to petition the USTR in order to remove trade barriers in foreign markets. Special 301 extends the provisions of section 301 to intellectual property rights.31 Super 301 identifies a hit-list of priority countries for section 301 actions. However, using these measures without prior permission from the dispute settlement body violates WTO law. In the event of serious injury to the United States through trade, the President has a variety of options, such as imposing tariffs under section 201. In defending its ‘America first trade policy’, the USTR argues that President George W. Bush used safeguard action under section 201 to curtail the increase in steel imports in 2002, and that such action ‘can be a vital tool for industries needing temporary relief from imports to become more competitive’.32 However, in response to President Bush’s use of section 201, the WTO authorized the EU to retaliate and the US withdrew the tariff. Both section 201 and section 301 have been unpopular internationally. One of the main purposes of the 1995 WTO ‘Understanding on rules and procedures governing the settlement of disputes’ was to reform dispute settlement procedures so as to reduce section 301 litigation. Making panel rulings binding aimed to replace US unilateral enforcement with WTO enforcement. Prioritizing ‘fair trade’ litigation through US trade statutes, even though the WTO now has strong enforcement powers, suggests that the ‘America first trade policy’ is more about rigging the playing field than levelling it. And if the President authorizes section 201 tariffs without sufficient evidence of serious domestic injury (as President Bush did), the United States risks setting off mutually destructive tariff wars. The money plank President Trump’s extremely controversial positions on the international monetary order have gone largely unnoticed. While his complaints about unfair trade advantages arising from currency manipulation have been registered, he also has strong views on the dollar’s global role. As regards currency rigging, the President is right in that both China and Japan have formerly intervened in currency markets to reduce the dollar price of their currencies.33 But at present, Chinese authorities are struggling to prevent depreciation of the renminbi as a result of capital outflows caused by instability in Chinese financial markets. Recently, Trump changed his mind about China, saying: ‘They’re not currency manipulators.’34 Moreover, currency manipulation does not necessarily translate into commercial competitiveness.35 Japan’s efforts to increase competitiveness via currency manipulation in the twenty-first century were largely unsuccessful. Today, the Japanese government claims its interventions are designed not to improve the country’s trade balance but to combat deflation. However, the most contentious monetary policy advocated by the President has largely failed to register on the radar screen. His proposed return to the gold standard would be a truly astonishing break with US monetary policy. On the Richter scale for the world economy, it would be equivalent to the 1971 ‘Nixon shock’ when the United States unilaterally suspended convertibility of dollars into gold, destroying the Bretton Woods fixed exchange rate system. ‘Bringing back the gold standard would be very hard to do, but boy, would it be wonderful. We’d have a standard on which to base our money.’36 His economic advisers, most notably Dr Judith Sheldon, have advocated a return to the Bretton Woods system of fixed exchange rates with dollars convertible into gold.37

#### Doesn’t solve the most likely wars and deterrence isn’t credible

Keohane 15

Robert O. Keohane is Professor of International Affairs, Princeton University, reviewing “Theory of Unipolar Politics”, Nuno Monteiro is an assistant professor of political science at Yale University, Perspectives on Politics / Volume 13 / Issue 01 / March 2015, pp 256-257

All is not truly well in the unipolar world since the potential for conflict is high. Indeed, Moneiro calculates that for the period between 1816 and 2014, the incidence of great-power war per great-power year has been about four times as high under unipolarity than under multipolarity or bipolarity. That is, although the lethality of war has fallen sharply, as others have argued, its incidence for great powers—under unipolarity, the great power—has risen.

Unipolarity implies that minor powers will not be constrained by their more powerful allies, creating possibilities for war. Disengagement by the unipole therefore induces conflicts between other states. If the unipole remains engaged, the chief problem is “recalcitrant minor powers”: states without nuclear weapons whose objectives fundamentally conflict with those of the unipole or of their neighbors. (Monteiro’s inattention to domestic politics and movement regimes prevents him from being more specific about how these objectives arise.) If the unipole pursues offensive dominance, it is likely to generate resistance from these states, and since a unipole has difficulty sending credible signals (since signaling is not sufficiently costly for it), miscalculations can lead to war. The author’s examples are the 2003 U.S.-Iraqi war and the 1999 Kosovo war between NATO and Serbia; he refers in these terms to U.S. intervention in Afghanistan after 2001, although he does not analyze it in detail.

Even if the unipole follows Monteiro’s preferred strategy of defensive dominance coupled with economic accommodation, recalcitrant minor powers have strong incentives to develop nuclear weapons and the unipole has strong incentives to stop them. War can result from these conflicts of interest, especially in view of uncertainty about the minor power’s actions and the unipole’s resolve. In the contemporary world, think of North Korea and Iran.

#### No scenario for hegemonic conflict

Wohlforth 15

William Wohlforth, IR Prof @ Dartmouth, Valdai Papers, February 2015, “The Return of Realpolitik: Stability vs. Change in the US-Led World Order”, http://vid-1.rian.ru/ig/valdai/Paper11\_eng.pdf

2. No Hegemonic War

How do you overthrow a settled international system? Rising, dissatisfied powers want to change the system, dominant states resist, clinging to their perquisites. Each thinks it has the strength to defend its position. The main way this contradiction was resolved historically—at least, if theorists like Robert Gilpin are right—was an all-out war involving all or most great powers. Not only did hegemonic war resolve the contradiction between the underlying distribution of capabilities in the system and the hierarchy of prestige or status, it also served as “a uniquely powerful agent of change in world politics because it tends to destroy and discredit old institutions and force the emergence of a new leading or hegemonic state.”8

Thankfully, such a war is exceedingly unlikely to emerge among states armed with secure secondstrike nuclear forces, whose core security, future power, and economic prosperity do not hinge on the physical control of others’ territory. Can something else take its place? Not according to a new book by Randall Schweller. Other destructive events one can imagine, such as a global economic crash, pandemic, or environmental catastrophe, may wreak widespread destruction but they are not driven by political logics and so cannot perform some political functions. As Schweller argues, “it is precisely the political ends of hegemonic wars that distinguish them and the crucial international-political functions they perform—most important, crowning a new hegemonic king and wiping the global institutional slate clean—from mere cataclysmic global events.”9 On his view, only hegemonic war can force the emergence of a new hegemon, clarify power relations, and wipe the inter-state institutional structure clean, leaving a tabula rasa for the newly anointed hegemon to write new rules. “The distasteful truth of history,” Schweller writes, “is that violent conflict not only cures the ill effects of political inertia and economic stagnation but is often the key that unlocks all the doors to radical and progressive historical change.”10

We can look at the conditions under which the current system took shape for clues. World War II is widely seen as the most destructive of modern history. But while it knocked several great powers down, it yielded ambiguous lessons concerning the relative importance of American sea, air and economic capabilities versus the Soviet Union’s proven conventional military superiority in Eurasia. 11 Even though it failed to clarify the US-Soviet power balance, the war radically increased the economic gap in the United States’ favor not only by giving it history’s greatest Keynesian boost but also by physically destroying or gravely wounding all other world’s major economies. It created the preconditions for the Cold War, without which America’s order building project could never have been as elaborate and extensive. It left the Soviet Union’s armies in the center of Europe, creating the conditions without which NATO would never have been created. This enabled history’s most deeply institutionalized and long lasting set of alliances by giving Washington the incentive to overcome domestic resistance to the costs of building hegemony while conferring unprecedented U.S. leverage over its allies to bend them to its will. Not only that, it left in its wake unprecedented humanitarian and economic crises that only the United States had the wherewithal to address in a timely fashion. It is exceedingly difficult to imagine any set of conditions emerging that is remotely as conducive to systemic change. If Gilpin was right that “hegemonic war historically has been the basic mechanism of systemic change in world politics,” and if most scholars are right that such a war is exceedingly unlikely in the nuclear age, then systemic change is much harder now than in the past. With world war-scale violence off the table, any order presumably becomes harder to overthrow.

It follows that scholarly and popular discussions radically underestimate the difficulty of hegemonic emergence and therefore overestimate the fragility of the American-centered order. Standard treatments of systemic change do not capture crucial effects that conspired to facilitate the current order that emerged under U.S. auspices. Uniquely in modern history, World War II destroyed the old order, clarified power relations between the US and its allies, and yielded a bipolar structure that was uniquely conducive the US order building effort in the ports of the international system over which it held sway. ). In this light, expectations of a coming “Chinese century” or “Pax Sinica” seem fanciful.

#### Heg in terminal decline now --- counterbalancing, lack of public will, and Trump

Kagan 17 Robert Kagan, Robert Kagan is the Stephen & Barbara Friedman Senior Fellow with the [Project on International Order and Strategy](https://www.brookings.edu/legacy/63F055B0-A187-4221-9DBE-0547C2A79A59) in the [Foreign Policy](https://www.brookings.edu/legacy/7E60367E-9EA6-46CD-97BD-F148DC5E2451) program at Brookings. He is a contributing columnist at the Washington Post. His most recent book is The New York Times bestseller, "[The World America Made](http://knopf.knopfdoubleday.com/2012/02/08/the-world-america-made-by-robert-kagan/)" (Knopf, 2012) His previous books include "[The Return of History and the End of Dreams](http://www.randomhouse.com/book/89278/the-return-of-history-and-the-end-of-dreams-by-robert-kagan)" (Knopf 2008), "[Dangerous Nation: America’s Place in the World from its Earliest Days to the Dawn of the 20th Century](http://www.randomhouse.com/book/89275/dangerous-nation-by-robert-kagan)" (Knopf, 2006), "[Of Paradise and Power](http://www.randomhouse.com/book/89276/of-paradise-and-power-by-robert-kagan)" (Knopf, 2003), and "A Twilight Struggle: American Power and Nicaragua, 1977-1990" (Free Press, 1996). “Chapter Title: The Twilight of the Liberal World Order” Chapter Author(s): ROBERT KAGAN. Book Title: “Brookings Big Ideas for America Book” Editor(s): MICHAEL E. O’HANLON Published by: Brookings Institution Press. 2017.

In recent years, however, the liberal order has begun to weaken and fracture at the core. As a result of many related factors— difficult economic conditions, the recrudescence of nationalism and tribalism, weak and uncertain political leadership and unresponsive mainstream political parties, a new era of communications that seems to strengthen rather than weaken tribalism— there has emerged a crisis of confidence in what might be called the liberal enlightenment project. That project tended to elevate universal principles of individual rights and common humanity over ethnic, racial, religious, national, or tribal differences. It looked to a growing economic interdependence to create common interests across boundaries and the establishment of international institutions to smooth differences and fa cilitate cooperation among nations. Instead, the past decade has seen the rise of tribalism and nationalism; an increasing focus on the “other” in all societies; and a loss of confidence in government, in the capitalist system, and in democracy. We have been witnessing something like the opposite of the “end of history” but have returned to history with a vengeance, rediscovering all the darker aspects of the human soul. That includes, for many, the perennial human yearning for a strong leader to provide firm guidance in a time of seeming breakdown and incoherence. This crisis of the enlightenment project may have been inevitable. It may indeed have been cyclical, due to inherent flaws in both capitalism and democracy, which periodically have been exposed and have raised doubts about both— as happened, for instance, throughout the West in the 1930s. Now, as then, moreover, this crisis of confidence in liberalism coincides with a breakdown of the strategic order. In this case, however, the key variable has not been the United States as the outside power and its willingness, or not, to step in and save or remake an order lost by other powers. Rather it is the United States’ own willingness to continue upholding the order that it created and which depends entirely on American power. That willingness has been in doubt for some time. Increasingly in the quarter- century after the end of the Cold War, Americans have been wondering why they bear such an unusual and outsized responsibility for preserving global order when their own interests are not always apparently served and when, indeed, the United States seems to be making sacrifices while others benefit. The reasons why the United States took on this abnormal role after the calamitous two world wars of the 20th century have been largely forgotten. As a consequence, the American public’s patience with the difficulties and costs inherent in playing such a role has worn thin. Thus, whereas previous unsuccessful wars, in Korea in 1950 and Vietnam in the 1960s and 1970s, and previous economic downturns, such as in the mid- to late 1970s, did not have the effect of turning Americans against global involvement, the unsuccessful wars in Iraq and Afghanistan and the financial crisis of 2007–09 have had that effect. President Obama pursued an ambivalent approach to global involvement, but the main thrust of his approach was retrenchment. His actions and statements were a critique of previous American strategy and reinforced a national mood favoring a much less active role in the world and much narrower definition of American interests. With the election of Donald Trump, a majority of Americans have sig naled their unwillingness to continue upholding the world order. Trump was not the only candidate in 2016 to run on a platform suggesting a much narrower definition of American interests and a lessening of the burdens of American global leadership. “America First” is not just an empty phrase but a fairly coherent philosophy with a long lineage and many adherents in the American academy. It calls for viewing American interests through a narrow lens. It suggests no longer supporting an international alliance structure, no longer seeking to deny great powers their spheres of influence and regional hegemony, no longer attempting to uphold liberal norms in the international system, and no longer sacrificing short- term interests— in trade for instance— in the longer- term interest of preserving an open economic order.

### Telecommunications

#### China has structural advantages in the tech race – companies have international ambitions, and the state gives enormous financial backing

Olsen 20 – Singapore-based co-founder of the strategic consultancy MetisAsia and a commentator on Chinese-Western relations. Former British Army intelligence officer.

Sam Olsen, “China is winning the war for global tech dominance,” *The Hill*, 4 October 2020, https://thehill.com/opinion/technology/518773-china-is-winning-the-war-for-global-tech-dominance.

Unfortunately for those hawkish on Huawei, the vast majority of the world remains open to using the company’s technology. Huawei has a presence in more than 170 countries, including dozens in Europe, and even Canada has yet to be persuaded to block the Chinese Communist Party-linked company.

This is a reflection of the reality that America finds itself in today — namely, that China appears to be winning the war to build the world’s technology infrastructure.

China’s push to dominate technology is being coordinated through a program called the Digital Silk Road (DSR), a subset of the more widely known Belt and Road Initiative. Launched in 2015, the DSR is a private-sector agenda heavily supported by the state with the aim of extending China’s digital presence abroad, and thereby enhancing its commercial and political influence.

The DSR is answering the demand for connectivity from Asia to Africa to Latin America. Chinese companies have built out much of the world’s digital foundations, including fiber-optic cables and telecommunication network schemes. Data centers have been constructed, and projects set up in smart education and online surveillance. The global pandemic is providing new opportunities for Chinese companies in the fast-growing digital health care sector, with both Huawei and Alibaba sharing their coronavirus detection systems abroad.

Beijing is heavily supporting this expansion. Huawei’s success has been eased by a state-backed credit line that at one point reached $100 billion and made sure that it was able to outbid all its rivals not only on price, but on R&D too. Billions of dollars of loans have been given to countries to buy Chinese tech in the name of development aid, and such is the DSR’s positive impact on global digital infrastructure that the program is now being referenced by the United Nations as a way to advance its own Sustainability Development Goals.

On the face of it, American technology firms are doing very well versus their Chinese counterparts. Microsoft and Alphabet, for example, are far more valuable than, say, Alibaba or Tencent. Yet in the race for the world, many American company boards simply don’t have the appetite to spend money outside of their core Western and allied markets; Oracle, one of America’s tech titans, has just a third of the global presence of Huawei. When American firms do try to invest in emerging market infrastructure, they run the risk of accusations of “digital colonialism.”

Taking a mainly commercial view means that Western companies are being eclipsed by their Chinese rivals across much of the world. This should be a concern for the U.S., given what China wants to do with its tech superiority.

Later this year, we expect the release of the “China Standards 2035” plan, which aims to set global standards for evolving technologies such as the internet of things, artificial intelligence (AI), and 5G over the next 15 years. With Chinese technology infrastructure dominating in so many countries, the 2035 plan will cement China’s standards as the norm and give its companies a significant, and perhaps permanent, business advantage over their American competitors.

The Chinese capture of advanced technologies is happening. Baidu, which is sometimes called the “Google of China,” has developed the world’s first open source autonomous vehicle platform. It now has 130 partners, including many of the European carmakers.

Beijing has aspirations in blockchain, too. It has launched the “Blockchain Service Network” (BSN), a government-controlled platform that it wants to make dominant not only in China, but worldwide. In the half-year since its announcement, the BSN has established a presence in dozens of countries, including Japan, Australia and the United States.

Then there is the internet itself. China has stated plans to replace the technological architecture that has supported the internet for the past half-century with one radically different in form. The design, created by Huawei, calls for a new internet protocol (the so-called “New IP” proposal) that would allow the internet to be controlled by nation states. Although unlikely to be adopted internationally soon, the proposal is a stark reminder of how technology is not an ethics-neutral domain, but instead is underpinned by subjective values that can be challenged.

This is the real issue that Chinese technological control creates. Beijing wants to define the standards of important future technologies such as AI, and the values upon which they are based — a move that will tilt the world away from American commercial and political influence.

The world is hungry for more connectivity, and China is satisfying that demand. America needs its own “Digital Silk Road” equivalent if it is to keep its long-term influence broader than its fellow Huawei hawks.