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#### The social “sciences,” in pursuit of rigorous proofs of how the world should work, have abandoned the reality of how it does work. Perfect competition cannot exist. Economics provides no insight on improving market design.

Blaug ’02 – Professor at the University of London [Mark; dead ☹, was Professor Emeritus of the University of London and Buckingham University, Visiting Professor of Economics at the University of Amsterdam and Erasmus University of Rotterdam, Fellow of the British Academy, Foreign Honorary Member of the Royal Netherlands Academy of Arts and Sciences; 2002; "Ugly currents in modern economics"; *Fact and Fiction in Economics: Models, Realism, and Social Construction*, Cambridge University Press; http://ndl.ethernet.edu.et/bitstream/123456789/19654/1/3.pdf#page=53; accessed 8-11-2021]

Similarly, Edmond Malinvaud (1997), no mean mathematical theorist himself, conceded that too much weight in research was given to mathematical skill: “today much praise is given to building and solving models of disputable relevance: too little is given to good pieces of economics as long as they contain no mathematical model.” We could go on all night piling up similar testimony from other leaders of the economics profession2 but perhaps enough has been said to make my point: modern economics is **sick**; economics has increasingly become an **intellectual game** played for its own sake and not for its **practical consequences**; economists have gradually converted the subject into a sort of Social Mathematics in which analytical rigor as understood in math departments is **everything** and empirical relevance (as understood in physics departments) is **nothing**. If a topic cannot be tackled by **formal modeling**, it is simply consigned to the **intellectual underworld**; to pick up a copy these days of The American Economic Review or The Economic Journal, not to mention Econometrica or the Review of Economic Studies, is to wonder whether one has landed on a **strange planet** in which tedium is the **deliberate objective** of professional publication. Economics was condemned a century ago as the “dismal science” but the dismal science of yesterday was a **lot less dismal** than the **soporific scholasticism** of today. To paraphrase the title of a popular British musical: “No Reality, Please. **We’re Economists**.”

2 General equilibrium theory

It was not always so. If we can date the onset of the illness at all, it is the publication in 1954 of a famous paper by Nobel Laureates Kenneth Arrow and Gerard Debreu; it is this paper that marks the beginning of what has since become a cancerous growth in the very center of microeconomics.3 The Arrow–Debreu paper provided a **rigorous proof** of the existence of **multimarket equilibrium** in a decentralized economy, a notion which L´eon Walras had entertained eighty years earlier but which he had failed to establish convincingly. This proof was rigorous by **mathematical standards** but it required some assumptions which clearly **violated economic reality**; for example, that there are **forward markets** for every commodity and for all conceivable contingencies in all future periods and yet that no one **holds money** as a store of value for more than one period. Even so, Arrow and Debreu did not manage to prove that such a general equilibrium is **stable** in the sense that it is **actually attained** from whatever position at which we start. In short, the Arrow–Debreu proof had more to do with mathematical logic than with economics.

Unfortunately, this paper soon became a model of what economists ought to aim for as modern scientists. In the process, few readers realized that Arrow and Debreu had in fact abandoned the vision that had originally motivated Walras. For Walras, general equilibrium theory was intended to be an abstract but nevertheless realistic description of the functioning of a capitalist economy and he was therefore more concerned to show that markets will clear automatically via price adjustments in response to positive or negative excess demand – a property which he labelled “tˆatonnement” – than to prove that an unique set of prices and quantities is capable of clearing all markets simultaneously.4 By the time we get to Arrow and Debreu, however, general equilibrium theory has ceased to make **any descriptive claim** about actual economic systems and has become a **purely formal apparatus** about a virtual economy; it has become a perfect example of what Ronald Coase (1993b, 229) has called “blackboard economics,” a model that can be written down on **blackboards** using economic terms like “prices,” “quantities,” “factors of production,” etc. but which nevertheless is **blatantly** and even scandalously unrepresentative of **any recognizable economic system**.

To make things worse, the Arrow–Debreu model was soon augmented by the so-called **Fundamental Theorems** of Welfare Economics, namely, that **every perfectly competitive** economy in a state of general equilibrium is Pareto-optimal and, moreover, that any Pareto-optimal allocation of resources can be attained by means of **perfectly competitive equilibrium** once we make an appropriate redistribution of initial endowments. This is said to nail down precisely what Adam Smith perceived only dimly two hundred years ago: the “invisible hand” of competition secures the **best** of all possible worlds, an **optimum allocation** of resources in which no one can be made better off without making someone else worse off.

Alas, what a historical travesty is here! What Adam Smith meant is what the man-and-woman-in-the-street means when she applauds the competitive process. A competitive economy tends to produce the kind of goods people want at the lowest possible price because it encourages entrepreneurship and technical dynamism through a relentless struggle for advantage, a struggle that is not confined to price competition but includes nonprice variables, such as new goods, better old goods, better-serviced goods, more quickly delivered goods, etc. In other words, for Adam Smith and for the man-and-woman-in-the-street, competition is a type of behavior on the part of **businessmen** and not a market structure like “perfect competition,” according to which business firms are **purely passive** “price-takers” rather than **active** “price-makers.” This is what Richard Lipsey (1997) calls the “informal defence” of competition in contrast to the “formal defense” enshrined in proofs of the Fundamental Theorems of Welfare Economics grounded in the concept of perfect competition. It is exactly the same contrast that Schumpeter (1942, 106–110) drew sixty years ago between “dynamic efficiency” that encourages the innovative process and “static efficiency” that excludes it.

Perfect competition **never did exist** and **never could exist** because even when firms are small, they do not just take the price as given but strive to **make the price**. All the current textbooks say as much but then they immediately go on to say that the cloud-cuckoo-land of perfect competition is the benchmark against which economists may say something significant about real-world competition in the same way that a frictionless plane in physics tells a physicist how fast a ball will travel along an actual inclined plane. But how can an idealized state of perfection be a benchmark when we are never told how to **measure the gap** between it and real-world competition? It is implied that all real-world competition is “**approximately**” like perfect competition but the degree of the approximation is **never specified**, even vaguely. Besides, there is a well-known Lipsey–Lancaster theorem which says that when an economy is not in a **firstbest optimum**, say because of taxes or tariffs, there is **no way of distinguishing** a third-best from a second-best situation and **no way of telling** whether a given change takes us nearer or further away from the first-best optimum. This theorem is **widely acknowledged** in all the textbooks5 and yet this has done nothing to displace the notion that perfect competition is an **ideal** that somehow casts light on the admittedly imperfect competition all around us.

Perfect competition is an **utterly misleading** concept, not least because it directs attention to what equilibrium looks like **when we get to it**, whereas the real problem is that of the **process** of converging on it. In short, competition is a **disequilibrium phenomenon** and yet general equilibriuma la ` Arrow and Debreu, the existence problem, the fundamental theorems of welfare economics, perfect competition, and the like, all foster concern with the end-state of competition at the expense of thinking about competition as a **dynamic process**.6

So, why do modern economists spend so much time teaching their students the model of perfect competition, while denigrating discussion of actual competition in courses on Industrial Organization as “mere description?” It is because the model of perfect competition allows one to make unambiguous comparative static predictions about prices and quantities; one may be able to say only a little, but what one says is precisely said. On the other hand, when it comes to imperfect competition, what one says covers the waterfront of business behavior but has always to be accompanied by exceptions and qualifications. A modern economist would rather say little precisely than much imprecisely, irrespective of the relative significance of what is being said, and she has learned this methodological standard sitting at the feet of Arrow and Debreu (Rosen 1997). If there is such a thing as “original sin” in economic methodology, it is the worship of the idol of the mathematical rigor more or less invented by Arrow and Debreu in 1954 and then canonized by Debreu in his Theory of Value five years later, probably the most arid and pointless book in the entire literature of economics.

The result of all this is that we now understand almost **less** about how actual markets work, than did Adam Smith or even L´eon Walras. We have forgotten that markets require market-makers, that functioning markets **require** middlemen willing to hold inventories, that markets need to be **organized**, and that property rights need to be **defined** and **enforced** if markets are to get started at all.7 We have even forgotten that markets adjust as often in terms of **quantities** rather than **prices**, as in labor markets and customer commodity markets, as Alfred Marshall knew very well but Walras overlooked. So well have we forgotten that fact that a whole branch of economics sprang up in the 1960s and 1970s to provide “microfoundations” for Keynesian macroeconomics, that is, some new explanation for the well-known fact that a decline in aggregate demand causes, not falling real wages at the same level of employment as we might expect on the basis of received Walrasian theory, but rather unemployment at the same real8 wage.

No wonder that we have been **worse than useless** as a profession in advising governments in Eastern Europe to handle the **transition** from a command economy to a market economy (Murrell, 1991). This is the **awful legacy** of general equilibrium theory and the prestige accorded to analysis of end-state competition. Indeed, much of modern microeconomics might be fairly described as a type of **geography** that consists entirely of city-street plans without **any maps** of how to reach a city either from any other city or from the countryside.

#### There is no Homo economicus. In experiments, people consistently defy the “economically rational” decision.

Sen ’77 – Economics Professor at Oxford [Amartya K.; (at time of writing) Professor of Economics at Oxford, now Thomas W. Lamont University Professor and Professor of Economics and Philosophy at Harvard University, Nobel Memorial Prize in Economic Sciences; 1977; "Rational Fools: A Critique of the Behavioral Foundations of Economic Theory"; Philosophy & Public Affairs; https://www.jstor.org/stable/pdf/2264946.pdf; accessed 10-27-2021]

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The economic theory of utility, which relates to the theory of rational behavior, is sometimes criticized for having too much structure; human beings are alleged to be "simpler" in reality. If our argument so far has been correct, precisely the opposite seems to be the case: traditional theory has **too little structure**. A person is given one preference ordering, and as and when the need arises this is supposed to reflect his interests, represent his welfare, summarize his idea of what should be done, and describe his actual choices and behavior. Can one preference ordering do **all these things**? A person thus described may be "rational" in the limited sense of revealing **no inconsistencies** in his choice behavior, but if he has no use for these distinctions between quite different concepts, he must be a bit of a fool. **The purely economic man is indeed close to being a social moron.** Economic theory has been much preoccupied with this **rational fool** decked in the glory of his **one all-purpose preference ordering**. To make room for the dif- ferent concepts related to his behavior we need a more elaborate structure.

What kind of a structure do we need? A bit more room up top is provided by John Harsanyi's important distinction between a person's "ethical" preferences and his "subjective" preferences: "the former must express what this individual prefers (or, rather would prefer), on the basis of impersonal social considerations alone, and the latter must express what he actually prefers, whether on the basis of his personal interests or on any other basis."36 This dual structure permits us to distinguish between what a person thinks is good from the social point of view and what he regards as good from his own personal point of view. Presumably sympathy enters directly into the so-called sub- jective preference, but the role of commitment is left somewhat un- clear. Insofar as a person's "subjective" preferences are taken to "define his utility function," the intention seems to be to exclude commitment from it, but an ambiguity arises from the fact that these are defined to "express his preferences in the full sense of the word as they actually are." Is this in the sense of choice, or in the sense of his conception of his own welfare? Perhaps Harsanyi intended the latter, since "ethical" preferences are by contrast given the role of expressing "what he prefers only in those possibly rare moments when he forces a special impartial and impersonal attitude on himself."37 But what if he departs from his personal welfare maximization (including any sympathy), not through an impartial concern for all,38 but through a sense of commitment to some particular group, say to the neighborhood or to the social class to which he belongs? The fact is we are still short of structure.

Even in expressing moral judgments from an impersonal point of view, a dual structure is deficient. Surely a preference ordering can be more ethical than another but less so than a third. We need more structure in this respect also. I have proposed elsewhere-at the I972 Bristol conference on "practical reason"-that we need to consider rankings of preference rankings to express our moral judgments.39 I would like to discuss this structure a bit more. A particular morality can be viewed, not just in terms of the "most moral" ranking of the set of alternative actions, but as a moral ranking of the rankings of actions (going well beyond the identification merely of the "most mor- al" ranking of actions). Let X be the set of alternative and mutually exclusive combinations of actions under consideration, and let Y be the set of rankings of the elements of X. A ranking of the set Y (con- sisting of action-rankings) will be called a meta-ranking of action-set X. It is my claim that a particular ranking of the action-set X is not articulate enough to express much about a given morality, and a more robust format is provided by choosing a meta-ranking of actions (that is, a ranking of Y rather than of X). Of course, such a meta-ranking may include inter alia the specification of a particular action-ranking as the "most moral," but insofar as actual behavior may be based on a compromise between claims of morality and the pursuit of various other objectives (including self-interest), one has to look also at the relative moral standings of those action-rankings that are not "most moral."

To illustrate, consider a set X of alternative action combinations and the following three rankings of this action-set X: ranking A represent- ing my personal welfare ordering (thus, in some sense, representing my personal interests), ranking B reflecting my "isolated" personal in- terests ignoring sympathy (when such a separation is possible, which is not always so),40 and ranking C in terms of which actual choices are made by me (when such choices are representable by a ranking, which again is not always So).41 The "most moral" ranking M can, conceivably, be any of these rankings A, B, or C. Or else it can be some other ranking quite distinct from all three. (This will be the case if the actual choices of actions are not the "most moral" in terms of the moral system in question, and if, furthermore, the moral system re- quires sacrifice of some self-interest and also of "isolated" self-inter- est.) But even when some ranking M distinct from A, B, and C is iden- tified as being at the top of the moral table, that still leaves open the question as to how A, B, and C may be ordered vis-a-vis each other. If, to take a particular example, it so happens that the pursuit of self- interest, including pleasure and pain from sympathy, is put morally above the pursuit of "isolated" self-interest (thereby leading to a par- tial coincidence of self-interest with morality), and the actual choices reflect a morally superior position to the pursuit of self-interest (per- haps due to a compromise in the moral direction), then the morality in question precipitates the meta-ranking M, C, A, B, in descending order. This, of course, goes well beyond specifying that M is "morally best."

The technique of meta-ranking permits a varying extent of moral articulation. It is not being claimed that a moral meta-ranking must be a complete ordering of the set Y, that is, must completely order all rankings of X. It can be a partial ordering, and I expect it often will be incomplete, but I should think that in most cases there will be no problem in going well beyond the limited expression permitted by the twofold specification of "ethical" and "subjective" preferences.

The rankings of action can, of course, be ordered also on grounds other than a particular system of morality: meta-ranking is a general technique usable under alternative interpretations of the meta-ranking relation. It can be used to describe a particular ideology or a set of political priorities or a system of class interests. In quite a different context, it can provide the format for expressing what preferences one would have preferred to have ("I wish I liked vegetarian foods more," or "I wish I didn't enjoy smoking so much"). Or it can be used to ana- lyze the conflicts involved in addiction ("Given my current tastes, I am better off with heroin, but having heroin leads me to addiction, and I would have preferred not to have these tastes"). The tool of meta-rankings can be used in many different ways in distinct contexts.

This is clearly not the occasion to go into a detailed analysis of how this broader structure permits a better understanding of preference and behavior. A structure is not, of course, a theory, and alternative theories can be formulated using this structure. I should mention, however, that the structure demands much more information than is yielded by the observation of people's actual choices, which would at most reveal only the ranking C. It gives a role to introspection and to communication. To illustrate one use of the apparatus, I may refer to some technical results. Suppose I am trying to investigate your con- ception of your own welfare. You first specify the ranking A which represents your welfare ordering. But I want to go further and get an idea of your cardinal utility function, that is, roughly speaking, not only which ranking gives you more welfare but also by how much. I now ask you to order the different rankings in terms of their "close- ness" to your actual welfare ranking A, much as a policeman uses the technique of photofit: is this more like him, or is that? If your answers reflect the fact that reversing a stronger preference makes the result more distant than reversing a weaker intensity of preference, your replies will satisfy certain consistency properties, and the order of rankings will permit us to compare your welfare differences between pairs. In fact, by considering higher and higher order rankings, we can determine your cardinal welfare function as closely as you care to spec- ify.42 I am not saying that this type of dialogue is the best way of dis- covering your welfare function, but it does illustrate that once we give up the assumption that observing choices is the only source of data on welfare, a whole new world opens up, liberating us from the infor- mational shackles of the traditional approach.

This broader structure has many other uses, for example, permit- ting a clearer analysis of akrasia-the weakness of will-and clarifying some conflicting considerations in the theory of liberty, which I have tried to discuss elsewhere.43 It also helps in analyzing the development of behavior involving commitment in situations characterized by games such as the Prisoners' Dilemma.44 This game is often treated, with some justice, as the classic case of failure of individualistic ra- tionality. There are two players and each has two strategies, which we may call selfish and unselfish to make it easy to remember without my having to go into too much detail. Each player is better off person- ally by playing the selfish strategy no matter what the other does, but both are better off if both choose the unselfish rather than the selfish strategy. It is individually optimal to do the selfish thing: one can only affect one's own action and not that of the other, and given the other's strategy-no matter what-each player is better off being selfish. But this combination of selfish strategies, which results from self-seeking by both, produces an outcome that is worse for both than the result of both choosing the unselfish strategy. It can be shown that this conflict can exist even if the game is repeated many times.

Some people find it puzzling that **individual self-seeking** by each should produce an inferior outcome for all, but this, of course, is a well-known conflict, and has been discussed in general terms for a very long time. Indeed, it was the basis of Rousseau's famous distinction between the "general will" and the "will of all."45 But the puzzle from the point of view of rational behavior lies in the fact that in actual situations people often **do not follow the selfish strategy**. Real life examples of this type of behavior in complex circumstances are well known, but even in controlled experiments in laboratory conditions people playing the Prisoners' Dilemma frequently do the **unselfish thing**.46

In interpreting these experimental results, the game theorist is tempted to put it down to the **lack of intelligence** of the players: "Evidently the run-of-the-mill players are not **strategically sophisticated enough** to have figured out that strategy DD [the selfish strategy] is the only **rationally defensible** strategy, and this intellectual short-coming saves them from losing."47 A more fruitful approach may lie in **permitting the possibility** that the person is more sophisticated than the theory allows and that he has asked himself what type of preference he would like the other player to have, and on somewhat **Kantian grounds** has considered the case for himself having those preferences, or **behaving as if he had them.** This line of reasoning requires him to consider the **modifications of the game** that would be brought about by acting through **commitment** (in terms of "revealed preferences," this would look as if he had different preferences from the ones he actually had), and he has to assess **alternative behavior norms** in that light. I have discussed these issues elsewhere;48 thus I shall simply note here that the apparatus of ranking of rankings assists the reasoning which involves considering the merits of having different types of preferences (or of acting as if one had them).

VIII

Admitting behavior based on commitment would, of course have **far- reaching consequences** on the nature of many economic models. I have tried to show why this change is necessary and why the consequences may well be **serious**. Many issues remain unresolved, includ- ing the empirical importance of commitment as a part of behavior, which would vary, as I have argued, from field to field. I have also in- dicated why the empirical evidence for this cannot be sought in the mere observation of actual choices, and must involve other sources of information, including introspection and discussion.

There remains, however, the issue as to whether this view of man amounts to seeing him as an irrational creature. Much depends on the concept of rationality used, and many alternative characterizations exist. In the sense of consistency of choice, there is no reason to think that admitting commitment must imply any departure from rational- ity. This is, however, a weak sense of rationality.

The other concept of rationality prevalent in economics identifies it with the possibility of justifying each act in terms of self-interest: when act x is chosen by person i and act y rejected, this implies that i's personal interests are expected by i to be better served by x than by y. There are, it seems to me, three distinct elements in this approach. First, it is a consequentialist view: judging acts by conseqences only.49 Second, it is an approach of act evaluation rather than rule evaluation. And third, the only consequences considered in evaluating acts are those on one's own interests, everything else being at best an inter- mediate product. It is clearly possible to dispute the claims of each of these elements to being a necessary part of the conception of ration- ality in the dictionary sense of "the power of being able to exercise one's reason." Moreover, arguments for rejecting the straightjacket of each of these three principles are not hard to find. The case for actions based on commitment can arise from the violation of any of these three principles. Commitment sometimes relates to a sense of obliga- tion going beyond the consequences. Sometimes the lack of personal gain in particular acts is accepted by considering the value of rules of behavior. But even within a consequentialist act-evaluation frame- work, the exclusion of **any consideration other than self-interest** seems to impose a **wholly arbitrary limitation** on the notion of rationality.

#### Academia is a reverse-qualifier. The “Nobel” theories aren’t just useless… they actively increase the probability of iatrogenic, hidden risks that make us more vulnerable to catastrophes.

Taleb ’08 – Risk Engineering Professor at NYU [Nassim Nicholas; Distinguished Professor of Risk Engineering at New York University’s Polytechnic Institute; 9-14-2008; "THE FOURTH QUADRANT: A MAP OF THE LIMITS OF STATISTICS"; Edge; https://www.edge.org/conversation/the-fourth-quadrant-a-map-of-the-limits-of-statistics; accessed 1-28-2022] \*figures excluded

And **we are beyond suckers**: not only, for socio-economic and other nonlinear, complicated variables, **we are riding in a bus driven a blindfolded driver**, but we refuse to acknowledge it in spite of the evidence, which to me is a **pathological problem** with academia. After 1998, when a "**Nobel-crowned**" collection of people (and the crème de la crème of the **financial economics establishment**) blew up Long Term Capital Management, a hedge fund, because the "scientific" methods they used **misestimated** the role of the rare event, such methodologies and such claims on understanding risks of rare events should have been discredited. Yet the Fed helped their bailout and exposure to **rare events** (and model error) patently **increased exponentially** (as we can see from banks' swelling portfolios of derivatives that we do not understand).

Are we using models of uncertainty to produce certainties?

This masquerade does not seem to come from statisticians—but from the commoditized, "me-too" users of the products. Professional statisticians can be remarkably introspective and self-critical. Recently, the American Statistical Association had a special panel session on the "black swan" concept at the annual Joint Statistical Meeting in Denver last August. They insistently made a distinction between the "statisticians" (those who deal with the subject itself and design the tools and methods) and those in other fields who pick up statistical tools from textbooks without really understanding them. For them it is a problem with statistical education and half-baked expertise. Alas, this category of blind users includes regulators and risk managers, whom I accuse of creating more risk than they reduce.

So the good news is that we can identify where the danger zone is located, which I call "the fourth quadrant", and show it on a map with more or less clear boundaries. A map is a useful thing because you know where you are safe and where your knowledge is questionable. So I drew for the Edgereaders a tableau showing the boundaries where statistics works well and where it is questionable or unreliable. Now once you identify where the danger zone is, where your knowledge is no longer valid, you can easily make some policy rules: how to conduct yourself in that fourth quadrant; what to avoid.

So the principal value of the map is that it allows for policy making. Indeed, I am moving on: my new project is about methods on how to domesticate the unknown, exploit randomness, figure out how to live in a world we don't understand very well. While most human thought (particularly since the enlightenment) has focused us on how to turn knowledge into decisions, my new mission is to build methods to turn lack of information, lack of understanding, and lack of "knowledge" into decisions—how, as we will see, not to be a "turkey".

This piece has a technical appendix that presents mathematical points and empirical evidence. (See link below.) It includes a battery of tests showing that no known conventional tool can allow us to make precise statistical claims in the Fourth Quadrant. While in the past I limited myself to citing research papers, and evidence compiled by others (a less risky trade), here I got hold of more than 20 million pieces of data (includes 98% of the corresponding macroeconomics values of transacted daily, weekly, and monthly variables for the last 40 years) and redid a systematic analysis that includes recent years.

What Is Fundamentally Different About Real Life

My anger with "empirical" claims in risk management does not come from research. It comes from spending twenty tense (but entertaining) years taking risky decisions in the real world managing portfolios of complex derivatives, with payoffs that depend on higher order statistical properties —and you quickly realize that a certain class of relationships that "look good" in research papers almost never replicate in real life (in spite of the papers making some claims with a "p" close to infallible). But that is not the main problem with research.

For us the world is vastly simpler in some sense than the academy, vastly more complicated in another. So the central lesson from decision-making (as opposed to working with data on a computer or bickering about logical constructions) is the following: it is the exposure (or payoff) that creates the complexity —and the opportunities and dangers— not so much the knowledge ( i.e., statistical distribution, model representation, etc.). In some situations, you can be extremely wrong and be fine, in others you can be slightly wrong and explode. If you are leveraged, errors blow you up; if you are not, you can enjoy life.

So knowledge (i.e., if some statement is "true" or "false") matters little, very little in many situations. In the real world, there are very few situations where what you do and your belief if some statement is true or false naively map into each other. Some decisions require vastly more caution than others—or highly more drastic confidence intervals. For instance you do not "need evidence" that the water is poisonous to not drink from it. You do not need "evidence" that a gun is loaded to avoid playing Russian roulette, or evidence that a thief a on the lookout to lock your door. You need evidence of safety—not evidence of lack of safety— a central asymmetry that affects us with rare events. This asymmetry in skepticism makes it easy to draw a map of danger spots.

The Dangers Of Bogus Math

I start with my old crusade against "quants" (people like me who do mathematical work in finance), **economists**, and bank risk managers, my prime perpetrators of **iatrogenic risks** (the healer **killing the patient**). Why iatrogenic risks? Because, not only have economists been **unable to prove that their models** work, but no one managed to prove that the use of a model that does not work is **neutral**, that it does not **increase blind risk taking, hence the accumulation of hidden risks.**

Figure 1 My classical metaphor: A Turkey is fed for a 1000 days—every days confirms to its statistical department that the human race cares about its welfare "with increased statistical significance". On the 1001st day, the turkey has a surprise.

Figure 2 The graph above shows the fate of close to 1000 financial institutions (includes busts such as FNMA, Bear Stearns, Northern Rock, Lehman Brothers, etc.). The banking system (betting AGAINST rare events) just lost > 1 Trillion dollars (so far) on a single error, more than was ever earned in the history of banking. Yet bankers kept their previous bonuses and it looks like citizens have to foot the bills. And one Professor Ben Bernanke pronounced right before the blowup that we live in an era of stability and "great moderation" (he is now piloting a plane and we all are passengers on it).

Figure 3 The graph shows the daily variations a derivatives portfolio exposed to U.K. interest rates between 1988 and 2008. Close to 99% of the variations, over the span of 20 years, will be represented in 1 single day—the day the European Monetary System collapsed. As I show in the appendix, this is typical with ANY socio-economic variable (commodity prices, currencies, inflation numbers, GDP, company performance, etc. ). No known econometric statistical method can capture the probability of the event with any remotely acceptable accuracy (except, of course, in hindsight, and "on paper"). Also note that this applies to surges on electricity grids and all manner of modern-day phenomena.

Figures 1 and 2 show you the classical problem of the turkey making statements on the risks based on past history (mixed with some theorizing that happens to narrate well with the data). A friend of mine was sold a package of subprime loans (leveraged) on grounds that "30 years of history show that the trade is safe." He found the argument unassailable "empirically". And the unusual dominance of the rare event shown in Figure 3 is not unique: it affects all macroeconomic data—if you look long enough almost all the contribution in some classes of variables will come from rare events (I looked in the appendix at 98% of trade-weighted data).

Now let me tell you what worries me. Imagine that the Turkey can be the most powerful man in world economics, managing our economic fates. How? A then-Princeton economist called Ben Bernanke made a **pronouncement** in late 2004 about the "**new moderation**" in economic life: the world getting more and more stable—before becoming the Chairman of the Federal Reserve. Yet the system was getting **riskier and riskier** as we were turkey-style sitting on more and more barrels of dynamite—and Prof. Bernanke's predecessor the former Federal Reserve Chairman Alan Greenspan was **systematically increasing** the hidden risks in the system, making us all more **vulnerable to blowups**.

By the "**narrative fallacy**" the turkey economics department will always manage to state, before thanksgivings that "we are in a **new era of safety**", and back-it up with **thorough** and "**rigorous**" analysis. And Professor Bernanke indeed found plenty of **economic explanations**—what I call the narrative fallacy—with graphs, jargon, curves, the kind of **facade-of-knowledge** that you find in economics textbooks. (This is the find of **glib**, **snake-oil facade of knowledge**—even more dangerous because of the mathematics—that made me, before accepting the new position in NYU's engineering department, verify that there was **not a single economist** in the building. I have nothing against economists: you should let them **entertain each others** with their theories and elegant mathematics, and help keep **college students inside buildings**. But beware: they can be **plain wrong**, yet frame things in a way to make you **feel stupid** arguing with them. So make sure you do not give **any** of them **risk-management responsibilities**.)

Bottom Line: The Map

Things are made simple by the following. There are two distinct types of decisions, and two distinct classes of randomness.

Decisions: The first type of decisions is simple, "binary", i.e. you just care if something is true or false. Very true or very false does not matter. Someone is either pregnant or not pregnant. A statement is "true" or "false" with some confidence interval. (I call these M0 as, more technically, they depend on the zeroth moment, namely just on probability of events, and not their magnitude —you just care about "raw" probability). A biological experiment in the laboratory or a bet with a friend about the outcome of a soccer game belong to this category.

The second type of decisions is more complex. You do not just care of the frequency—but of the impact as well, or, even more complex, some function of the impact. So there is another layer of uncertainty of impact. (I call these M1+, as they depend on higher moments of the distribution). When you invest you do not care how many times you make or lose, you care about the expectation: how many times you make or lose times the amount made or lost.

Probability structures: There are two classes of probability domains—very distinct qualitatively and quantitatively. The first, thin-tailed: Mediocristan", the second, thick tailed Extremistan. Before I get into the details, take the literary distinction as follows:

In Mediocristan, exceptions occur but don't carry large consequences. Add the heaviest person on the planet to a sample of 1000. The total weight would barely change. In Extremistan, exceptions can be everything (they will eventually, in time, represent everything). Add Bill Gates to your sample: the wealth will jump by a factor of >100,000. So, in Mediocristan, large deviations occur but they are not consequential—unlike Extremistan.

Mediocristan corresponds to "random walk" style randomness that you tend to find in regular textbooks (and in popular books on randomness). Extremistan corresponds to a "random jump" one. The first kind I can call "Gaussian-Poisson", the second "fractal" or Mandelbrotian (after the works of the great Benoit Mandelbrot linking it to the geometry of nature). But note here an epistemological question: there is a category of "I don't know" that I also bundle in Extremistan for the sake of decision making—simply because I don't know much about the probabilistic structure or the role of large events.

The Map

Now it lets see where the traps are:

First Quadrant: Simple binary decisions, in Mediocristan: Statistics does wonders. These situations are, unfortunately, more common in academia, laboratories, and games than real life—what I call the "ludic fallacy". In other words, these are the situations in casinos, games, dice, and we tend to study them because we are successful in modeling them.

Second Quadrant: Simple decisions, in Extremistan: some well known problem studied in the literature. Except of course that there are not many simple decisions in Extremistan.

Third Quadrant: Complex decisions in Mediocristan: Statistical methods work surprisingly well.

Fourth Quadrant: Complex decisions in Extremistan: Welcome to the Black Swan domain. Here is where your limits are. Do not base your decisions on statistically based claims. Or, alternatively, try to move your exposure type to make it third-quadrant style ("clipping tails").

The four quadrants. The South-East area (in orange) is where statistics and models fail us.

Tableau Of Payoffs

Two Difficulties

Let me refine the analysis. The passage from theory to the real world presents two distinct difficulties: "inverse problems" and "pre-asymptotics".

Inverse Problems. It is the greatest epistemological difficulty I know. In real life **we do not observe** probability distributions (not even in Soviet Russia, not even the French government). We just **observe events**. So we do not know the statistical properties—until, of course, after the fact. Given a set of observations, plenty of statistical distributions can correspond to the **exact same realizations**—each would extrapolate differently **outside** the set of events on which it was derived. The inverse problem is more acute when more theories, more distributions can fit a set a data.

This inverse problem is compounded by the small sample properties of rare events as these will be naturally rare in a past sample. It is also acute in the presence of nonlinearities as the families of possible models/parametrization explode in numbers.

Pre-asymptotics. Theories are, of course, bad, but they can be worse in some situations when they were derived in idealized situations, the asymptote, but are used outside the asymptote (its limit, say infinity or the infinitesimal). Some asymptotic properties do work well preasymptotically (Mediocristan), which is why casinos do well, but others do not, particularly when it comes to Extremistan.

Most statistical education is based on these asymptotic, **Platonic properties**—yet we live in the real world that **rarely resembles** the asymptote. Furthermore, this compounds the ludic fallacy: most of what students of statistics do is **assume a structure**, typically with a known probability. Yet the problem we have is not so much making computations once you know the probabilities, but finding the **true distribution**.

The Inverse Problem Of The Rare Events

Let us start with the inverse problem of rare events and proceed with a simple, nonmathematical argument. In August 2007, The Wall Street Journal published a statement by one financial economist, expressing his surprise that financial markets experienced a string of events that "would happen once in 10,000 years". A portrait of the gentleman accompanying the article revealed that he was considerably younger than 10,000 years; it is therefore fair to assume that he was not drawing his inference from his own empirical experience (and not from history at large), but from some theoretical model that produces the risk of rare events, or what he perceived to be rare events.

Alas, the rarer the event, the more theory you need (since we don't observe it). So the rarer the event, the worse its inverse problem. And theories are fragile (just think of Doctor Bernanke).

The tragedy is as follows. Suppose that you are **deriving probabilities** of future occurrences from the data, assuming (generously) that the past is **representative** of the future. Now, say that you estimate that an event happens **every 1,000** days. You will need a lot more data than 1,000 days to ascertain its frequency, say **3,000** days. Now, what if the event happens once every 5,000 days? The estimation of this probability requires **some larger number**, 15,000 or more. The smaller the probability, the **more observations** you need, and the greater the estimation error for a set number of observations. Therefore, to estimate a rare event you need a sample that is larger and **larger in inverse proportion** to the occurrence of the event.

If small probability events carry **large impacts**, and (at the same time) these small probability events are **more difficult to compute** from past data itself, then: our empirical knowledge about the **potential contribution**—or role—of rare events (probability × consequence) is **inversely proportional** to their impact. This is **why we should worry** in the fourth quadrant!

For rare events, the **confirmation bias** (the tendency, Bernanke-style, of finding samples that confirm your opinion, not those that disconfirm it) is **very costly** and very distorting. Why? Most of histories of Black Swan prone events is going to be Black Swan free! Most samples will not reveal the black swans—except **after if you are hit with them**, in which case you will not be in a position to discuss them. Indeed I show with 40 years of data that past Black Swans **do not predict** future Black Swans in socio-economic life.

Figure 4 The Confirmation Bias At Work. For left-tailed fat-tailed distributions, we do not see much of negative outcomes for surviving entities AND we have a small sample in the left tail. This is why we tend to see a better past for a certain class of time series than warranted.

Fallacy Of The Single Event Probability

Let us look at events in Mediocristan. In a developed country a newborn female is expected to die at around 79, according to insurance tables. When she reaches her 79th birthday, her life expectancy, assuming that she is in typical health, is another 10 years. At the age of 90, she should have another 4.7 years to go. So if you are told that a person is older than 100, you can estimate that he is 102.5 and conditional on the person being older than 140 you can estimate that he is 140 plus a few minutes. The conditional expectation of additional life drops as a person gets older.

In Extremistan things work differently and the conditional expectation of an increase in a random variable does not drop as the variable gets larger. In the real world, say with stock returns (and all economic variable), conditional on a loss being worse than the 5 units, to use a conventional unit of measure units, it will be around 8 units. Conditional that a move is more than 50 STD it should be around 80 units, and if we go all the way until the sample is depleted, the average move worse than 100 units is 250 units! This extends all the way to areas in which we have sufficient sample.

This tells us that there is "no typical" failure and "no typical" success. You may be able to predict the occurrence of a war, but you will not be able to gauge its effect! Conditional on a war killing more than 5 million people, it should kill around 10 (or more). Conditional on it killing more than 500 million, it would kill a billion (or more, we don't know). You may correctly predict a skilled person getting "rich", but he can make a million, ten million, a billion, ten billion—there is no typical number. We have data, for instance, for predictions of drug sales, conditional on getting things right. Sales estimates are totally uncorrelated to actual sales—some drugs that were correctly predicted to be successful had their sales underestimated by up to 22 times!

This absence of "typical" event in Extremistan is what makes prediction markets ludicrous, as they make events look binary. "A war" is meaningless: you need to estimate its damage—and no damage is typical. Many predicted that the First War would occur—but nobody predicted its magnitude. Of the reasons economics does not work is that the literature is almost completely blind to the point.

A Simple Proof Of Unpredictability In The Fourth Quadrant

I show elsewhere that if you don't know what a "typical" event is, fractal power laws are the most effective way to discuss the extremes mathematically. It does not mean that the real world generator is actually a power law—it means you don't understand the structure of the external events it delivers and need a tool of analysis so you do not become a turkey. Also, fractals simplify the mathematical discussions because all you need is play with one parameter (I call it "alpha") and it increases or decreases the role of the rare event in the total properties.

For instance, you move alpha from 2.3 to 2 in the publishing business, and the sales of books in excess of 1 million copies triple! Before meeting Benoit Mandelbrot, I used to play with combinations of scenarios with series of probabilities and series of payoffs filling spreadsheets with clumsy simulations; learning to use fractals made such analyses immediate. Now all I do is change the alpha and see what's going on.

Now the problem: Parametrizing a power law lends itself to monstrous estimation errors (I said that heavy tails have horrible inverse problems). Small changes in the "alpha" main parameter used by power laws leads to monstrously large effects in the tails. Monstrous.

And we don't observe the "alpha. Figure 5 shows more than 40 thousand computations of the tail exponent "alpha" from different samples of different economic variables (data for which it is impossible to refute fractal power laws). We clearly have problems figuring it what the "alpha" is: our results are marred with errors. Clearly the mean absolute error is in excess of 1 (i.e. between alpha=2 and alpha=3). Numerous papers in econophysics found an "average" alpha between 2 and 3—but if you process the >20 million pieces of data analyzed in the literature, you find that the variations between single variables are extremely significant.

Figure 5—Estimation error in "alpha" from 40 thousand economic variables. I thank Pallop Angsupun for data.

Now this mean error has massive consequences. Figure 6 shows the effect: the expected value of your losses in excess of a certain amount(called "shortfall") is multiplied by >10 from a small change in the "alpha" that is less than its mean error! These are the losses banks were talking about with confident precision!

Figure 6—The value of the expected shortfall (expected losses in excess of a certain threshold) in response to changes in tail exponent "alpha". We can see it explode by an order of magnitude.

What if the distribution is not a power law? This is a question I used to get once a day. Let me repeat it: my argument would not change—it would take longer to phrase it.

Many researchers, such as Philip Tetlock, have looked into the **incapacity** of social scientists in forecasting (economists, political scientists). It is thus evident that while the forecasters might be just "empty suits", the forecast errors are **dominated by rare events**, and we are limited in our ability to track them. The "wisdom of crowds" might work in the first three quadrant; but it certainly fails (and **has failed**) in the fourth.

#### The alternative rejects homogenous understandings of individual agent behavior in favor of cultural analysis.

Beinhocker ’07 – Public Policy Professor at Oxford [Eric D.; Professor of Public Policy Practice at the Blavatnik School of Government and the Executive Director of the Institute for New Economic Thinking at the Oxford Martin School, Supernumerary Fellow in Economics at Oriel College, External Professor at the Santa Fe Institute; 2007; "The Origin of Wealth: Evolution, Complexity, and the Radical Remaking of Economics"; Harvard Business Review; https://store.hbr.org/product/the-origin-of-wealth-evolution-complexity-and-the-radical-remaking-of-economics/777X; accessed 2-4-2022]

The common thread running through these examples is that micro-level behavior **matters**. As we have discussed, in **complex adaptive systems** the rules of individual agent behavior often have **profound** and sometimes **unexpected** effects on the macro performance of a system. We saw how the simple agent rules in Sugarscape led to a highly unequal distribution of wealth, how the agent strategies in the evolutionary Prisoner's Dilemma led to Schum- peterian gales of creative destruction, and how the behaviors of real people in the Beer Game led to waves of boom and bust. Traditional Economics has historically taken a **narrow view** of micro-level behavior—if everyone is assumed to be **perfectly rational**, then it makes no sense to explore how **heterogeneous patterns** of individual behavior affect **macro-level outcomes**. But as we will see, factors such as **cultural norms**, individual choices on where to live or what to watch on TV, and the **behavior of parents** may lie at the root of **significant macroeconomic issues**.

"Culture Matters"

According to the W orld Bank, the poorest country in the world in 2002 was the Democratic Republic of Congo, with an estimated income of $100 per head.2 2 This is barely above the $92 per head estimated by J. Bradford DeLong for hunter-gatherer tribes of circa fifteen thousand years ago (see chapter 1). At the same time, the richest country in the world was Luxem­ bourg, with an average income per head of $39,470, or to put it more viscer- ally one Luxembourgian makes as much money each year as 394 Congolese. The divide between rich and poor in the world goes well beyond Congo and Luxembourg. At present, 21 percent of the world's population survives on less than $1 a day, including almost half of sub-Saharan Africa and a third of India and Southeast Asia.23 As the economic historian David Landes has put it, "This world is roughly divided into three kinds of nations: those that spend lots of money to keep their weight down; those whose people eat to live; and those whose people don't know where their next meal is coming from."24

The candidates for the causes of this divide have historically fallen into Left and Right camps.2 5 On the Left, favorite explanations include colonialism, racism, capitalist exploitation, and insufficient aid from rich countries. Mean­ while, the arguments on the Right have gravitated toward bad government, corruption, a lack of free markets, dependency on foreign aid, and even, subtly (and sometimes not so subtly), racial inferiority. In addition, a few less politi­ cally charged explanations have been put forward that include geography, cli­ mate, and particularly in Africa's case, the tragedy of near-constant warfare.26

In 1999, Harvard international studies professor Lawrence Harrison and his Harvard colleague Samuel Huntington (who famously predicted a clash of civilizations after the end of the Cold War) convened a symposium enti- ded "Cultural Values and Human Progress." The symposium tied together work that researchers around the world had been conducting for decades on the role of culture in economic development. The conference included well- known Western economists, historians, and social thinkers such as David Landes, Michael Porter, Jeffrey Sachs, Francis Fukuyama, and Nathan Glazer. But the conference didn't just include Western scholars abstractly discussing faraway cultures; it also included a number of researchers and social com­ mentators from the countries under discussion, as well as practitioners from aid agencies. One of the outputs of the conference was a book, Culture Mat­ ters, whose tide sums up the group's conclusion.27

In chapter 16, we defined culture as the **emergent product** of the micro rules of behavior followed by individuals, and discussed its role in the eco­ nomic performance of organizations. Perhaps not surprisingly, the partici­ pants at the Harvard conference contended that culture plays a **large role** in the economic performance of nations too. In the case of nations, the rules or norms of behavior aren't **merely** acted out by thousands, but are **acted out by millions.**

Observations on the connection between culture and macroeconomic performance go back at least to the turn of the last century and the writings of the German sociologist Max Weber. But in the 1950s and 1960s, cultural explanations for economic outcomes fell out of favor for two reasons. The first was political correctness. As Landes put it, "culture . . . frightens scholars. It has a sulfuric odor of race and inheritance, an air of immutability."28 The second reason was the dominance of Neoclassical economics. Culture has **little place** in a world of **perfect rationality**, and to the extent that it does, cultural rules must be **self-interested**, optimizing strategies, because otherwise, people **would not use them**.2 9

Fortunately, fears over political correctness have faded as scholars have shown that it is possible to have discussions about culture that are both scien­ tifically fruitful, and respectful of the diversity of humankind. One must avoid the relativist trap and not shy away from statements about why the norms of one culture might be more supportive of economic development than those of another, but at the same time, one can recognize that there is no one cultural formula for economic success. In a world in which cultures as varied as Japan's and Norway's are among the most economically successful, such claims of one perfect formula are easily dismissed. Likewise, the rise of behavioral economics has reduced the influence of Neoclassical assumptions and brought the cultural horse inside the economic stable.

The multibillion-dollar question then is, which norms support economic development, and which norms don't? Much research remains to be done in this area, but various researchers, such as the Argentinean scholar Mariano Grondona, have proposed typologies of cultural rules.3 0 The rules in these typologies fall roughly into the same three broad categories as did the orga­ nizational rules I presented in chapter 16. This should not be surprising, as both organizational and societal norms need to support the processes of eco­ nomic evolution if they are to support wealth creation.

In the first category are norms related to individual behavior. These in­ clude norms that support a strong work ethic, individual accountability, and a belief that you are the protagonist of your own life and not at the whim of gods or Big Men. Fatalism greatly reduces personal incentives. It is also important to believe that there is a payoff to hard work and a moral life in this world, and not just in the next. Finally, economically successful cultures appear to strike a balance between optimism that improvement is possible, and realism about one's current situation.

In the second category are norms related to cooperative behavior. Fore­ most is a belief that life is a non-zero-sum game and that there are payoffs to cooperation. Societies that believe in a fixed pie of wealth have a difficult time engendering cooperation and tend to be low in mutual trust. Consistent with our discussion of strong reciprocity, it is important that the culture have norms that value generosity and fairness, but also sanction those who free ride and cheat.

The third category contains norms related to innovation.31 Deductive- tinkering is much more effective if the deductive part is strong, and thus cul­ tures that look to rational scientific explanations of the world rather than religious or magical explanations tend to be more innovative. Likewise, a cul­ ture needs to be tolerant of heresy and experimentation, as strict orthodoxy stifles innovation. Finally, it is important that the culture be supportive of competition and celebrate achievement, since overly egalitarian cultures re­ duce the incentives for risk taking.

One final norm is important to all three categories: how people view time. Cultures that live for today (or, conversely, are mired in the past) have prob­ lems across the board, ranging from low work ethic, to an inability to engage in complex cooperation and low levels of investment in innovation. Why work hard, and invest in cooperation and innovation if tomorrow doesn't matter? In contrast, cultures that have an ethic of investing for tomorrow tend to value work, have high intergenerational savings rates, demonstrate a willingness to sacrifice short-term pleasures for long-term gain, and enjoy high levels of cooperation.

Just like organizations, societies with hardworking, cooperative, innovative cultures would clearly facilitate the discovery, execution, and continued evolu­ tion of complex Business Plans. Likewise, serious deficiencies in any of these areas could potentially slow down or stop the wheels of economic evolution.

Again, there is no single way to implement these general types of norms. Japanese methods for encouraging stable cooperation may be quite different from Norwegian approaches, and no culture is equally strong across all areas. Moreover, rendering judgments on these norms does not necessarily imply moral judgments. Some of the norms have both economic and moral implications. For example, sanctions against cheating have economic as well as moral benefits. But many norms do not. For example, a live-for-today society might be just as moral as an invest-for-tomorrow society—just not as rich. Finally, while our focus is on economic success, it is not the only measure of societal health. For example, a society might have strong norms of tolerance and forgiveness that allow cheating to proliferate, thus weakening its ability to create large-scale, stable cooperation and reducing its economic achieve­ ments. But the very same norms might make it a warm, friendly, and even peaceful society.

Keeping these caveats in mind, one can begin to analyze the cultures of individual societies and assess the economic efficacy of their norms. One of the participants in the Harvard conference, Daniel Etounga-Mangeulle, an African business executive, noted that despite the diversity of African cul­ tures, there is a "foundation of shared values, attitudes, and institutions that binds together the nations south of the Sahara."32 He argued that too many of these common norms are on the wrong side of the cultural typology, and he highlighted two factors in African culture that he believes have particu­ larly negative economic impacts: excessive concentrations of authority in individual Big Men (who often claim magical powers), and a view of time that focuses on the past and present, but not the future: "Without a dynamic perception of the future, there is no planning, no foresight, no scenario build­ ing, no policy to effect the course of events."

The impact of these norms is not just **additive** and **linear** over the population. As agents follow cultural norms they interact, and create **complex dynamics**. For example, let's examine the interplay between those who believe the world is a zero-sum game and those who see it as a non-zero-sum game. If your beliefs are biased toward seeing the world as a zero-sum game, then your objective will be to get your slice of the pie. You will view someone else's gain as your loss, and your proclivity to cooperate will be low. Rather than searching for new, more complex, and wealth-creating cooperative activities, people will invest their energies in rinding ways to capture a greater share of existing wealth. It is not hard to imagine that thievery, dishonesty and corrup­ tion will be higher in such a zero-sum society. The moral attitudes around such activities will also be different; for example, theft might be viewed as "I'm just taking my fair share" from someone who has more than his or her right­ ful share.

Now, imagine a population in which some agents think the economic pie is fixed, while others have a non-zero-sum view. Over time, as the non-zero-sum agents find ways to cooperate and create new wealth, they will be attacked by zero-sum agents trying to get their share. This conflict will lower the re­ turns to cooperation, and eventually, the non-zero-sum agents will learn that cooperation doesn't pay and become zero-sum agents themselves. Non-zero- sum attitudes don't need to be an inherited, hardwired trait. One could have two populations in which people are born with the same natural distribution of attitudes and predispositions. But in the low-cooperation society, non-zero- sum attitudes are essentially beaten out of the agents over time and they eventually learn to become zero-sum agents. When researchers model these dynamics, they often find there is a tipping point: once a society is past a threshold ratio of noncooperators versus cooperators in a population, it be­ comes very hard to maintain large-scale cooperation, resulting in a "poverty trap."33 Such tipping points mean that the vagaries of history can send one society down the low cooperation path into a poverty trap, while another so­ ciety with the same predispositions to cooperate might bootstrap its way to riches. The dynamic interplay between cooperators and defectors can thus in­ fluence the evolution of norms and the level of trust in a society. Culture is not an immutable force; rather, it coevolves as people in a society interact with each other—culture is a product of history, and history is a product of culture.34

Numerous studies have shown that levels of trust vary widely across cul­ tures.3 5 In 1996, a major survey was conducted across a number of countries asking people (in their native language), "Generally speaking, would you say that most people can be trusted, or that you cannot be too careful in dealing with people?"36 The diversity of responses was striking, ranging from the most trusting countries, where 65 percent of Norwegians and 60 percent of Swedes agreed they could trust people, down to a mere 5 percent of Peru­ vians and 3 percent of Brazilians.

There is an important correlation between trust and economic success (figure 18-1). High trust leads to economic cooperation, which leads to pros­ perity, which further enhances trust in a virtuous circle. But the circle can be vicious as well, with low trust leading to low cooperation, leading to poverty, and further eroding trust. The causal relationship is not perfect, however, because trust is not the only factor that determines levels of cooperation. For example, both Chinese and Indians rate themselves higher on trust than do Americans. One explanation is that while trust in the United States is low, Americans have been able to succeed economically despite this because of their strong Social Technologies, in particular, a tradition of respect for the rule of law. Another more gloomy explanation is that Americans are living off the social capital of their past, and unless it is rebuilt, trust will continue to erode. The idea that this erosion of trust will eventually catch up with the United States economically is a topic we will examine in the next section.

Francis Fukuyama has investigated why certain cultures have evolved high levels of social trust while others seem trapped in low-trust regimes. One of his conclusions is somewhat paradoxical: that societies with strong "family values" may have a difficult time evolving broader forms of social trust.3 7 He argues that family-centric cultures, while having deep bonds of trust within families, tend to have narrower radii of trust outside families. In these cultures, eco­ nomic networks are usually based on kin relationships, which naturally limit the scale to which the networks can grow. As examples, he cites the large pro­ portion of small-scale, family-owned businesses in China, Korea, and Italy, and only a small number of global enterprises relative to the size of their economies. Meanwhile, societies with weaker family traditions, such as Japan, Germany, and Holland, evolved STs to help secure trust outside the bounds of family. These STs ranged from the early establishment of the rule of law, to volun­ tary and social organizations. Thus, while the bonds of trust within families may be weaker in relation to other cultures, the radius of trust is wider. It is remarkable, for example, that a country as small as Holland has evolved some of the largest corporations in the world, including Royal Dutch /Shell, Philips, and ABNAmro.

Karla Hoff of the World Bank and Arijit Sen of the Indian Statistical Insti­ tute also believe that overly strong family ties can have a negative impact on development.38 In northern European Protestant traditions, families tend to be defined as the immediate nuclear family of parents and children, with weaker ties to grandparents, aunts, uncles, and cousins. In many African and South Asian traditions, the radius of family is larger and stronger, extending to grandparents, aunts, uncles, great aunts, great uncles, cousins, second cousins, and so on. These extended-family societies also have very strong norms on the sharing of economic wealth among family members. Richer family members are expected to help poorer family members. While the warm and fuzzy image of a large, extended family sharing with each other sounds very appealing and may have psychological and other benefits, in economic terms, it creates a basic problem. If you get a job, work hard, and accumulate a bit of savings, you will be rewarded by having your no-good, lazy second cousin come live with you, eat your food, and generally sponge off your hard-earned wages. This is what economists call a moral hazard. Extended definitions of family create incentives for free riding and lower the returns to work and savings. Hoff and Sen argue that not only does the extended family create problems at the individual level, but it can also further retard development as it extends into nepotism in business and government institutions.

The implications of culture for development policy are just beginning to be explored, but it is becoming clear that culture must be a part of the devel­ opment equation. The World Bank economist William Easterly points out that between 1950 and 1995, the developed world provided more than $1 trillion in economic assistance to the developing world, yet the poverty rates in the vast majority of recipient countries barely budged, and many African countries have even slid backward since their independence in the 1960s.3 9 While aid to alleviate severe and immediate symptoms of poverty remains critical, it is essential that people do more to understand and address the root causes. Although culture is certainly not the only root cause, programs that continue to ignore the cultural basis of poverty are undoubtedly doomed to failure.

Social Capital and the "Great Disruption"

In 2000, Robert Putnam, a professor of public policy at Harvard University, published Bowling Alone, a book that brought the term social capital into the public consciousness, and stimulated interest in the topic among both econo­ mists and policy makers.4 0 Putnam defines social capital as the "**connections** among individuals—social networks and the norms of **reciprocity and trust**­ worthiness that arise from them."4 1 In the terminology of Complexity Eco­ nomics, if cultural norms provide the **micro rules** of agent behavior, then social capital is the **emergent result** of agents creating cooperative networks.

## CP

### 1NC – CP

**The United States federal government should substantially increase prohibitions on anticompetitive private cartel practices in cases where foreign plaintiffs cannot secure adequate relief in alternative fora, excluding claims brought against the Organization of Petroleum Exporting Countries.**

#### The plan’s expansion of antitrust would establish liability for OPEC in price fixing

Stephan 5 – Lewis F. Powell, Jr., Professor and Hunton & Williams Research Professor, University of Virginia School of Law.

Paul Stephen, 2005 “Global Governance, Antitrust, and the Limits of International Cooperation,” Cornell International Law Journal, https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1635&context=cilj

Fox suggests that the broad claims of cosmopolitanism apply specifically to international antitrust. If one accepts the premise that variations among national competition policies reflect differences in local welfare, then any convergence toward a global standard would entail making some groups in some countries better off and others worse off, and probably would diminish the overall welfare of at least some countries, say OPEC members. Recognition of a universal right of freedom from competitive injury thus implies a commitment by states to international wealth redistribution.

#### Nuclear war

Crocker 80 – International Ass'n of Machinists and Aerospace Workers v. OPEC.

Lawrence Crocker, 1980, “Sovereign Immunity and the Suit against OPEC,” Case Western Journal of Law, https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1916&context=jil

However, that should not, in fact, have been the outcome of the case. However clumsily Judge Hauk may have handled some of the details, his instincts were correct. The suit against OPEC is just the sort of case for which Congress must have intended there to be sovereign immunity. To see why this is so it is only necessary to consider what would have happened if the IAM had won the suit. The court would then have issued an injunction to Libya, Saudi Arabia, Venezuela, and the ten other states forbidding them from conspiring to fix prices. It is conceivable that this injunction could be enforced if the United States were willing to make full use of its military power, and assuming that nuclear war did not intervene to make the whole matter academic. In short, to say that a suit against the members of OPEC for price fixing intrudes into a sensitive foreign policy area is a masterpiece of understatement.

#### Allowing foreign companies to be exempt from antitrust is the optimal balance of economic and foreign policy concerns

Yale 82 – Its Yale Law Journal. From what I’ve heard they’re pretty good at law stuff. Not as good as Georgetown, but still.

Yale Law Journal, March 1982, “The Applicability of the Antitrust Laws to International Cartels Involving Foreign Governments,” https://www.jstor.org/stable/pdf/796038.pdf?refreqid=excelsior%3Ae11ba10193bea7a8a17cd0681ad46ca5&ab\_segments=&origin=

The recent emergence of international cartels conducted or sponsored by foreign governments and their instrumentalities threatens significant interests of all consumer nations, including the United States. The availa- bility of antitrust sanctions would greatly strengthen the ability of the ex- ecutive to deter the formation or continuation of these multiple-nation car- tels or at least to persuade these cartels to enter into diplomatic agreements requiring output expansion. Given the appreciable costs and risks incurred by a cartelist in removing its assets from the United States, monetary antitrust sanctions would frequently prove effective. In those oc- casional situations where the treble damage remedy could be evaded, an injunction barring the importation of the cartelized goods might prove effective.

To enhance the efficacy of antitrust sanctions, Congress should delegate to the executive the authority to grant antitrust exemptions to multiple- nation cartels on grounds of comity or foreign relations. This proposal would not only enable the executive and judiciary to fulfill their proper institutional roles; it would also increase the executive's control over the timing of negotiations, thereby augmenting the value of the antitrust ex- emption as a bargaining item.

## DA

### 1NC – DA

#### Unilateral imposition of extraterritorial antitrust liability escalates to war! — And collapses cooperation on other issues, and trade flows

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Steven R. Salbu, The Foreign Corrupt Practices Act as a Threat to Global Harmony, 20 MICH. J. INT'L L. 419 (1999), Available at: <https://repository.law.umich.edu/mjil/vol20/iss3/1>

The world is too culturally diverse to accept the external imposition of laws without resentment. 154 [ FN 154] 154. For comparison, consider treaties through which signatories all agree to mutually accepted conditions and terms that apply only to the signatories themselves. Within these bounds, no laws are being applied extraterritorially without the consent of the local sovereignty. In contrast, FCPA-style legislation, now to be adopted in dozens of countries, restricts behavior even in non-signatory nations that have not consented to the intrusion. [End FN] Under these conditions, extraterritorial legal fiat is at the very least insulting and distasteful.'55 Transnational relations likely will be strained by the overreaching of any one nation into the affairs conducted within the borders of another.'56 As one commentator suggests, other nations "may perceive the FCPA as a culturally arrogant encroachment on their ability to govern activities exclusively within their own borders, in accordance with international law principles on territorial sovereignty."''57

While the risk of being perceived as obnoxious and intrusive is hardly insignificant, it pales when compared with a more serious risk--the increased likelihood that transnational relations will become strained,'58 and that nationalistic sentiments will flourish in response to the perceived invasiveness of the extraterritorially applied laws. 5 9 The results of this scenario can range from mounting hostilities over other issues to the severance of trade,' 6 0 and potentially even to military confrontation.161 [Footnote 161] 161. The potential for hostilities over extraterritorial legislation to escalate to the point of military confrontation is a logical possibility, rather than a trend in recent history. Indeed, even U.S. antitrust law, the extraterritorial application of which has evoked substantial retaliatory reaction, has not led to this extreme. See William S. Dodge, Extraterritoriality and Conflict-ofLaws Theory: An Argument For Judicial Unilateralism, 39 HARV. INT'L L.J. 101, 165 (1998) (noting that while extraterritoriality of U.S. antitrust law has evoked blocking statutes and claw-back statutes, it has not caused the cessation of international cooperation). While we have yet to see hostilities over U.S. extraterritorial legislation escalate to the point of war, the potential for such a scenario can never be ruled out. [End FN] Thus, van den Berg observes that extraterritorial application of the Helms-Burton Act in Canada has fueled an "international perception of the United States not only as a cultural imperialist but as a growing legal imperialist."' 62 Perhaps more threatening to the delicate global diplomatic balance, the reach of the Helms-Burton Act has sparked an unforeseen and undesirable alliance between Canada and Cuba, 163 in effect undermining U.S. efforts to apply economic sanction pressures in the latter. Simply stated, laws resented for their overreaching nature can be counterproductive.

Van Wezel Stone identifies similar risks in another area where extraterritorial law has been posited as a possible global solutioninternational labor regulation.'" She notes that because extraterritorial jurisdiction does not aspire to be integrative, it fails to contribute to a common international system of norms and standards.' 65 Instead, extra-territorial jurisdiction tends to undermine international peace and cooperation by creating tension and destabilizing international relations.'" Sovereign nations "react with intense hostility when... activities within their own borders are made the subject of investigation by a foreign nation applying foreign rules and procedures.' 6

The world is not sufficiently homogenized to embrace one conceptualization of morality in gray areas, '6 8 and attempts to force a unified fit via extraterritorial legislation are likely to spark ill will and retaliation.'69 Such hostilities can result, of course, whenever one country imposes its rule upon transactions that occur in another country. The potential is increased when vague laws are applied to the ambiguous conditions of markets in transition, such as communist economies that are in the process of converting to capitalist ones. 70 This suggests a danger in externally-based efforts to unify legal structures addressing such moral issues. Must we therefore throw up our hands in despair, and abandon all exertions to extirpate bribery and corruption? The answer is decidedly no. Abdication of responsibility to improve global markets would be as irresponsible as overweening intrusion into the affairs of other nations. The appropriate middle ground between complacency and invasiveness is persuasion.

**Protectionism causes global wars**

**Palen 17** – historian at the University of Exeter

Marc-William Palen, "Protectionism 100 years ago helped ignite a world war. Could it happen again?," The Washington Post, 6-30-2017, https://www.washingtonpost.com/news/made-by-history/wp/2017/06/30/protectionism-100-years-ago-helped-ignite-a-world-war-could-it-happen-again/

The liberal economic order that defined the post-1945 era is disintegrating.

Globalization’s foremost champions have become the first to signal the retreat in the wake of the Great Recession. Economic nationalism, historically popular in times of economic crisis, is once again on the rise in Britain, France and the United States. We are witnessing a return to the antagonistic protectionist politics that defined a bygone era that ended with World War I — suggesting that today’s protectionist revival threatens not just the global economy, but world stability and peace.

Leading liberal democracies have turned their back on free trade. Britain, through Brexit, announced its retreat from European market integration. Before the parliamentary elections, British Prime Minister Theresa May announced a new Industrial Strategy, which includes state subsidization of select industries and stringent immigration restrictions on foreign workers at “every sector and every skill level.” Despite her post-election collapse in support, May continues to move forward with leaving the European Union single market thanks to an unholy alliance with the Democratic Unionist Party, Northern Ireland’s far-right supporters of Brexit.

Likewise, in the recent French presidential elections the vast majority of candidates ran on a platform of “patriotisme économique.” Marine Le Pen, leader of the French far-right National Front party, made a strong bid for the French presidency through a campaign that combined a condemnation of globalization alongside the promise of extreme economic nationalist legislation and an end to immigration into France. President-elect Emmanuel Macron is now pushing hard for a “Buy European Act” to placate French anti-globalization forces.

But nowhere has the anti-trade turn been more marked than in the United States, where “globalism” has become a dirty word. “Free trade’s no good” for the United States, as Donald Trump put it in 2015. President Trump has threatened to shred the North American Free Trade Agreement and to impose protective tariffs on imports from Mexico and China, two of America’s largest trading partners.

In January, a paranoid Trump pulled the United States out of the Trans-Pacific Partnership negotiations — a massive free-trade deal that included a dozen countries in the Asia Pacific — because he believed that the Chinese were secretly plotting to use it to take advantage of the U.S. market.

And in April, Trump signed a “Buy American, Hire American” executive order that forces U.S. government agencies to purchase domestically made products and limits the immigration of foreign skilled workers.

This widespread fear of the global marketplace and the looming threat of tit-for-tat trade wars herald a return to late 19th-century geopolitics. Then, too, many of the leading economies of the day took shelter behind high tariff walls to halt the forces of globalization. Following the onset of an economic depression in the early 1870s, one industrializing country after another turned against trade liberalization. Trade wars, colonialism and closed markets became the name of the geopolitical game.

In stark contrast to today, back then only Britain stuck to free trade with “all the world.” Yet even free-trade bastion Britain was not without its domestic economic nationalist enemies.

In response to the late 19th-century turn to protectionism among Britain’s competitors, formidable right-wing British organizations like the Fair Trade League and the Tariff Reform League emerged to champion retaliatory tariffs and an imperial trade preference system. And the political leader of the turn-of-the-century British imperial protectionist movement was none other than Joseph Chamberlain, Theresa May’s “political hero.”

“Fortress France” turned away from free trade in 1892, the culmination of a decade-long “protectionist backlash” to the ongoing economic depression. The protectionist measure exacerbated the Franco-Italian trade war, which Italy had started with its turn to protectionism in the mid-1880s. Trade between these countries fell considerably, pushing Italy ever closer to Austria-Hungary and Germany — the Triple Alliance — in the years before the First World War.

The United States, however, topped the list of protectionist states. The political and ideological power of protectionism in late 19th-century America — the Gilded Age — was palpable. The Republican Party, formed as the party of antislavery in the 1850s, fast remade itself as the party of protectionism following the Civil War.

Hoping to protect U.S. industries from the unpredictable gales of unfettered global market competition, the ultranationalist party tacked its sails to the “American System” of high tariffs and government subsidization of domestic industries.

More than a century before Trump’s “America first” policy, slogans like “America for Americans — No Free Trade” filled Republican Party convention halls.

For paranoid Gilded Age Republican protectionists, free trade became tantamount to conspiracy.

The GOP’s lead spokesman on the tariff at that time was a short, cigar-smoking politician from Ohio named William McKinley. “The Napoleon of Protection,” as he was dubbed, had well earned the moniker by the time he entered the White House in 1897.

Like the Trump administration today, McKinley viewed free trade with suspicion, although the target of McKinley’s free-trade conspiracy theories was the industrial powerhouse of Britain instead of Trump’s China. McKinley, throughout his long Republican career, charged his pro-free-trade political opponents with being part of a vast British conspiracy that sought to sap America’s high tariff walls and undermine infant American industries. The conspiracy, he argued, included “free trade leaders in the United States and the statesmen and ruling classes of Great Britain”; American free traders were pawns, agents of “the manufacturers and the traders of England, who want the American market.”

Countering Republican conspiracy theorists, late 19th-century U.S. free traders argued that trade liberalization fostered international stability and peace, and that, by contrast, the era’s global uptick in imperialism and war only illustrated how protectionism fomented geopolitical rivalry and conflict.

Trump, tapping into long-standing Republican fears of free trade, is knowingly returning the GOP to its paranoid protectionist roots — a move against globalization that is also building up populist momentum in Britain and France.

The protectionist resurgence among the leaders of post-1945 globalization — be it Brexit, patriotisme économique, or “America first” — holds dire consequences for the liberal economic order by pitting nations against one another and breeding suspicion, distrust and conspiratorial thinking. The ultranationalism, militarism and tariff wars of the late 19th century spilled over into the 20th century, and ended in world war — suggesting a return to the protectionism of old could damage far more than national economies.

#### Antitrust key—Reverse-causal

--We control uniqueness: *protectionism* is inevitable, but strong trade barriers + the political lawmaking constituencies around them make doing things like tariffs broadly infeasible, so it’s try or die for global trade to prevent antitrust law becoming inflected with a protectionist and arbitrary bent that gets modeled!

Murray 19 – Chief Growth Officer, CheckAlt; Judicial Law Clerk, US Bankruptcy Courts

Allison Murray, JD, Loyola Law School, Given Today's New Wave of Protectionism, is Antitrust Law the Last Hope for Preserving a Free Global Economy or Another Nail in Free Trade's Coffin?, 42 Loy. L.A. Int'l & Comp. L. Rev. 117 (2019), Available at: <https://digitalcommons.lmu.edu/ilr/vol42/iss1/3>

Trump. Le Pen. Brexit. Protectionist rhetoric has consumed the international political stage. Western countries and their leaders were once the drivers of economic globalization, relying on free-market speeches and the prospect of removing trade barriers to appeal to their constituents.1 They pointed fingers at other countries engaging in or encouraging protectionist behavior and challenged them in the court of public opinion and elsewhere to stop their antics. The “our country first, world trade after” mentality was widely politicized and vilified. Now, it seems that Western national leaders are championing the very protectionism that they once criticized.2

Although a system of truly free world trade has never been perfected, past world leaders have eliminated most of the protectionist trade mechanisms that once ran rampant in the international economy. They did so by implementing multilateral and bilateral trade agreements. These webs of agreements have bolstered decades of support for free trade, or at least some version of it. By and large, tariff policies and other forms of protectionism were either eliminated or dramatically reduced. Now, as we have seen in the media, when a government imposes a tariff, it becomes a rather extreme political statement which sends a shockwave of significant global consequences.

Protectionism did not end when the age of overbearing tariff policies did, despite then-leaders’ best efforts to vilify it. Rather, the end of the tariff era forced nations to achieve protectionist goals through more subtle trade vehicles, like antitrust law.3 So, the recent resurgence of protectionist rhetoric should mean that these subtle trade vehicles, including antitrust law, will be relied on more heavily. It is a fear of many that antitrust law may become overused and inequitably applied to achieve and combat protectionist aims.

Notwithstanding the recent uptick in tariff threats, it is unlikely that all Western leaders will revamp or terminate the trade agreements set forth by their predecessors and bring back the kinds of tariff policies that once existed in their place. Although in the United States (“U.S.”), President Trump recently imposed tariffs on steel imports, it appears that his intent is to limit this behavior to a specific industry rather than institute a widespread policy favoring the use of tariffs generally.4 To remedy bad behavior in a specialized set of industries is not to instigate a global paradigm shift. This purpose is underscored by his use of the national security exemption, which is largely interpreted as being used for individual situations rather than general policy schemes.5 Many still hope that his course of action will be retracted and is merely a strong negotiation tactic. However, there is no doubt that Trump is far more comfortable than past leaders with subverting the status quo on trade relations.

Trump is not the only high-profile leader flirting with staunch protectionism. Western leaders in the E.U. appear to be growing more comfortable than their predecessors with considering similar policies. However, Western lawmakers themselves do not seem as persuaded by the statements of their leadership. The general sentiment among international policymakers is that there has been too much political wherewithal spent on loosening international trade barriers to take actions that could counteract that progress.6 Presidential actions taken because of dissatisfaction with current global trade relations aside, a complete overhaul of trade agreements may be too daunting and difficult a task, especially absent ample political support in legislative bodies.

Given the anticipated continuation of cooperative trade agreements and the proliferation of protectionist rhetoric as the new norm of public opinion, leaders will be forced to rely on existing avenues to meet protectionist aims. Again, we find ourselves relying squarely on antitrust law, the more subtle and widely accepted mechanism of restricting trade, to address perceived inequities. In the words of the World Trade Organization (“WTO”), “once formal trade barriers come down, other issues become more important.”7 Among the important issues lies antitrust law. Antitrust and competition laws can form a subtle trade barrier resulting in the imposition of tariff-like measures.

Antitrust law can be enforced to reach protectionist aims and to combat them. It is a tool that allows nations to achieve individual protectionist aims without undermining the future of trade between countries and the cooperative framework underpinning the relatively delicate global free trade enjoyed today. However, the perception of enforcement of antitrust laws as an abusive and solely protectionist mechanism may cause the death of even the smallest semblance of international free trade that remains in the international marketplace today.

This paper explores how the near-term enforcement of antitrust and competition laws may be either the last hope for preserving aims toward a free global economy or the final nail in free trade’s coffin. We will begin by examining the background of antitrust and competition laws, explaining the goals and economic theories at the heart of the laws, including the myriad of criticisms. Next, we will take a general view of the prevalence of competition laws in the world market, revealing the differences in underlying theory and enforcement by the top three players on the international trade stage. This paper will finish with the subject most at the center of the recent rise of protectionist rhetoric: the perception of unfair enforcement of antitrust laws among the United States, the European Union, and China.

## Developing Economies

### 1NC – ADV 1

#### Cartels are deterred – most recent evidence prices in aff arguments and concludes that cartels are on the decline.

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Alain Verbeke, Caroline Buts, “The Not So Brilliant Future of International Cartels,” Management and Organization Review, Cambridge University Press, August 2021, https://www.cambridge.org/core/journals/management-and-organization-review/article/not-so-brilliant-future-of-international-cartels/363CC718A5FD54F8BB390B9AB22150B7

A NOT SO BRILLIANT FUTURE OF INTERNATIONAL CARTELS?

As explained in the previous section, we do not dispute the possibility that international cartels could become more important in the future under carefully defined conditions. We are doubtful, however, even when accepting B&C’s broad definition of this governance mode, that international cartels will gain ground more generally, vis-à-vis other forms of governance in international business, when multinational enterprises face increased political risk.

A key element, and perhaps a surprising one, explaining our doubt about the bright future of cartels is four clear trends in cartel regulation that are now creating significant political risk for international cartel members (admittedly not covering B&C’s benevolent cartels). First, competition policy is now a priority for policy makers around the world, as reflected in the progress made in detecting, investigating, and prosecuting cartels (OECD, 2020; OECD, 2021b). Recently published data indicate that 68% of global cartels (with members from at least two different continents) have been prosecuted by multiple jurisdictions, with average cartel fines being very high at €19.3 million (OECD, 2020).

Second, the consequences of being caught as a cartel member have gradually become more severe and far-reaching, both for the orchestrating and the participating companies, and for the employees involved (Ordóñez-De-Hano, Borrell, & Jiménez, 2018). Depending on the jurisdiction, a wide array of sanctions is now being deployed, including personal fines, trade prohibitions, and prison sentences (these have increased sevenfold over a recent five-year period, OECD, 2020). After a finding of cartel-behavior from the competition authority, the legal battle usually continues in the form of lawsuits for damages whereby victims file claims and may also coordinate their actions, e.g., to recover cartel overcharges (Burke, 2019).

Third, cartel investigations have also become more sophisticated. Leniency policies – providing immunity from fines for the first player who admits to the existence of a cartel and discloses information on its functioning – are on the rise. This powerful tool serves both detection and deterrence purposes in the realm of anticompetitive behavior (Margrethe & Halvorsen, 2020; Marvão & Spagnolo, 2018; Miller, 2009). It incentivizes cartel members to become whistle blowers. Companies will be less likely to join a cartel if they know that its members may be enticed to disclose cartel operations, (Brenner, 2009; Vanhaverbeke & Buts, 2020).

A larger number of agencies than before now also have the mandate to conduct ‘dawn raids’, in order to collect evidence of cartel behavior and they can even enter private premises of employees during their search for incriminating material. In addition, sophisticated econometric analyses have become standard practice to provide evidence of coordinated conduct in industry and to calculate cartel overcharges (Parcu, Monti, & Botta, 2021).

Fourth, competition authorities have invested more in outreach, communicating competition rules through dedicated events, online campaigns, and competition networks. Compliance programs have also been on the rise with an increasing number of mainly large companies investing in compliance training to abide by competition rules (De Stefano, 2018).

The increased efforts to fight anticompetitive agreements in industry are now deterring and destabilizing cartels. Following a substantial increase in the number of cartels that have been ‘caught’, the average life span of these cartels is now going down rapidly (OECD, 2020). The fight against illegal, anticompetitive behavior will intensify further in the near future, rather than governments shifting their focus to contemplate potential benefits. At the same time, the beneficial effects have been widely acknowledged of international collaboration forms that are legally allowed by various competition policy regimes (and are therefore not considered cartels), see for instance Martínez-Noya and Narula (2018) on international R&D cooperation.

#### AND, the aff can’t solve – simply increasing the likelihood of penalization cannot establish deterrence – every empiric goes neg.

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Keith Violante, “Making Deal with the Devil: Are Current Antitrust Sanctions Deterring Cartel Behaviour,” International Trade and Business Law Review, Vol. 20, 2017, HeinOnline

There is no indication that the drastic increase in criminal and civil penalties under the ACPERA has caused a significant decline in antitrust violations.92 Civil fines are unlikely to effectively deter antitrust violations committed by an individual when the corporation is able to completely internalise the entire fine imposed against the business.93

According to a recent study, average antitrust conspiracies last six years.94 This study suggests that these conspiracies persist for so long because price-fixing is more profitable than was previously thought,95 which in turn suggests the need for greater sanctions. Put simply, this study argues that the decision to commit antitrust violations is driven by a rational cost/benefit analysis. Under this theory, a business will continue to commit antitrust violations so long as it remains profitable.

Critics of this argument suggest that sanctions exist that can prevent antitrust violations.96 Judge Richard Posner proposed that price-fixing is ultimately punished exclusively through corporate fines, and 'only when a company is unable to pay an optimal fine should imprisonment be imposed as a last resort and only if the individuals are unable to pay the fine'. Other practitioners argue that criminalisation of price-fixing offences would be a better deterrence. One argument suggests the 'publicity about severe sentences for price fixing may help educate other corporate executives about the true individual and corporate legal risks of being caught while also contributing to the effectiveness and cost of corporate antitrust compliance programs'.98

However, civil fines, or at least the implementation of them, do not seem to adequately deter antitrust violations. The fluctuation of a corporation's stock price after a firm is indicted for committing an antitrust violation also suggests civil fines provide an inadequate deterrence.99 A well documented empirical regularity is that share values in indicted firms initially fall significantly but the stock price of an overwhelming majority of indicted firms returns to preindictment levels within one year.100 These results are consistent with firms indicted between 1962 and 2000.101 Given the substantially greater corporate fines that were imposed during the latter half of that period, the consistency of the stock price recovery across that time suggests increased sanctions do not significantly deter antitrust violations.102

#### A number of issues make deterrence structurally impossible in antitrust – even after altering what is considered anticompetitive, effective enforcement is impossible.

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Bill Baer, Jonathan B. Baker, Michael Kades, Fiona Scott Morton, Nancy L. Rose, Carl Shapiro, Tim Wu, “Restoring competition in the United States: A vision for antitrust enforcement for the next administration and Congress,” Washington Center for Equitable Growth, November 2020, https://equitablegrowth.org/research-paper/restoring-competition-in-the-united-states/

Antitrust enforcement faces a serious deterrence problem, if not a crisis. Deterrence is central to most civil and criminal law enforcement programs because catching every lawbreaker is either implausible or would require an immense enforcement apparatus. The antitrust laws, by their very nature, will always lack some of the deterrent clarity characteristics of other legal regimes.30 Yet there is reason to fear we have reached an extreme. Rather than deter anticompetitive behavior, current legal standards do the opposite: They encourage it because such conduct is likely to escape condemnation, and the benefits of violating the law far exceed the potential penalties.31

Antitrust enforcement’s current reactive posture has contributed to this problem. Enforcers typically respond to cases and complaints that come before them.32 Reactive enforcement works well when anticompetitive conduct is rare and is the exception across the U.S. economy.33

But reactive enforcement is unlikely to address wide-ranging competition problems, and may even exacerbate them, when it spreads limited resources broadly, making it difficult to tackle major competitive problems when powerful interests will expend substantial resources to defend their actions. A reactive approach also may largely accept existing legal precedents and try to operate within that reality. The combination can create a ratchet: Court decisions that limit enforcement tend to circumscribe later enforcement. There are no countervailing forces to convince courts to develop rules based on sound economics that will strengthen enforcement.

#### Specifically, budget shortages wreck deterrence and make corporations more likely to pursue anticompetitive conduct.

Baer et al. 20 – Visiting fellow in governance studies at The Brookings Institution, former assistant attorney general of the Antitrust Division, former acting associate attorney general of the U.S. Department of Justice, former director of the Bureau of Competition at the Federal Trade Commission

Bill Baer, Jonathan B. Baker, Michael Kades, Fiona Scott Morton, Nancy L. Rose, Carl Shapiro, Tim Wu, “Restoring competition in the United States: A vision for antitrust enforcement for the next administration and Congress,” Washington Center for Equitable Growth, November 2020, <https://equitablegrowth.org/research-paper/restoring-competition-in-the-united-states/>

The need for more resources

The agencies lack the resources to fulfill their mission after a decade in which they have seen their budgets largely frozen. Increasing resources alone will not solve today’s manifest market power problems, but substantially increasing resources is an important part of the solution.

The agencies require a significant increase in appropriations to begin the process of more effectively deterring anticompetitive conduct and mergers. Agencies strapped for resources are less likely to investigate complex cases and more willing to accept flawed settlements. Corporations are more likely to pursue questionable mergers or undertake potentially anticompetitive conduct if they think the agencies have little or no capacity to bring additional enforcement actions.

#### No Middle East escalation

Imran 2/6/19 [Myra Imran, writer for The News International. Citing the international seminar on “Strategic Dimensions of Peace and Conflict in South Asia and the Middle East”. Seminar on ‘Strategic dimensions of peace and conflict in South Asia, Middle East’. 2/6/19, https://www.thenews.com.pk/print/428298-seminar-on-strategic-dimensions-of-peace-and-conflict-in-south-asia-middle-east]

Islamabad : There is a need to study the causes of proxy wars, and what are the potential impacts of such wars on the overall conflict. These thoughts in a daylong international seminar on ‘Strategic Dimensions of Peace and Conflict in South Asia and the Middle East,’ organised by Pak Institute for Peace Studies (PIPS), an Islamabad-based think tank, participated by prominent national and international scholars.

Prof. Shahram Akbarzadeh, Deakin University, Australia, argued there is significant gap in the literature on non-state actors. He called for empirical research, along with concrete policy suggestions, on the topic, so as to mitigate the conflicts in the region, in particular South Asia and Middle East.

Speakers grappled at the notion of non-state actors and proxy wars: PIPS director Muhammad Amir Rana said non-state actors often evoke memories of violent elements. This despite that as per definition, non-state actors include organizations working for human rights.

Prof. Syed Rifaat Hussain, Department of Government and Public Policy, NUST, said the term “proxy wars” is a contested notion. There is no universal agreement on its definition, nor on the set of circumstances behind such wars. Interestingly, he said, proxy wars are as old as the phenomena of conventional war itself.

Speakers noted proxy wars are instruments of state power. As to why states go for it, it was argued, it is because they are often cheap undertaking to change the status quo.

Participants noted over the decades, much of the conflict involves non-state actors. Interstate conflict, on the other hand, has declined. In recent times, he said tit-for-tat tactics on behalf of such actors have reduced their appeal.

Dr. Ibrahim Fraihat, Doha Institute of Graduate Studies, Doha, termed proxy war as an arms conflict between two parties, though one of them is not directly involved. This way, domestic conflicts are escalated by external power intervention. At the same time, proxy war, if unresolved, can take the shape of conventional war, the most significant example was of Vietnam War. In contemporary times, he lamented, the Middle East has been rendered a stock market of proxy organizations.

William Gueriache, Associate Professor American University in the Emirates Dubai, said on surface, all states support open diplomacy and multilateralism. Yet the survival of patronage has paved the way for foreign intervention during conflicts in the whole Middle East.

Dr. Marwan Kablan, Director Policy Analysis at the Arab Center for Research and Policy Studies Doha, also hinted multiplicity of actors involved in Syrian conflict, calling it as mother of conflicts in the region. It was said that wars cannot be ended unless patron states achieve their interests.

Dr. Shaheen Akhtar, Professor National Defence University Islamabad focused on the apprehension of Pakistan about India’s involvement in Afghanistan. She said Pakistan’s uneasy relationship with Kabul reinforces a perception of encirclement while growing US-India strategic cooperation further aggravates these apprehensions.

Dr. Muhammad Riaz Shad, National University of Modern Languages (NUML) Islamabad, said fighting through proxies gives states an opportunity of deniability.

#### Democratic backsliding inevitable

Illing 17

Sean, Oct 13, 2017, 20 of America's top political scientists gathered to discuss our democracy. They're scared, <https://www.vox.com/2017/10/13/16431502/america-democracy-decline-liberalism>

On October 6, some of America’s top political scientists gathered at Yale University to answer these questions. And nearly everyone agreed: American democracy is eroding on multiple fronts — socially, culturally, and economically. The scholars pointed to breakdowns in social cohesion (meaning citizens are more fragmented than ever), the rise of tribalism, the erosion of democratic norms such as a commitment to rule of law, and a loss of faith in the electoral and economic systems as clear signs of democratic erosion. No one believed the end is nigh, or that it’s too late to solve America’s many problems. Scholars said that America’s institutions are where democracy has proven most resilient. So far at least, our system of checks and balances is working — the courts are checking the executive branch, the press remains free and vibrant, and Congress is (mostly) fulfilling its role as an equal branch. But there was a sense that the alarm bells are ringing. Yascha Mounk, a lecturer in government at Harvard University, summed it up well: “If current trends continue for another 20 or 30 years, democracy will be toast.” “Democracies don’t fall apart — they’re taken apart” Nancy Bermeo, a politics professor at Princeton and Harvard, began her talk with a jarring reminder: Democracies don’t merely collapse, as that “implies a process devoid of will.” Democracies die because of deliberate decisions made by human beings. Usually, it’s because the people in power take democratic institutions for granted. They become disconnected from the citizenry. They develop interests separate and apart from the voters. They push policies that benefit themselves and harm the broader population. Do that long enough, Bermeo says, and you’ll cultivate an angry, divided society that pulls apart at the seams. So how might this look in America? Adam Przeworski, a democratic theorist at New York University, suggested that democratic erosion in America begins with a breakdown in what he calls the “class compromise.” His point is that democracies thrive so long as people believe they can improve their lot in life. This basic belief has been “an essential ingredient of Western civilization during the past 200 years,” he said. But fewer and fewer Americans believe this is true. Due to wage stagnation, growing inequalities, automation, and a shrinking labor market, millions of Americans are deeply pessimistic about the future: 64 percent of people in Europe believe their children will be worse off than they were; the number is 60 percent in America. That pessimism is grounded in economic reality. In 1970, 90 percent of 30-year-olds in America were better off than their parents at the same age. In 2010, only 50 percent were. Numbers like this cause people to lose faith in the system. What you get is a spike in extremism and a retreat from the political center. That leads to declines in voter turnout and, consequently, more opportunities for fringe parties and candidates. Political polarization is an obvious problem, but researchers like Przeworski suggest something more profound is going on. Political theorists like to talk about the “social compact,” which is basically an implicit agreement among members of society to participate in a system that benefits everyone. Well, that only works if the system actually delivers on its promises. If it fails to do so, if it leads enough people to conclude that the alternative is less scary than the status quo, the system will implode from within. Is that happening here? Neither Przeworski nor anyone else went quite that far. But we know there’s a growing disconnect between productivity (how hard people work) and compensation (how much they’re paid for that work). At the same time, we’ve seen a spike in racial animus, particularly on the right. It seems likely there’s a connection here. Przeworski believes that American democracy isn’t collapsing so much as deteriorating. “Our divisions are not merely political but have deep roots in society,” he argues. The system has become too rigged and too unfair, and most people have no real faith in it. Where does that leave us? Nowhere good, Przeworski says. The best he could say is that “our current crisis will continue for the foreseeable future.” “The soft guardrails of democracy” are eroding We’ve heard a lot of chatter recently about the importance of democratic norms. These are the unwritten rules and the conventions that undergird a democracy — things like commitment to rule of law, to a free press, to the separation of powers, to the basic liberties of speech, assembly, religion, and property. Daniel Ziblatt, a politics professor at Harvard, called these norms “the soft guardrails of democracy.” Dying democracies, he argued, are always preceded by the breaking of these unwritten rules. Research conducted by Bright Line Watch, the group that organized the Yale conference, shows that Americans are not as committed to these norms as you might expect. It’s not that Americans don’t believe in democratic ideals or principles; it’s that our beliefs scale with our partisan loyalties. Vox’s Ezra Klein explained it well in a recent column: People’s opinions on democracy lie downstream from their partisan identity. If it had been Trump’s voters who had seen the Electoral College, gerrymandering, and Russia turn against them, then it would be Trump’s voters vibrating with outrage over the violation of key principles of American democracy. Hypocrisy aside, the reaction of nearly half the country to Russia’s meddling says a lot about our attachment to core democratic values like free and fair elections. Another startling finding is that many Americans are open to “alternatives” to democracy. In 1995, for example, one in 16 Americans supported Army rule; in 2014, that number increased to one in six. According to another survey cited at the conference, 18 percent of Americans think a military-led government is a “fairly good” idea. But there’s more. Ziblatt identified what he calls two “master norms.” The first is mutual toleration — whether we “accept the basic legitimacy of our opponents.” The second is institutional forbearance — whether politicians responsibly wield the power of the institutions they’re elected to control. As for mutual toleration, America is failing abysmally (more on this below). We’re hardly better on the institutional forbearance front. Most obviously, there’s Donald Trump, who has dispensed with one democratic norm after another. He’s fired an FBI director in order to undercut an investigation into his campaign’s possible collusion with Moscow; staffed his White House with family members; regularly attacked the free press; and refused to divest himself of his business interests. The Republican Party, with few exceptions, has tolerated these violations in the hope that they might advance their agenda. But it’s about a lot more than Republicans capitulating to Trump. Ziblatt points to the GOP’s unprecedented blocking of President Obama’s Supreme Court nominee, Judge Merrick Garland, in 2016 as an example of institutional recklessness. In 2013, Senate Democrats took a similarly dramatic step by eliminating filibusters for most presidential nominations. That same year, House Republicans endangered the nation’s credit rating and shut down the government over Obamacare. There are countless other encroachments one could cite, but the point is clear enough: American democracy is increasingly less anchored by norms and traditions — and history suggests that’s a sign of democratic decay. “We don’t trust each other” Timur Kuran, a professor of economics and politics at Duke University, argued that the real danger we face isn’t that we no longer trust the government but that we no longer trust each other. Kuran calls it the problem of “intolerant communities,” and he says there are two such communities in America today: “identitarian” activists concerned with issues like racial/gender equality, and the “nativist” coalition, people suspicious of immigration and cultural change. Each of these communities defines itself in terms of its opposition to the other. They live in different worlds, desire different things, and share almost nothing in common. There is no real basis for agreement and thus no reason to communicate. The practical consequence of this is a politics marred by tribalism. Worse, because the fault lines run so deep, every political contest becomes an intractable existential drama, with each side convinced the other is not just wrong but a mortal enemy. Consider this stat: In 1960, 5 percent of Republicans and 4 percent of Democrats objected to the idea of their children marrying across political lines. In 2010, those numbers jumped to 46 percent and 33 percent respectively. Divides like this are eating away at the American social fabric. A 2014 Pew Research Center study reached a similar conclusion: "In both political parties, most of those who view the other party very unfavorably say that the other side's policies 'are so misguided that they threaten the nation's well-being,'" Pew reports. "Overall, 36% of Republicans and Republican leaners say that Democratic policies threaten the nation, while 27% of Democrats and Democratic leaners view GOP policies in equally stark terms." So it’s not merely that we disagree about issues; it’s that we believe the other side is a grievous threat to the republic. According to Pew, the numbers above have more than doubled since 1994. Kuran warns that autocrats tend to exploit these divisions by pushing “policies that may seem responsive to grievances but are ultimately counterproductive.” Think of Donald Trump’s “Muslim ban” or his insistence on building a giant wall on the southern border. Neither of these policies is likely to make a significant difference in the lives of Trump’s voters, but that’s not really the point. By pandering to fears and resentments, Trump both deepens the prejudices and satisfies his base. Donald Trump and “the politics of eternity” Timothy Snyder, a Yale historian and author of the book On Tyranny, gave one of the more fascinating talks of the conference. Strangely enough, Snyder talked about time as a kind of political construct. (I know that sounds weird, but bear with me.) His thesis was that you can tell a lot about the health of a democracy based on how its leaders — and citizens — orient themselves in time. Take Trump’s “Make America Great Again” slogan. The slogan itself invokes a nostalgia for a bygone era that Trump voters believe was better than today and better than their imagined future. By speaking in this way, Snyder says, Trump is rejecting conventional politics in a subtle but significant way. Why, after all, do we strive for better policies today? Presumably it’s so that our lives can be improved tomorrow. But Trump reverses this. He anchors his discourse to a mythological past, so that voters are thinking less about the future and more about what they think they lost. “Trump isn’t after success — he’s after failure,” Snyder argued. By that, he means that Trump isn’t after what we’d typically consider success — passing good legislation that improves the lives of voters. Instead, Trump has defined the problems in such a way that they can’t be solved. We can’t be young again. We can’t go backward in time. We can’t relive some lost golden age. So these voters are condemned to perpetual disappointment. The counterargument is that Trump’s idealization of the past is, in its own way, an expression of a desire for a better future. If you’re a Trump voter, restoring some lost version of America or revamping trade policies or rebuilding the military is a way to create a better tomorrow based on a model from the past. For Snyder, though, that’s not really the point. The point is that Trump’s nostalgia is a tactic designed to distract voters from the absence of serious solutions. Trump may not be an authoritarian, Snyder warns, but this is something authoritarians typically do. They need the public to be angry, resentful, and focused on problems that can’t be remedied. Snyder calls this approach “the politics of eternity,” and he believes it’s a common sign of democratic backsliding because it tends to work only after society has fallen into disorder. My (depressing) takeaway Back in June, I interviewed political scientists Christopher Achen and Larry Bartels, authors of Democracy for Realists. They had a sobering thesis about democracy in America: Most people pay little attention to politics; when they vote, if they vote at all, they do so irrationally and for contradictory reasons. One of the recurring themes of this conference was that Americans are becoming less committed to liberal democratic norms. But were they ever really committed to those norms? I’m not so sure. If Achen and Bartels are to be believed, most voters don’t hold fixed principles. They have vague feelings about undefined issues, and they surrender their votes on mostly tribal grounds. So I look at the declining faith in democratic norms and think: Most people probably never cared about abstract principles like freedom of the press or the rule of law. (We stopped teaching civics to our children long ago.) But they more or less affirmed those principles as long as they felt invested in American life. But for all the reasons discussed above, people have gradually disengaged from the status quo. Something has cracked. Citizens have lost faith in the system. The social compact is broken. So now we’re left to stew in our racial and cultural resentments, which paved the way for a demagogue like Trump. Bottom line: I was already pretty cynical about the trajectory of American democracy when I arrived at the conference, and I left feeling justified in that cynicism. Our problems are deep and broad and stretch back decades, and the people who study democracy closest can only tell us what’s wrong. They can’t tell us what ought to be done. No one can, it seems.

## Cartels

### 1NC – ADV 2

#### No relationship between food insecurity and war

Blankenberger 16 Emily R. Blankenberger, Applied Economics and Community Development Department of Economics/Stevenson Center Illinois State University. “Feeding Peace: An Investigation of the Relationship between Food Insecurity and Violence.” Stevenson Center for Community and Economic Development. 2016. https://ir.library.illinoisstate.edu/cgi/viewcontent.cgi?article=1019&context=scced

This paper attempted to address the relationship between food insecurity and violence. Its aim was to see if there was a positive relationship between violence and food insecurity as well as looking at other factors that include population, GDP, and urban population. This was done by compiling data from World Bank and the Global Peace Index. The Global Peace Index is a new form of data that has not been used in the academic community. This new piece of data allows a broader picture of what violence can include. A broad form of methods were used that include OLS, fixed effects, multiprobit, and two staged least squares, with aid and neighboring aid acting as instrumental variables. There overall findings show no connection between the variables and therefore no relationship can be concluded.

This study focused on multiple countries in order to determine the correlation between food insecurity and violence. The results show a different result than researchers in the past. While the general consensus says that there is a positive relationship between food insecurity and violence, I did not find that to be the result. For all countries, there was no statistically significant relationship between food insecurity and violence. Although the results are somewhat surprising, there are a lot of potential factors that could contribute to this result. One example could be that the Global Peace Index simply had too many factors to capture a clear and concise representation of violence. The overall relationship between these two main variables is still undefined. That is because the models failed to have any statistically significant results. While this study does not give more understanding to the true relationship between food insecurity and violence, it does allow future researchers to look at the GPI variable more deeply and see different potential methodologies used in testing violence and food insecurity. Another potential effect could be not including an inequality variable. There is some past research that suggests a causation between income inequality and violence. The exclusion of this variable could have also caused a different result.

#### No resource shortages – tech prevents every scenario

Bailey ’18 – Warren T. Brookes Fellow in Environmental Journalism at the Competitive Enterprise Institute, award-winning science correspondent for Reason magazine

Ronald. February 16. “Is Degrowth the Only Way to Save the World?” <https://reason.com/blog/2018/02/16/is-degrowth-the-only-way-to-save-the-wor>

Unless us folks in rich countries drastically reduce our material living standards and distribute most of what we have to people living in poor countries, the world will come to an end. Or at least that's the stark conclusion of a study published earlier this month in the journal Nature Sustainability. The researchers who wrote it, led by the Leeds University ecological economist Dan O'Neill, think the way to prevent the apocalypse is "degrowth."

Vice, pestilence, war, and "gigantic inevitable famine" were the planetary boundaries set on human population by the 18th-century economist Robert Thomas Malthus. The new study gussies up old-fashioned Malthusianism by devising a set of seven biophysical indicators of national environmental pressure, which they then link to 11 indicators of social outcomes. The aim of the exercise is to concoct a "safe and just space" for humanity.

Using data from 2011, the researchers calculate that the annual per capita boundaries for the world's 7 billion people consist of the emission of 1.6 tons of carbon dioxide per year and the annual consumption of 0.9 kilograms of phosphorus, 8.9 kilograms of nitrogen, 574 cubic meters of water, 2.6 tons of biomass (crops and wood), plus the ecological services of 1.7 hectares of land and 7.2 tons of material per person.

On the social side, meanwhile, the researchers say that life satisfaction in each country should exceed 6.5 on the 10-point Cantril scale, that healthy life expectancy should average at least 65 years, and that nutrition should be over 2,700 calories per day. At least 95 percent of each country's citizens must have access to good sanitation, earn more than $1.90 per day, and pass through secondary school. Ninety percent of citizens must have friends and family they can depend on. The threshold for democratic quality must exceed 0.8 on an index scale stretching from -1 to +1, while the threshold for equality is set at no higher than 70 on a Gini Index where 0 represents perfect equality and 100 implies perfect inequality. They set the threshold for percent of labor force employed at 94 percent.

So how does the U.S. do with regard to their biophysical boundaries and social outcomes measures? We Americans transgress all seven of the biophysical boundaries. Carbon dioxide emissions stand at 21.2 tons per person; we each use an average of 7 kilograms of phosphorus, 59.1 kilograms of nitrogen, 611 cubic meters of water, and 3.7 tons of biomass; we rely on the ecological services of 6.8 hectares of land and 27.2 tons of material. Although the researchers urge us to move "beyond the pursuit of GDP growth to embrace new measures of progress," it is worth noting that U.S. GDP is $59,609 per capita.

On the other hand, those transgressions have provided a pretty good life for Americans. For example, life satisfaction is 7.1; healthy life expectancy is 69.7 years; and democratic quality stands at 0.8 points. The only two social indicators we just missed on were employment (91 percent) and secondary education (94.7 percent).

On the other hand, our hemisphere is home to one paragon of sustainability—Haiti. Haitians breach none of the researchers' biophysical boundaries. But the Caribbean country performs abysmally on all 11 social indicators. Life satisfaction scores at 4.8; healthy life expectancy is 52.3 years; and Haitians average 2,105 calories per day. The country tallies -0.9 on the democratic quality index. Haiti's GDP is $719 per capita.

Other near-sustainability champions include Malawi, Nepal, Myanmar, and Nicaragua. All of them score dismally on the social indicators, and their GDPs per capita are $322, $799, $1,375, and $2,208, respectively.

The country that currently comes closest to the researchers' ideal of remaining within its biophysical boundaries while sufficient social indicators is...Vietnam. For the record, Vietnam's per capita GDP is $2,306.

"Countries with higher levels of life satisfaction and healthy life expectancy also tend to transgress more biophysical boundaries," the researchers note. A better way to put this relationship is that more wealth and technology tend to make people happier, healthier, and freer.

O'Neill and his unhappy team fail drastically to understand how human ingenuity unleashed in markets is already well on the way toward making their supposed planetary boundaries irrelevant. Take carbon dioxide emissions: Supporters of renewable energy technologies say that their costs are already or will soon be lower than those of fossil fuels. Boosters of advanced nuclear reactors similarly argue that they can supply all of the carbon-free energy the world will need. There's a good chance that fleets of battery-powered self-driving vehicles will largely replace private cars and mass transit later in this century.

Are we about to run out of phosphorous to fertilize our crops? Peak phosphorus is not at hand. The U.S. Geological Survey (USGS) reports that at current rates of mining, the world's known reserves will last 266 years. The estimated total resources of phosphate rock would last over 1,140 years. "There are no imminent shortages of phosphate rock," notes the USGS. With respect to the deleterious effects that using phosphorus to fertilize crops might have outside of farm fields, researchers are working on ways to endow crops with traits that enable them to use less while maintaining yields.

O'Neill and his colleagues are also concerned that farmers are using too much nitrogen fertilizer, which runs off fields into the natural environment and contributes to deoxygenated dead zones in the oceans, among other ill effects. This is a problem, but one that plant breeders are already working to solve. For example, researchers at Arcadia Biosciences have used biotechnology to create nitrogen-efficient varieties of staples like rice and wheat that enable farmers to increase yields while significantly reducing fertilizer use. Meanwhile, other researchers are moving on projects to engineer the nitrogen fixation trait from legumes into cereal crops. In other words, the crops would make their own fertilizer from air.

Water? Most water is devoted to the irrigation of crops; the ongoing development of drought-resistant and saline-tolerant crops will help with that. Hectares per capita? Humanity has probably already reached peak farmland, and nearly 400 million hectares will be restored to nature by 2060—an area almost double the size of the United States east of the Mississippi River. In fact, it is entirely possible that most animal farming will be replaced by resource-sparing lab-grown steaks, chops, and milk. Such developments in food production undermine the researchers' worries about overconsumption of biomass.

And humanity's material footprint is likely to get smaller too as trends toward further dematerialization take hold. The price system is a superb mechanism for encouraging innovators to find ways to wring ever more value out less and less stuff. Rockefeller University researcher Jesse Ausubel has shown that this process of absolute dematerialization has already taken off for many commodities.

After cranking their way through their models of doom, O'Neill and his colleagues lugubriously conclude: "If all people are to lead a good life within planetary boundaries, then the level of resource use associated with meeting basic needs must be dramatically reduced." They are right, but they are entirely backward with regard to how to achieve those goals. Economic growth provides the wealth and technologies needed to lift people from poverty while simultaneously lightening humanity's footprint on the natural world. Rather than degrowth, the planet—and especially its poor people—need more and faster economic growth.

# 2NC

## K

#### Hide under the mattress!

Taleb ’08 – Risk Engineering Professor at NYU [Nassim Nicholas; Distinguished Professor of Risk Engineering at New York University’s Polytechnic Institute; 9-14-2008; "THE FOURTH QUADRANT: A MAP OF THE LIMITS OF STATISTICS"; Edge; https://www.edge.org/conversation/the-fourth-quadrant-a-map-of-the-limits-of-statistics; accessed 1-28-2022] \*figures excluded

Phronetic Rules: What Is Wise To Do (Or Not Do) In The Fourth Quadrant

1) Avoid Optimization, Learn to Love Redundancy. Psychologists tell us that getting rich does not bring happiness—if you spend it. But if you **hide it under the mattress**, you are **less vulnerable** to a black swan. Only fools (such as Banks) optimize, not realizing that a **simple model error** can blow through their capital (as it just did). In one day in August 2007, Goldman Sachs experienced 24 x the average daily transaction volume—would 29 times have blown up the system? The only weak point I know of financial markets is their ability to drive people & companies to "efficiency" (to please a stock analyst’s earnings target) against risks of extreme events.

Indeed some systems tend to optimize—therefore become **more fragile**. Electricity grids for example optimize to the point of not coping with **unexpected surges**—Albert-Lazlo Barabasi warned us of the possibility of a **NYC blackout** like the one we had in August 2003. Quite prophetic, the fellow. Yet energy supply kept getting **more and more** efficient since. Commodity prices can **double** on a short burst in demand (oil, copper, wheat) —we no longer have any slack. Almost everyone who talks about "**flat earth**" does not realize that it is overoptimized to the point of **maximal vulnerability**.

Biological systems—those that survived millions of years—include **huge redundancies**. Just consider why we like sexual encounters (so redundant to do it so often!). Historically populations tended to produced around 4-12 children to get to the historical average of ~2 survivors to adulthood.

Option-theoretic analysis: redundancy is like **long an option**. You certainly pay for it, but it may be **necessary for survival**.

2) Avoid prediction of **remote payoffs**—though not necessarily ordinary ones. Payoffs from remote parts of the distribution are more **difficult to predict** than closer parts.

#### Development economics has been overwhelmingly counterproductive.

Gonikberg 20 – Staff Writer for Stony Brook's most notable newspaper.  
Xenia Gonikberg, October 31 2020, “The Effects of Capitalism on Impoverished Nations,” Borgen Magazine, https://www.borgenmagazine.com/the-effects-of-capitalism/

About Capitalism

Sociologists like Adam Smith and Karl Marx pioneered the idea of capitalism, but its modern-day implementation is different from what they predicted. As an economic system, one of the effects of capitalism is that it breeds competition between countries and perpetuates poverty among developing nations due to the individual interests of private corporations rather than the needs of their workers. As such, these organizations tend to prioritize maintaining wealth, so they only [pay those who have employment](https://www.jacobinmag.com/2017/09/poverty-rate-census-capitalism-bruenig) with them or those who have high wealth. This leads to certain nations having higher rates of poverty and joblessness, which negatively impacts their economy, environment and population. In addition, the current capitalist standard for most countries involves skirting around environmental regulations, drastically underpaying workers and confining them to unfair working conditions.

Poverty Statistics

About [10% of the world’s population](https://www.worldbank.org/en/topic/poverty/overview) lived on less than $2 a day as of 2015, and as of 2019, [over half of the world’s poor](https://blogs.worldbank.org/opendata/half-world-s-poor-live-just-5-countries) lived in just five countries: India, Nigeria, the Democratic Republic of Congo, Ethiopia and Bangladesh. The countries that have the highest rates of poverty have [low economic growth](https://www.worldbank.org/en/topic/poverty/overview), and a majority of the population is uneducated or in the agriculture sector. Many of these workers become trapped in a vicious cycle that forces them to work in these conditions for little pay just to survive, with no way of living beyond what they are making, thus remaining in poverty.

Dirty Industries

Corporations involved in capitalist activities employ what some know as “dirty industries” in developing countries in order to sell their product. Dirty industries consist of steel, coal and oil production, and they have drastic ramifications on the environment, which is why people know them as dirty industries. Corporations exploit countries with these industries for-profit and move their facilities to that country, where they do not have the same regulations. If a country is unprofitable in the eyes of the corporation, then it does not reap the same economic benefits. In countries like Mexico and India, private corporations do not employ [a high number of workers](https://www.weforum.org/agenda/2015/08/does-capitalism-cause-poverty/), which in turn leads to higher rates of poverty among the population.

How Capitalism Perpetuates Inequality

Furthermore, multinational corporations take part in a “race to the bottom” technique, which further perpetuates inequality among developing nations. Certain countries “enter into a competition of sorts to create the best possible situation for a multinational company. These nations may offer lower wages than another nation competing for the investment, tax breaks, and exemptions to environmental laws,” said John Shandra, professor of sociology at Stony Brook University, in an interview with The Borgen Project. “What is happening is low- and middle-income nations are undercutting one another and at the same time creating more poverty in their country.” Shandra often teaches his students about capitalism and its far-reaching impact. His lessons illustrate the political and economic motivations some nations have in order to make a profit, often at the expense of poor or underdeveloped nations.

Many of the countries currently experiencing poverty have one thing in common: they are vulnerable. Whether it is politically or economically, a correlation exists between high poverty rates and countries either at war or in a political crisis. Additionally, countries with stringent regulations don’t reap the benefits of capitalism as much as free-market economies do. According to the World Bank, countries with ongoing conflicts remain stuck in poverty, while those who have managed to escape poverty have seen a sharp decrease in poverty rates overall.

## case

#### Cartels are deterred – most recent evidence prices in aff arguments and concludes that cartels are on the decline.

Verbeke & Buts 08-17 – Professor of International Business and Strategy, McCaig Chair in Management, University of Calgary; Professor at the department of applied economics of the Vrije Universiteit Brussel

Alain Verbeke, Caroline Buts, “The Not So Brilliant Future of International Cartels,” Management and Organization Review, Cambridge University Press, August 2021, https://www.cambridge.org/core/journals/management-and-organization-review/article/not-so-brilliant-future-of-international-cartels/363CC718A5FD54F8BB390B9AB22150B7

A NOT SO BRILLIANT FUTURE OF INTERNATIONAL CARTELS?

As explained in the previous section, we do not dispute the possibility that international cartels could become more important in the future under carefully defined conditions. We are doubtful, however, even when accepting B&C’s broad definition of this governance mode, that international cartels will gain ground more generally, vis-à-vis other forms of governance in international business, when multinational enterprises face increased political risk.

A key element, and perhaps a surprising one, explaining our doubt about the bright future of cartels is four clear trends in cartel regulation that are now creating significant political risk for international cartel members (admittedly not covering B&C’s benevolent cartels). First, competition policy is now a priority for policy makers around the world, as reflected in the progress made in detecting, investigating, and prosecuting cartels (OECD, 2020; OECD, 2021b). Recently published data indicate that 68% of global cartels (with members from at least two different continents) have been prosecuted by multiple jurisdictions, with average cartel fines being very high at €19.3 million (OECD, 2020).

Second, the consequences of being caught as a cartel member have gradually become more severe and far-reaching, both for the orchestrating and the participating companies, and for the employees involved (Ordóñez-De-Hano, Borrell, & Jiménez, 2018). Depending on the jurisdiction, a wide array of sanctions is now being deployed, including personal fines, trade prohibitions, and prison sentences (these have increased sevenfold over a recent five-year period, OECD, 2020). After a finding of cartel-behavior from the competition authority, the legal battle usually continues in the form of lawsuits for damages whereby victims file claims and may also coordinate their actions, e.g., to recover cartel overcharges (Burke, 2019).

Third, cartel investigations have also become more sophisticated. Leniency policies – providing immunity from fines for the first player who admits to the existence of a cartel and discloses information on its functioning – are on the rise. This powerful tool serves both detection and deterrence purposes in the realm of anticompetitive behavior (Margrethe & Halvorsen, 2020; Marvão & Spagnolo, 2018; Miller, 2009). It incentivizes cartel members to become whistle blowers. Companies will be less likely to join a cartel if they know that its members may be enticed to disclose cartel operations, (Brenner, 2009; Vanhaverbeke & Buts, 2020).

A larger number of agencies than before now also have the mandate to conduct ‘dawn raids’, in order to collect evidence of cartel behavior and they can even enter private premises of employees during their search for incriminating material. In addition, sophisticated econometric analyses have become standard practice to provide evidence of coordinated conduct in industry and to calculate cartel overcharges (Parcu, Monti, & Botta, 2021).

Fourth, competition authorities have invested more in outreach, communicating competition rules through dedicated events, online campaigns, and competition networks. Compliance programs have also been on the rise with an increasing number of mainly large companies investing in compliance training to abide by competition rules (De Stefano, 2018).

The increased efforts to fight anticompetitive agreements in industry are now deterring and destabilizing cartels. Following a substantial increase in the number of cartels that have been ‘caught’, the average life span of these cartels is now going down rapidly (OECD, 2020). The fight against illegal, anticompetitive behavior will intensify further in the near future, rather than governments shifting their focus to contemplate potential benefits. At the same time, the beneficial effects have been widely acknowledged of international collaboration forms that are legally allowed by various competition policy regimes (and are therefore not considered cartels), see for instance Martínez-Noya and Narula (2018) on international R&D cooperation.

#### Here are more studies demonstrating that there are no connections.

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

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

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

# 1NR

## DA

#### Trade turns and solves the case---foreign competition is better than antitrust

Anu Bradford 19, Henry L. Moses Professor of Law and International Organization at Columbia Law School, LLM from Harvard Law School, Master of Laws from University of Helsinki, JD from Harvard Law School, and Dr. Adam S. Chilton, University of Chicago, Professor of Law and the Walter Mander Research Scholar at the University of Chicago Law School, MA in Political Science from Yale University, JD and PhD in Political Science from Harvard University, “Trade Openness and Antitrust Law”, Journal of Law & Economics, Volume 62, Number 1, 62 J. Law & Econ. 29, February 2019, Lexis

2.1. Trade and Antitrust Law as Substitutes

Many scholars suggest that trade liberalization may make adopting an anti trust regime unnecessary (Bhagwati 1968; Helpman and Krugman 1989; Blackhurst 1991; Neven and Seabright 1997; Melitz and Ottaviano 2008). According to this view, free trade is an effective way to ensure that markets remain competitive because facilitating entry checks market power (Baumol, Panzar, and Willig 1982). For example, when an economy is open to trade, monopolists refrain from abusing their market power because low external barriers ensure that competitors can enter the market and contest any such abusive practices. In this way, trade liberalization renders an anti trust intervention into monopolistic practices superfluous. Exports fueled by trade liberalization should also enhance market competition. New opportunities in export markets ensure that more firms can reach an efficient scale of production, which further spurs competition and reduces the need for an anti trust regime (Bartók and Miroudot 2008).

Relying on trade liberalization to safeguard market competition could have several advantages. First, foreign producers must incur certain fixed costs and variable trade costs to enter a new market that domestic producers do not incur. If foreign firms are able to enter and effectively compete even after incurring those costs, they are presumably more efficient and hence may act as an even more effective discipline on the market than domestic firms (Bartók and Miroudot 2008). Second, choosing free trade over anti trust regulation eliminates the need to rely on government bureaucracies. Many who remain skeptical of governmental intervention favor free trade and thus prefer to have imports discipline [\*33] anticompetitive behavior. This argument may gain all the more force today considering the complexities associated with antitrust regulators from over 130 countries all applying different rules in an effort to regulate the global marketplace. Finally, although trade openness may "act as an effective antitrust policy" (Pomfret 1992, p. 11), an effective antitrust policy does not act as an effective trade policy. For example, if the United States were to impose a 30 percent tariff on foreign producers today, foreign firms would likely not enter no matter how competitive the markets are behind the border. Domestic antitrust laws thus may do little to facilitate market entry in the presence of highly protectionist trade policy.

#### Turns case – the aff kills international cooperation, which is essential to fighting cartels.

Connolly 15 – Partner in the Washington, D.C. office of GeyerGorey, LLP

Robert E. Connolly, “Why the Motorola Mobility Decision was Good for Cartel Enforcement and Deterrence,” CPI Antitrust Chronicle, January 2015, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2559149

II. INTERNATIONAL COOPERATION HAS LED TO THE EFFECTIVE PREVENTION, DETECTION, AND PROSECUTION OF CARTELS

While there are a few exceptions,3 major private civil damage cases in the international cartel arena have generally been brought only after the Division has obtained guilty pleas or convictions. The Division's ability to obtain guilty pleas has been aided greatly by cooperation from foreign governments in global investigations. Numerous foreign governments filed amicus briefs in Motorola Mobility urging the Court not to reach a decision that would infringe on their sovereignty and undermine their own enforcement of competition laws. For purposes of prosecuting international cartels, as well as for follow-on civil actions, maintaining international cooperation is essential.

Cooperation among antitrust enforcers takes many forms, some public, some not: coordinated dawn raids, assistance in obtaining foreign-located evidence, sharing leads and other non-confidential information, adoption of Mutual Legal Assistance Treaties (“MLATs”), and reducing safe havens from extradition for those who do fix prices.4 “While challenges remain in the area of international cooperation, cooperation among jurisdictions in anti-cartel enforcement continues to become more robust, sophisticated, and effective.”5

The Division has observed that, with each passing day, the antitrust community learns of a foreign government that has enacted a new antitrust law, created a new cartel investigative unit, obtained a record antitrust fine, or adopted a new corporate leniency program. This shared commitment to fighting international cartels has led to the establishment of cooperative relationships among competition law enforcement authorities around the world, leading to more effective investigation and prosecution of international cartels.6

#### Comity is strong now – recent case law.

Cardenas et al. 21 – Vinson & Elkins LLP

Natalie Cardenas, Branden Stein, Lindsey Vaala, “Had Enough Vitamin C? Second Circuit Dismisses Antitrust Claims Against Chinese Vitamin C Manufacturers Yet Again,” JD Supra, August 2021, https://www.jdsupra.com/legalnews/had-enough-vitamin-c-second-circuit-2307332/

On August 10, 2021, the United States Court of Appeals for the Second Circuit (the “Second Circuit”) once again drew on principles of international comity to dismiss antitrust price-fixing claims against Chinese vitamin C manufacturers.1 The court found that a true conflict existed between Chinese law and U.S. law, making it impossible for the China-based defendants to comply with both. This, in combination with other international comity factors favoring dismissal, supported the court’s position that U.S. law could not reach the defendants’ conduct abroad. The Second Circuit’s decision strengthens the international comity defense in cases that meet certain criteria, providing foreign companies with a potential shield against U.S. antitrust liability.

#### Global protectionism is on the rise, but will remain largely confined to rhetoric because the international agreements barring trade barriers. Aggressive use of antitrust to achieve political objectives provides a unique means to circumvent that—Would put the nail in the coffin of the international free trade framework for years!

Murray 19 – Chief Growth Officer, CheckAlt; Judicial Law Clerk, US Bankruptcy Courts

Allison Murray, JD, Loyola Law School, Given Today's New Wave of Protectionism, is Antitrust Law the Last Hope for Preserving a Free Global Economy or Another Nail in Free Trade's Coffin?, 42 Loy. L.A. Int'l & Comp. L. Rev. 117 (2019), Available at: <https://digitalcommons.lmu.edu/ilr/vol42/iss1/3>

The WTO’s warning was intended to raise awareness that the creeping protectionism of the 1930s may be rearing its ugly head yet again, with the intention of preparing world leaders to avoid the pitfalls of such an approach.195 With so many agreements in place that are designed to prevent countries from raising tariff levels and engaging in the policies which plagued the world economy during the Great Depression, it makes sense that individual countries may fall back to antitrust law as a lever to promote protectionist policies.

VI. CONCLUSION

There is a clear “conflict between the evolving economic and technical interdependence of the globe and the continuing compartmentalization of the world political system composed of sovereign states . . . .”196 This conflict can breed protectionist political views. Unless and until there is a complete paradigm shift away from protectionism, which is impossible, the global economy will not meet the “rational” assumptions necessary to preserve free market efficiency.

Some amount of protectionism is inevitable. Although “inefficient” in economic and academic circles, protectionism preserves the sovereign powers enjoyed by certain countries. In this way, it is a necessity of free trade. This paper is not intended to be a commentary on whether protectionism is right or wrong, but rather a demonstration and prediction that antitrust law, a tool of political and economic power, can and will be wielded by individual countries to promote protectionist policies that will affect the international trade landscape in the near term.

While attempting to act on this protectionism is difficult because of the web of international trade agreements currently in existence, individual countries may still use domestic antitrust law to meet protectionist aims, especially given that an international authoritative body governing the use of antitrust does not exist. Countries serious about preserving free trade may cooperate with one another to adopt realistic economic policies that serve to dull the blade of antitrust law through regional agreements, but ought not to attempt to eliminate it altogether.

Antitrust law, like medicine, must be used appropriately to be effective. While antitrust laws generally should encourage free trade, as promoting competition is the aim of their enforcement, they are also at risk of being used to thwart free trade. That risk is further exacerbated by perceptions of unfair enforcement and the divisive rhetoric of world leaders. In this way, antitrust law has the potential to weaken the already delicate international cooperative framework that exists to foster free trade. Absent a change in perceptions and the protectionist rhetoric fueling the current political landscape, antitrust law is likely to be manipulated to serve protectionist viewpoints, making it increasingly likely to become a nail in free trade’s coffin, instead of the key to its preservation. It may be a nail that nations are able to ignore for the sake of its benefit, or it may be the one that finally puts an end to the pursuit of truly international free trade. Only time will tell, but one thing is clear: anti-trust law is a field that will impact the international economic community significantly for years to come.

#### That specifically undermines the root of our trade agreements with other nations because it will be perceived as a way of welching on those deals

Ikejiaku 21 – Professor of Int’l Development Law, Coventry University

Brian Ikejiaku and Cornelia Dayao, Competition Law as an Instrument of Protectionist Policy: Comparative Analysis of the EU and the US, *Utrecht Journal of International and European Law*, 36.1 (2021): 75–94, <https://utrechtjournal.org/articles/10.5334/ujiel.513/>

Competition law, as a political creation, is inherently susceptible to ‘instrumentalisation’ for protectionist ends. Competition law is at risk of being misused to advance industrial policies, political agendas and protectionist policies in the guise of competition enforcement, thus bypassing the scrutiny of international trade agreements.120 The existing legislative framework of competition law enhances this risk, as it provides for greater discretion in decision making and political involvement in the enforcement of competition law.121 While open-ended discretionary standards are laudable because economic analysis cannot be put into rigid standards as each competition case is unique, it also creates opportunities for abuse. Discretion may be abused to allow regulators to pursue their own private interests, shirk unpleasant duties, augment their regulatory authority in hopes of increasing monopoly rents which they can trade to interest groups in return for personal benefits, and act in other ways that are contrary to the public good.122 In the context of merger law, for instance, discretion may incentivise regulators to pursue protectionism – in particular, new protectionism. Trade agreements and institutions such as the WTO have made traditional protectionism through open trade discrimination challenging. Yet, the underlying political dynamic driving protectionism has not gone away. Hence, while jurisdictions do not forbid certain mergers, they can still discriminate against them. For instance, regulators can require more onerous ‘fixes’ for mergers that threaten local producers such as requiring the merging parties to divest assets in a way that benefits the domestic competitor.123

Indeed, the argument that competition law may be a tool to pursue a protectionist end is commonly premised upon the possibility that competition law – especially through selective, discriminatory enforcement – might actually be abused as a trade barrier.124 National protectionism is often demanded by certain industries or interest groups.125 However, a competition regime that favours domestic firms such as local producers hurt not only the producers and consumers of other countries, but also the domestic consumers.

#### Plan’s overextension sparks massive backlash against U.S. economic imperialist imposition—Turns the case, but also wrecks relations, causes kickout of the U.S. military, sparks terror attacks, and escalates to war

Salbu 99 – Professor of law and ethics, Georgia Tech

Steven R. Salbu, The Foreign Corrupt Practices Act as a Threat to Global Harmony, 20 MICH. J. INT'L L. 419 (1999), Available at: <https://repository.law.umich.edu/mjil/vol20/iss3/1>

The overreaching of extraterritorial legislation can affect world relations. The 1990s critique of relativism. 4 has the potential to empower a resurgence of moral imperialism. Peter Drucker identifies this trend as a new ethics that "denies to business the adaptation to cultural mores which has always been considered a moral duty in the traditional approach to ethics."" 5 History tells us that nations around the world highly value control over their own political processes." 6 At best, they will resist extraterritorially imposed legislation that is perceived as imperialistic."7 At worst, the encroachments such legislation represents can engender the same kinds of international hostility and conflicts caused by physical invasion.

Pfaff accurately casts some United States efforts toward global economic transformation as imperialistic." 8 He asserts, "[t]he United States, ambivalently backed by Europe and Canada, is attempting to force the replacement of crucial economic and social institutions in the nonWestern world with institutions drawn from its own experience and that of Western Europe.""' 9 While critiques that cast modern U.S. economic policy as the colonialism of the 1990s"2° may be dramatic, they also contain a prudent warning, reminding nations with expansionist histories that the world resents and fights their encroachment. While "[tihe new Western offensive means no damage . .. it is a war of society and culture, and causes damage ... [that] has political consequences."''

The vernacular of Senator Jesse Helms in regard to the Convention on Combating Bribery captures an attitude U.S. interests adopt all too often in the debate over corruption. In Helms' own words, there is "a need to push-and I use that word advisedly-to push our European allies and other countries to enact laws that criminalize bribery of foreign officials b , their citizens overseas."' 22 The comment is telling in two ways-it evokes a tradition of aggressive, forceful U.S. demands that the world resolve problems in the U.S-endorsed manner, and it reinforces the idea that "[t]he only right way is our way-the way we do it in the United States."'2 In view of Helms' comments and similar statements, it is little wonder that both the FCPA and aggressive U.S. measures to bring other countries in line with the statute's philosophy have met with resistance and resentment.

Few would challenge the idea that physical aggression and expansionism endanger global harmony. A greater number of observers would question the idea that forcefulness in promoting public policies bears similar kinds of risks. Yet Alterman accurately observes that global hostilities toward U.S. imperialism are not limited to military foreign relations issues, but encompass economic encroachments as well.'25 "Growing resentment of U.S. heavy-handedness is hardly limited to Europe, the Gulf, or even military matters," he notes, adding that, "[i]n Asia, resentment is growing at U.S.-directed demands that nations like Indonesia and South Korea open up their societies to U.S.-style capitalism. ' ' 116 He concludes that many Asians see "a U.S. attempt to use their temporary weakness to impart a new form of what Thai newspapers are calling 'U.S. financial imperialism' and 'economic colonialism' in the region."'27

Thus, while much of the world resented perceived U.S. political imperialism during the Cold War, nations are now likely to resent U.S. economic imperialism.' The resentment will be exacerbated when nations fear that their culture is at risk of being supplanted by U.S. culture.' 9 Moreover, other nations' sensitivity regarding U.S. economic intrusiveness has become aggravated over the past few years. Europe is increasingly uneasy with U.S. world influence,'30 and Canada has instituted "blocking measures" that "insulate Canadian nationals and companies from foreign attempts to enforce their extraterritorial requirements or penalize their violation."'' Meanwhile, turmoil in Asia's economy has triggered a backlash there against U.S. influence in global economic affairs.12 According to Kawachi,

Those who feel victimized by post-cold war trends regard economic globalization as a campaign to impose Western values, under which a country's development strategy and reform efforts are judged by how close they approach the AngloAmerican model. Among these people there are rising concerns that, unless something is done, their own cultures and even value systems will be swallowed up by foreign norms."'

To what degree such resentments are justified is an interesting question. In itself, however, its answer cannot resolve the policy issues surrounding extraterritorial statutes. Justified or not, resentment over legislative overreaching has historically engendered hostility,3' 4 potentially threatening diplomatic relations between nations."' This hostility in turn has created a hazard to international relations, and may even pose a threat to global peace. In a world where U.S. flags are burned in demonstrations against alleged U.S. arrogance and hegemony, ' any perception of an overweening megalith has the potential to fuel backlash " ' 37 and create an atmosphere of conflict, acts of retributive terrorism, and even war.

Of course, the degree of harm engendered by invasive laws will vary and will be difficult to predict under a range of circumstances. Goldsmith and Rinne attribute "withdrawal of foreign investment, blocking of corporate acquisitions and mergers, and damage to foreign relations" to extraterritorial application of laws.'38 Zimmerman accurately notes, "[t]he more intrusive the application [of an extraterritorial statute], the more the United States exposes itself to international criticism and retaliation."'139

#### Specifically—*China* latches on to the plan’s precedent—Weaponizes it against U.S. and European firms!

Briggs 15 – Co-chair of the Antitrust & Competition practice at Axinn; Professor of International Competition Law, GWU; former Chair of the Section of Antitrust Law of the ABA

John DeQ Briggs, Axinn Veltrop & Harkrider LLP, & Daniel S. Bitton, partner in the Antitrust & Competition practice at Axinn, focused on counseling and representing clients in high-stakes international antitrust matters, including global merger clearance, former legal advisor to the Netherlands Competition and Post and Telecommunications Authorities , Heisenberg’s Uncertainty Principle, Extraterritoriality and Comity, 16 Sedona Conf. J. 327 (2015), https://thesedonaconference.org/sites/default/files/publications/Heisenberg%27s%20Uncertainty%20Principle\_Extraterritorialty%20and%20Comity.16TSCJ327.pdf

Few if any other legal systems in the world involve circumstances where powerful courts are called upon by private parties to exercise extraterritorial jurisdiction over foreign companies, individuals, and conduct. For many people, including even relatively sophisticated judges, lawyers, and academics, this proposition is seen as unremarkable. The bench and the bar in this country seem to accept the fact of this extraordinary power as if it were an obvious adjunct to “American Exceptionalism.”16 But in nearly all other countries, the exercise of extraterritorial jurisdiction is more rare, and nearly always at the behest of a government acting through its executive branch or its legislature. Foreign courts seem to show more restraint in the exercise of their power, which is in any case more limited than that enjoyed by American courts. This might be changing. As the People’s Republic of China (PRC), along with other powerful countries, observe the American legal system, “learn” from it, and mimic it to their advantage, American or other firms whose conduct outside China can be claimed to have some perceptible effect on Chinese commerce will come to be treated in much the same way that our system treats Asian and European companies. Indeed this is already happening.17

#### That’s a disaster—Becomes their means of going after the old economic superpowers!

Briggs 15 – Co-chair of the Antitrust & Competition practice at Axinn; Professor of International Competition Law, GWU; former Chair of the Section of Antitrust Law of the ABA

John DeQ Briggs, Axinn Veltrop & Harkrider LLP, & Daniel S. Bitton, partner in the Antitrust & Competition practice at Axinn, focused on counseling and representing clients in high-stakes international antitrust matters, including global merger clearance, former legal advisor to the Netherlands Competition and Post and Telecommunications Authorities , Heisenberg’s Uncertainty Principle, Extraterritoriality and Comity, 16 Sedona Conf. J. 327 (2015), https://thesedonaconference.org/sites/default/files/publications/Heisenberg%27s%20Uncertainty%20Principle\_Extraterritorialty%20and%20Comity.16TSCJ327.pdf

The aggressive extraterritorial application of American law has consequences and will have more consequences as time goes on. Some four decades ago we saw the adoption by some of our closest allies of “claw back” and “blocking” statutes, designed to avoid U.S. discovery, block enforcement of U.S. punitive damages awards, and allow claims in their home countries to claw back U.S. punitive damages awards. Now, as detailed above, we are seeing a substantial number of amicus filings by foreign governments in U.S. courts complaining about extraterritorial assertion of U.S. law and jurisdiction.

But more worryingly, we are also seeing other countries follow U.S. practice and increasingly assert their own law extraterritorially, regularly against American and European multinational concerns. Most notably, the PRC has been flexing its muscle overseas, especially in the antitrust arena, when it deems that foreign conduct or transactions by foreign companies threaten its domestic, often state-owned industries. For example, in 2014, MOFCOM, responsible for antitrust reviews of mergers, blocked an international joint venture by three foreign shipping companies (Danish, Swiss, and French shipping companies) based on what many have perceived to be protectionism rather than antitrust merits;110 both the U.S. and European antitrust authorities had cleared the joint venture reportedly due to significant associated procompetitive efficiencies.111 Earlier this year, despite pleas from President Obama not to devalue intellectual property of American companies to the benefit of Chinese firms using U.S. technology,112 China’s National Development and Reform Commission imposed a fine of nearly $1 billion and several licensing restrictions, including a royalty base cap, on Qualcomm for alleged abuse of dominance with respect to standard essential patents and baseband chips.113

But it is not just the PRC. Other countries are also increasingly bold about asserting their laws extraterritorially, sometimes in questionable ways. France, for example, has pushed for European Union privacy laws to create global obligations for U.S. tech companies to remove information from websites, rather than obligations confined to the relevant EU member state territories.114 A Canadian court recently made a similar, dubious reach across the globe with little consideration for comity, but in a trade secrets case rather than privacy case.115 These cases touch upon a fundamental constitutional right—freedom of speech—which is treated very differently in different countries. One can and probably should seriously question whether one country should be able censor what information is available to the citizens of another country.

There is no reason to believe that other countries will not follow suit, and this could devolve into a sort of “race to the bottom,” especially between the new and old economic superpowers. Right now, the major difference between the U.S. and other countries asserting their laws extraterritorially is still that most other countries do so primarily through civil or administrative government actions, while the U.S. also does so in criminal actions as well as at the behest of private parties in civil punitive damages suits. But that, too, could change. For example, certain countries are adopting criminal antitrust enforcement regimes as well as systems facilitating civil antitrust damages claims, similar to the U.S. system. Perhaps, therefore, it is not too farfetched to believe that the extraditions, jail sentences, and punitive damages awards at some point will start running the other way, and the U.S. might not like it. This may become particularly worrisome when U.S. companies and their executives engage in global conduct that is considered lawful (and perhaps even beneficial) in the U.S., yet unlawful and perhaps criminal in other countries.

#### Expansive extraterritorial application of the Sherman Act generates substantial friction with foreign countries.

Piraino 12 – Law Clerk, Meltzer, Lippe, Goldstein, & Breitstone, LLP

Stephen D. Piraino, “A Prescription for Excess: Using Prescriptive Comity to Limit the Extraterritorial Reach of the Sherman Act,” Hofstra Law Review, Vol. 40, Issue 4, Article 10, 2012, https://scholarlycommons.law.hofstra.edu/cgi/viewcontent.cgi?article=2685&context=hlr

D. The Global Community Disapproves of the Expansive Reach of the Sherman Act

The expansive reach of the Sherman Act has been met with resistance from other nations,221 especially from countries with which the United States is a trading partner.222 Some nations oppose the United States' antitrust regime because it infringes on their sovereignty and thus violates international law.223 Other nations are concerned about the detrimental effects on their economies caused by the extraterritorial application of U.S. antitrust law.224 The United Kingdom is one of the most vociferous objectors to the globalized reach of U.S. antitrust 225 laws. Japan, too, strongly disapproves of the extraterritorial application of U.S. antitrust laws into its sovereign territory.226 Both Japanese and British nationals and businesses have frequently been targets of U.S. antitrust prosecution, despite their nations' much weaker antitrust enforcement schemes.227 Even U.S. courts that have allowed U.S. antitrust law to apply extraterritorially recognized the validity of this concern.228

While the United States and the United Kingdom have formed a strong and mutually beneficial military alliance,229 the extraterritorial application of U.S. antitrust laws has been a source of tension between the two nations. 230 The United States and United Kingdom have fundamentally different perspectives about the extraterritorial application of their own laws, especially with antitrust laws. 231 The United Kingdom adopts a more restrictive view, compared to the liberal effects test used in the United States. 2 With few exceptions, the United Kingdom will only exercise jurisdiction over actions occurring in its territories or the actions in foreign territories perpetrated by its own nationals or domestic corporations.233 Antitrust matters do not seem to fall under the exceptions, as the view of the British government is that "substantive jurisdiction in antitrust matters should only be taken on the basis of the territorial principle or the nationality principle. 234

The United Kingdom has criticized the much more expansive effects test employed by the United States because it infringes on other nations' sovereign rights. 231 In 1978, the British government expressed its disapproval in a diplomatic note.236 The note, prepared on behalf of the British Embassy by Department of State Deputy Assistant Secretary for International Finance and Development Charles F. Meissner 237 stated: "HM Government considers that in the present state of international law there is no basis for the extension of one country's antitrust jurisdiction to activities outside of that country ....”238

Even more, the United Kingdom passed the Protection of Trading Interests Act (the "PTLA") 239 in 1980 as a result of the nation's strong disapproval of the extraterritorial application of U.S. antitrust law and in order to protect its domestic industries. 240 The PTIA "provide[s] protection from requirements, prohibitions and judgments imposed or given under the laws of countries outside the United Kingdom and affecting the trading or other interests of persons in the United Kingdom., 241 Not only does the PTIA provide protections against the extraterritorial application of foreign laws in the United Kingdom, but it also deters parties from bringing private actions.242 Through protective discovery measures and the unenforceability of certain judgments,243 it becomes more expensive and less certain to bring a private antitrust lawsuit against a British company.244

The United Kingdom referenced the PTIA in its amicus brief supporting the British reinsurers in Hartford Fire.245 Its major argument in the brief was that international law prohibits the type of extraterritorial application sought by the plaintiffs in Hartford Fire.246 While the United Kingdom acknowledged that it worked with the United States on adjudicating disputes surrounding conduct that was illegal in both countries, it recognized the friction that extraterritorial application of the Sherman Act has caused between the two nations. 247 The British government did not take the position that all instances of the extraterritorial application of U.S. antirust law were prohibited by international law.248 Instead, its disapproval in this particular case was based on how exercising jurisdiction over the British reinsurers would interfere with Britain's ability to regulate its own industries.249 The United Kingdom argued that international law required the U.S. courts to decline to adjudicate the matter because it would be unreasonable to exercise jurisdiction over the British defendants. 250 Further, the British government mirrored Justice Scalia's dissent in Hartford Fire by recognizing the canon of construction that U.S. laws should not be construed to violate international law.25 Following from this canon, the amicus brief argued that the Sherman Act has not been previously construed by the Supreme Court so as to ignore its impact on U.S. allies.252

The government of Canada also submitted an amicus brief supporting the foreign petitioners in Hartford Fire because of its concerns about U.S. extraterritorial jurisdiction.253 Canada did not want the conduct of the British reinsurers to be included under the Sherman Act because it would violate international law.254 The conduct of the British reinsurers was legal in the United Kingdom, and Canada did not want U.S. antitrust laws to apply to conduct that was legal in the country where it occurred.255 In its brief, Canada also raised an important question: Would the United States want another nation to apply its laws extraterritorially to conduct that was legal in the United States, but illegal in that foreign country?256 Like the United Kingdom, though, Canada recognized its relationship with the United States and because of that close economic relationship, Canada did not want applications of U.S. law to conflict with international law.257

#### The aff’s standard ensures U.S. antitrust law will conflict with the sovereignty of foreign nations.

Tone 14 – Partner, Katten & Temple LLP

Jeffrey R. Tone, Brief of the Korea Free Trade Commission as Amicus Curiae in Support of Appellees’ Opposition to Rehearing En Banc, Motorola Mobility LLC v. AU Optronics Corporation, et al., US Court of Appeals for the Seventh Circuit, October 2014, LexisNexis

The KFTC fully agrees with Judge Posner’s apt observation in the panel decision that extraterritorial reach of U.S. law, including the antitrust laws, should be applied with care:

The Supreme Court has warned that rampant extraterritorial application of U.S. law “creates a serious risk of interference with a foreign nation’s ability independently to regulate its own commercial affairs.” F. Hoffman-LaRoche Lt. v. Empagran S.A., supra, 542 U.S. at 165. The Foreign Trade Antitrust Improvement Act was intended to prevent such “unreasonable interference with the sovereign authority of other nations.” Id. at 164. The position for which Motorola contends would if adopted enormously increase the global reach of the Sherman Act, creating friction with many foreign countries and “resent[ment at] the apparent effort of the United States to act as the world’s competition police officer,” a primary concern motivating the foreign trade act. United Phosphorus, Ltd v. Angus Chemical Co. 322 F. 3d 942, 960-62 (7th Cir. 2003) (en banc) (dissenting opinion), overruled on other grounds by Minn-Chem, Inc. v. Agrium, Inc., supra. It is a concern to which Motorola is oblivious.

Slip. Op. at 8-9.

If this Court applies the U.S. antitrust laws to the present case as urged by Plaintiff, the reach of the U.S. antitrust laws will in effect extend to any intermediary product produced or purchased outside the United States, so long as it is eventually incorporated into an end product sold in the United States. Such unduly expansive application of the U.S. antitrust laws is likely to create conflicts with the sovereignty of other countries including Korea and interfere with their antitrust enforcement. Under prevailing international norms, claims should be brought in a country in which the underlying transactions took place and should be governed by the laws of that country rather than by the antitrust laws of the U.S., the commerce of which was not directly affected by the transactions.

Numerous countries have adopted their own antitrust enforcement regimes. Korea, for example, has developed a vigorous antitrust enforcement regime in the form of the Monopoly Regulation and Fair Trade Act (MRFTA), which the KFTC enforces. The KFTC has vigorously enforced the MRFTA by, for instance, investigating and sanctioning price-fixing cartels, including an LCD cartel in Korea. Private enforcement of the MRFTA is also widely available, given that any party injured by a cartel activity may bring a damages action in the appropriate Korean court. Thus, vigorous public and private antitrust enforcement takes place in Korea.

Furthermore, the antitrust regime of a country typically accommodates the country’s unique legal tradition and socioeconomic characteristics. For example, in Korea, the MRFTA, unlike the Sherman Act, does not provide for treble damages. Similarly, no punitive damages are awarded by Korean courts. If this Court disregards such fundamental differences and applies the U.S. antitrust laws to claims arising out of transactions that took place outside the U.S. between non-U.S. entities without any direct effect on the U.S. market, such expansive application of the U.S. antitrust laws is likely to create conflicts with other countries’ sovereignty.