# R6 Navy Disclosure

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T Expand---

#### “Expand the scope” means broadening the range of claims that can be brought legitimately---that’s distinct from changing what is prohibited

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

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

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

**The only way to do that is by reducing or eliminating an antitrust immunity or exemption---the scope of antitrust laws is *only limited* by sectoral exemptions, state action immunity, and Noer-Pennington immunity**

**Kobayashi and Wright 20** – Paige V. and Henry N. Butler Chair in Law and Economics at the Antonin Scalia Law School at George Mason, University Professor and the Executive Director of the Global Antitrust Institute at Scalia Law School at George Mason University and holds a courtesy appointment in the Department of Economics

Bruce H. Kobayashi and Joshua D. Wright, "Antitrust Exemptions and Immunities in the Digital Economy," Global Antitrust Institute, 5-28-2020, https://gaidigitalreport.com/2020/10/04/exemptions-and-immunities/

Introduction

The antitrust laws were designed to regulate private conduct in order to promote competition and protect consumer welfare from exercises of monopoly power by firms. In other words, the antitrust laws, as “the magna carta of free enterprise,”[1] are designed primarily to regulate private conduct, not government conduct and public restraints of trade.[2] Private activity may still fall **outside the scope of the antitrust laws** when it is **exempted specifically** by Congress, heavily guided or **influenced by the governmen**t, or relates to **attempts to petition the government** to take action.

**Antitrust laws’ outer boundaries** fall into **three categories**: (1) **sectoral** or **industry-level exemptions**, which single out an industry or business line from antitrust scrutiny; (2) **state action immunity**, which provides immunity for anticompetitive behavior by state governments and municipalities under certain conditions; and (3) **Noerr-Pennington immunity**, which aims to protect speech in the form of petitioning activity from antitrust liability.[3] The digital economy interfaces with the government in many respects; therefore, the **antitrust laws’ reach**—shaped by these **exemptions** and **immunities**—plays a clear role in guarding consumer welfare.

**Vote neg---**

**[1]---Limits---any other interpretation allows the aff to change *any* determination the courts have made about the legality of private sector practices, which creates an untenable research burden**

#### [2]---Grounds---provides a core mechanism that can predictably and reliably be the focus of neg contestation

### 1NC---CP

#### The United States federal government should regulate private sector business practices that violate an antitrust worker welfare standard except for hospital mergers.

**Plan clamps down on hospital mergers – they violate the worker welfare standard**

Suresh **Naidu 18**. \*Associate Professor of International and Public Affairs and Economics, Columbia University. \*Eric Posner is a Kirkland & Ellis Distinguished Service Professor of Law, University of Chicago Law School. \*E. Glen Weyl is a Principal Researcher, Microsoft Research New England and Visiting Senior Research Scholar, Yale University Department of Economics and Law School. “Antitrust Remedies for Labor Market Power”. University of Chicago Law School. 2018. https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=13776&context=journal\_articles

Defenses. Because we have never seen an attempt to justify anticompetitive labor market effects of mergers, it is hard to know what efficiencies merging partners would attempt to bring to bear. One possibility, noted above, is that a merger could reduce redundancy. Another possibility would be increased productivity because of greater ease of medical record sharing or cross-hospital referrals. The merging parties would have to show that these efficiencies would be likely to increase wages and could not be achieved without a merger. Other informal factors seem important here, especially changes to hours, benefits, and job descriptions, as these can be highly specific to a particular hospital, and nurses can be asked to work odd hours. Given large economies of scale in hospitals and often the necessity of affiliating with a major university, we doubt that entry analysis would play a large role in this case, nor would potential competition. However, the prospect of coordinated effects might be important given the close geographic proximity of hospitals and their frequent communication about community health, which may serve as a ruse for collusion on wages.

In short, the tools already used by antitrust regulators to predict the product market price effects of mergers can be readily applied to predicting their labor market wage effects. Using available estimates of hospital market power in the nursing market and existing antitrust heuristics, we guess that the wage effects of hospital mergers are substantial, suggesting that antitrust regulators should subject them to an additional level of scrutiny.

**Consolidation key to avert rural hospital closures - antitrust expansion deters and prevents necessary mergers**

**Kaufman 20** – chair of Kaufman, Hall & Associates LLC

Ken Kaufman, "Removing Antitrust Barriers to Solve the Rural Health Care Crisis," Morning Consult, 1-2-2020, https://morningconsult.com/opinions/removing-antitrust-barriers-solve-rural-health-care-crisis/

Almost 120 rural hospitals have closed since 2010, and an estimated **21 percent** of rural hospitals are at **high risk of closure**.

The high number of financially stressed hospitals is creating a **crisis of access** for rural communities and a potential **crisis of quality** and patient safety, as these hospitals **struggle to secure** **sufficient** clinical and technological **resources**. These struggles can be even more difficult in towns that could once support two hospitals but can **no longer do so**.

A **solution** to the rural health crisis that promotes **partnerships** with larger health systems addresses two critical needs. First, it enables a **rational, equitable approach** to a fundamental restructuring of rural health care resources. Second, it provides **access to sufficient financial resources** to ensure that rural communities are able to benefit from the same resources available elsewhere.

Antitrust impediments to a system-based approach

Current **antitrust law makes it difficult** for individual hospitals or health systems to **collaborate on efforts** to restructure delivery of essential services within a rural health care market. These efforts can, however, be pursued among facilities owned by a **single health system**, enabling a rational and equitable distribution of services across the health system’s network of facilities and the communities they serve.

The Federal Trade Commission and Department of Justice have themselves acknowledged the **value** of a **system-based approach** to rural health. In their 1996 “Statements of Antitrust Enforcement Policy in Health Care,” the agencies created a **safe zone** for mergers of certain hospitals with a low bed size and low patient census with other hospitals.

The agencies recognized that these hospitals often “will be the only hospital in the relevant market” and that “mergers involving such hospitals are **unlikely** to **reduce competition substantially**.” They also recognized that “rural hospitals … are unlikely to achieve the efficiencies that larger hospitals enjoy. Some of these cost-saving **efficiencies** may be **realized** … **through a merger**.”

The situation becomes **more difficult** when a community has two hospitals that do not fall within the safe zone and it can **no longer support both**. Such markets will be considered highly concentrated, and an attempt to merge the hospitals **likely will be challenged** by the federal agencies.

Several states have tried to overcome the likelihood of an antitrust challenge by granting certificates of public advantage to health systems that want to come together to more effectively pool resources and rationalize services within a rural market. But these efforts also are being challenged by the federal agencies.

The **threat** of **antitrust enforcement** actions **throws a chill** over health system-led efforts to make the **rural health care** delivery system **more rational**, economically viable and equitable. For example, the systems that combined to form Ballad Health went through a two-year process to secure the COPA that ultimately allowed their merger.

They willingly accepted state oversight of their efforts to rationalize health care delivery. Yet, they now face an order by the FTC to provide extensive information for a study on the impact of COPAs, even though long-term benefits will not be apparent just a year after the merger. The effort and **ongoing scrutiny** these systems take on certainly might **dissuade other health systems** from pursuing a **similar route**.

Rethinking competition in rural health care markets

The FTC and DOJ must revisit an approach that prioritizes competition over access to care and the quality and financial sustainability of the rural health care delivery system. The agencies have themselves acknowledged that competition among hospitals may not be a **practical reality** in rural communities.

The rural health care crisis is **happening now**; there is not time for multiyear studies of the impact of efforts to rationalize and improve rural health care. Health systems that **understand** and **are willing** to take on the challenges of rural health care markets should be **given the opportunity** to do so.

**Rural hospital closures cause massive food spikes**

**Alemian 16** – President & CEO of Alemian & Associates

David Alemian, "Rural Healthcare Is a Matter of National Security," HCPLive, 11-8-2016, https://www.hcplive.com/view/rural-healthcare-is-a-matter-of-national-security

Rural health organizations are already struggling with enormous turnover rates and costs that run up into the millions of dollars each year. The additional financial burden of penalties from Medicare and Medicaid will put many rural health organizations at risk of going out of business. If **too many** rural health organizations go **out of business**, it then becomes a matter of **national security** and here’s why:

In most rural communities, the healthcare organization is the **largest employer**. When the largest employer goes out of business, the **community collapses** and **people move away**. What was once a thriving community then **becomes a ghost town**. Rural America **produces the food** that feeds the rest of the country.

What will happen when our **amber waves of grain turn to desert wastelands** because there is **no one to work our great farmlands**? As the source of food dries up, and store shelves empty, the price of food will go **through the roof**. As food prices go up, hyperinflation will become a reality, and our printed money will **become worthless**. Almost **overnight**, Americans will **begin to go hungry** because they won’t be able to afford to put food on the table.

**Food insecurity causes conflict and war---continued US leadership is key and no one fills the vacuum**

**Flowers**, director of the Global Food Security Project and the Humanitarian Agenda at the Center for Strategic and International Studies (CSIS), **‘18**

(Kimberly, “Keeping it Stable: The Connection Between Hunger and Conflict,” January 31, <https://www.georgetownjournalofinternationalaffairs.org/online-edition/2018/1/31/keeping-it-stable-the-connection-between-hunger-and-conflict)>

Although achieving this SDG’s targets in totality is unlikely, a global focus on reducing poverty, malnutrition, and hunger around the world **remains essential** both as a universal moral value in a world of inequalities, and as an important contributor to economic growth and **national security**. The United States has been a **global leader** in **addressing the root causes** of hunger and poverty through **agricultural development**, including President Obama’s leadership role in creating the L’Aquila Initiative at the 2009 G8 summit in Italy. The initiative emerged in **response to a food price crisis** and resulted in a promise by donors to provide $22 billion in agricultural development assistance over three years.

It is **more critical now than ever** for leaders within the Trump administration to continue to leverage that progress, starting with gaining a better understanding of the complexity of global food insecurity and its inherent connection with conflict. As food insecurity is both a cause and a consequence of conflict, addressing food insecurity goes well beyond a moral obligation; **it is a national security imperative.**

A lack of access to food can **spark unrest** among civilian populations, particularly when triggered by food **price spikes**. Hungry populations are more likely to express their discontent with unresponsive or corrupt leadership, perpetuating a **cycle of political instability** and further undermining long-term economic development. In addition, governments and non-state actors alike can **use food as a strategic instrument of war**, as witnessed in instances spanning from Sudan’s civil conflict in the 1990s to President Bashar al-Assad’s war-torn Syria today. In Syria, all sides have used food as a tool to **control** and **expel** populations. ISIS has used food resources as both a source of **funding** and a lure for **recruitment**. Food **weaponization** further **underscores the importance of United States** action to protect food security abroad and recognize strategies employed to transform a basic necessity into a military tool.

Today, between 1.2 and 1.5 billion people live in fragile, conflict-ridden states. These conflicts have pushed over 56 million people into crisis and emergency levels of food insecurity. The U.N. estimates that 65 million people are internally displaced within their own countries or are refugees in other countries. These numbers continue to rise as conflicts and violence **escalate across the world,** in countries like **Yemen**, South **Sudan**, and **Syria**, causing social and economic devastation. Meanwhile, the number of people dependent on humanitarian assistance has mushroomed. Projections indicate that by 2030, more than two-thirds of the world’s poor could be living in fragile countries.

The international community is increasingly recognizing the **linkages** between **food insecurity** and **political instability.** Sharp rises in global food prices in 2007 and 2008 sparked riots and street demonstrations in more than 40 countries across the world. Since political leaders started paying attention to this connection, there has been notable progress in increasing international attention and funding to address the root causes of hunger and poverty. The United States has dedicated roughly $1 billion to agricultural development since 2010 through its global food security programs. Thanks to the bipartisan Global Food Security Act that passed in July 2016, multiple U.S. agencies are implementing a global food security strategy that reduces poverty, bolsters resilience, and improves nutrition.

Even the U.S. intelligence community has noticed food security challenges. In November 2015, the National Intelligence Council released an assessment that linked food insecurity to political instability and conflict. The report states that the overall risk of food insecurity in many countries, **compounded** by demographic shifts and constraints on key resources such as land and water, **will increase** during the next decade. The assessment concludes that in some countries, declining food security will contribute to social disruptions and **large-scale political instability** or conflict. The intelligence community’s highlighting of the importance of food security as a diplomacy tool and security strategy broadens the number of stakeholders who are tracking, responding to, and mitigating food insecurity. It is no longer solely a focus for policymakers in the development space.

After nearly a decade of progress, global hunger is again on the rise. A U.N. report on food security and nutrition released last year estimates that 815 million people, or 11 percent of the global population, are chronically malnourished, an increase of nearly 40 million people over the previous year. Conflict and climate change are the two primary causes of this reversed trend. More than half of those experiencing extreme hunger live in countries affected by protracted conflict. Droughts and natural disasters also pose a serious threat to food security, particularly to smallholder farmers vulnerable to a volatile climate.

The 2017 State of Food and Agriculture report explains that conflict and climate change are responsible for rising global hunger levels. Smallholder farmers around the world will be forced to adjust to changing rainfall patterns and severe droughts and floods, which will directly impact their crops and incomes. Many weeds, pests, and pathogens are influenced by climate and thrive in warm conditions. Severe floods can wipe out fields and block market transportation routes, reducing smallholders’ abilities to maintain a sustainable income. Researchers, including those at the National Academies of Science, conclude that human-induced climate change and drought is one of the root causes of Syria’s conflict. Climate change thus places an added burden on countries with limited resources already struggling to feed their populations, as declining agricultural growth and incomes can create displacement and heighten hunger.

Food insecurity and climate change are not the sole cause of the conflict in Syria, but their contribution to the country’s instability cannot be ignored. Investing in international development programs and humanitarian **assistance** that fosters agricultural-led growth and **strengthens the resilience** of vulnerable people can **create peace**, improve lives, and **reduce conflict.** U.S. foreign policy priorities should include strengthening the health and prosperity of those less fortunate before a crisis occurs because our investments can help prevent a crisis in the first place. As Former Secretary of Defense Robert M. Gates said, “Development is a lot cheaper than sending soldiers.”

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States CP

#### Text: The fifty states and all relevant United States territories should:

#### Substantially increase prohibitions on anticompetitive private sector business practices that reduce the bargaining power of workers in labor markets.

#### Coordinate unified, multistate efforts to prosecute violations of said antitrust prohibitions through the National Association of Attorneys General

#### States solve---they can enact and interpret their own laws, and cannot be inherently preempted

HLR 20 – Harvard Law Review

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

I. THE ANTITRUST FEDERALISM LANDSCAPE

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

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

#### State coordination through the NAAG solves certainty and resource disparities

ABA 10 – American Bar Association

“ABA Antitrust Health Care I-G,” Antitrust Health Care Handbook, American Bar Association, 2010, LexisNexis

Federal and state enforcement authorities frequently cooperate in health care antitrust investigations and enforcement actions, and the agencies have issued a protocol describing basic procedures for their coordinated enforcement. States also coordinate their antitrust enforcement through the Multistate Antitrust Task Force of the National Association of Attorneys General. These efforts serve important enforcement goals by permitting participants to share expertise and resources and affording greater certainty to health care providers and payors seeking to resolve antitrust concerns in a consistent and expeditious manner. Federal and state enforcement authorities have overlapping jurisdiction with respect to most conduct, and some states have aggressively enforced the antitrust laws in the health care sector.

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Advantage Counterplan---

#### The United States federal government should:

Set 1:

#### substantially increase taxes on corporations and the wealthy and direct those funds to social welfare programs

#### substantially increase tax credits for those with the lowest wages

#### provide universal, high-quality, free education from pre-K through post-secondary school

#### establish and enforce labor protection laws

#### provide a federal jobs guarantee

#### direct all above policies to primarily benefit historically disadvantaged communities

Set 2:

#### Pass the Consumer Protection and Recovery Act

#### Direct the FTC to undertake a comprehensive public education campaign in coordination with the private sector regarding the harms of AI and emerging technologies

Set 3:

#### provide additional weeks of unemployment insurance and raise the weekly benefit level

#### raise the maximum SNAP benefit level and ensure unemployed adults have access to food assistance

#### provide state fiscal relief by reducing the percentage of Medicaid spending for which states are responsible and localities flexible funding to maintain needed services such as education

#### provide cash assistance to people facing economic insecurity through monthly or one-time cash payments

#### implement a subsidized jobs program for low-income workers

#### increase housing assistance

#### create a permanent paid family and medical leave program and increase financial assistance for childcare centers

#### Set 1 is a much more comprehensive approach to solving inequality---aff can’t solve the social barriers to addressing underlying issues

PIIE ’20 – Peterson Institute for International Economics, think tank based in DC

“How to Fix Economic Inequality? An Overview of Policies for the United States and Other High-Income Economies” <https://www.piie.com/sites/default/files/documents/how-to-fix-economic-inequality.pdf>

SECTION 7 Policy recommendations

This menu of policy recommendations is focused on the United States, with some also applicable to other advanced economies. It represents some commonly cited solutions by inequality experts, organized by policies related to taxes, education, labor, corporate regulations, and the social safety net. Economics can provide some guidance over which approach is most effective, but political attitudes toward inequality will play a significant role in which ones to focus on.

#### Market dynamics are too complex to establish a link between antitrust and inequality

Schechter ’16 – writer at ProMarket citing Daniel Crane, the associate dean for faculty and research and the Frederick Paul Furth Sr. Professor of Law at the University of Michigan, disputes the monopoly regressivity claim

Asher, “Is More Antitrust the Answer to Rising Wealth Inequality?” ProMarket, <https://promarket.org/2016/07/08/antitrust-answer-rising-wealth-inequality/>

Daniel Crane, the associate dean for faculty and research and the Frederick Paul Furth Sr. Professor of Law at the University of Michigan, disputes the monopoly regressivity claim. He also disputes the growing notion that a more rigorous antitrust enforcement can diminish wealth inequality, arguing that “more antitrust is not the answer to wealth inequality.”4

In a recent paper, Crane challenges what he deems as an oversimplification, claiming that that the relationship between antitrust law and wealth inequality is “far more complex” and that the relationship between income distribution and market power is “subtle, circumstantially contingent, and, at least for a developed economy, extremely difficult to generalize.” Crane then goes on to argue that more antitrust can in fact lead to greater inequality, and that “when it comes to wealth equality and social justice in a developed economy, antitrust law cannot be calibrated to help, but it can be calibrated not to harm.”5

That the U.S. economy is suffering from increasing concentration levels, and that this rise in concentration has led in some cases to significant price increases, has been established in recent years by a growing number of studies. A recent paper by José Azar, Martin C. Schmalz, and Isabel Tecu6 showed that ticket prices are 3-11 percent higher due to common ownership among airlines. A similar paper by Azar, Schmalz, and Sahil Raina that looked at common ownership in U.S. banking7 found that that the largest U.S. banks share identical top shareholders, and that reduced competition in banking leads to worse service for consumers in the form of higher fees for deposit accounts and lower savings interest rates.

In health care, studies show that consolidations among hospitals led to significant price hikes. A 2015 study by Zack Cooper, Stuart Craig, Martin Gaynor, and John Van Reenen found that in markets where hospitals have a monopoly, prices are 15.3 percent higher than in more competitive markets that have four or more hospitals.8

To be sure, Crane does not completely dispute the idea that antitrust enforcement (or lack thereof) is related in some way to growing wealth inequality. What he does dispute, he says, is the “simplistic” version of the relationship between wealth inequality and antitrust, in which consumer-to-producer wealth transfers, enabled by lax antitrust enforcement and rent extractions, create regressive distributional effects. “In a complex, advanced economy, the lines of exploitation and profiting run in too many complicated and cross-cutting directions to permit broad generalization,” he writes in the paper.

“I am not claiming that there is no relationship between wealth inequality and antitrust or market competitiveness,” Crane tells ProMarket. “I am also not claiming that there couldn’t be certain antitrust interventions that would reduce wealth inequality. I think that there could be. All I am saying is that the overall picture, this facile assumption that more antitrust means greater equality and wealth is just way over-broad. The interactions between the distribution of wealth in society and market competitiveness are very complex and cross-cutting, and there are a number of ways in which more antitrust would actually increase wealth inequality.”

He adds: “I am not going to argue that there could never be case in which it would be appropriate to rationalize antitrust enforcement because of the inequality factor—if inequality is your priority, you could try to make a case—but it’s just that there are countercurrents where the effects are much more complicated than the people understand.”

In his paper, Crane disputes one of the key arguments for more antitrust enforcement–that shareholders and senior corporate managers are the main beneficiaries of monopoly rents. The literature on these issues, he argues, is ambiguous. Shareholding is something tens of millions of Americans do across social classes, as part of their 401(k)s and other retirement plans. It is far from clear that shareholders reap the lion’s share of monopoly profits, he notes, and a number of studies have shown that mergers don’t necessarily produce positive returns to the shareholders of the acquiring firm.

Some empirical studies, he claims, have actually shown that CEO compensation declines as markets become less competitive. Labor unions have also supported anti-competitive mergers in the past, he notes—such as the merger between US Airways and American Airlines—expecting that higher concentration would lead to a monopoly wage premium.

“When it comes to regressivity in monopoly, there are two questions: who bears the brunt—who is the effective payer of monopoly overcharges—and who obtains the gains. If you look at CEOs, for instance, the economic literature on CEOS earning a higher wage or stock option in more concentrated markets is very weak. In fact, there’s some literature that suggests that CEOs actually earn a lower wage in monopoly markets. If it’s a monopoly market, they’re less valuable to the firm, because it’s easier to generate income. There’s some literature suggesting it’s precisely where you see highly paid corporate executives that markets are very competitive, because then special talent is most beneficial to shareholders,” he says.

Moreover, Crane argues, antitrust cases have been brought not only against abusive corporations, but against middle-class professionals, such as music teachers, dentists, and lawyers. As an example, he points to a case brought by the Department of Justice against the National Association of Realtors in 2005, a case that concerned restrictions on home buyers to search for listings online.“If you look at statistics on the income of relators and the income of people selling homes, the income profile of a home-selling family is roughly twice the income profile of a realtor, on average,” he says. “Which means that if these allegations were correct, this is a huge wealth transfer from much-richer home sellers to much poorer realtors, and the enforcement action would have actually been regressive.” His point, he stresses, is not to dispute the case, but the notion that antitrust enforcement necessarily leads to progressive wealth redistribution.

Another factor that is often not taken into account, he argues, is government purchasing. Monopolists, he notes, often sell to “large intermediary organizations, which may distribute the incidence of monopoly charges progressively.” In the US, federal procurement accounts for roughly one-seventh of the GDP, not including state and local governments. Government, he argues, pays these monopoly overcharges and ultimately transmits them to taxpayers. Since the U.S. tax code is generally progressive, he argues, those overcharges are being borne progressively. Meaning: wealthy people should, in theory at least, pay a greater share, “which actually means that an antitrust intervention that diminishes anticompetitive conduct in government procurement actually has the effect of increasing wealth inequality.”

When it comes to the issue of price discrimination, says Crane, the relatively wealthy tend to be exploited proportionally more than the relatively poor. “According to most economic accounts, price discrimination has progressive distribution effects, meaning that a greater share of the higher prices charged by price discrimination comes from wealthier individuals than from poorer ones. That’s not uniformly true, but as a generality, in a market characterized by less competition, as monopolists are increasing their prices they are going to be charging proportionally higher prices on higher-income people, on average.”

The proponents of government antitrust action, argues Crane, ignore private efforts to curtail monopoly power. Government, he argues, should “get out of the way” of these private efforts. In the paper, he writes: “When it comes to wealth equality and social justice in a developed economy, antitrust law cannot be calibrated to help, but it can be calibrated not to harm.”

“I think it’s just a mistake, as a general matter, to include reducing wealth inequality as one of the goals of antitrust law,” says Crane. “I’m resisting the idea that somehow talking about wealth inequality will improve antitrust enforcement. If anything, it will just distract, making it a political hot potato, but I don’t think it will have any appreciable effect on wealth inequality. Antitrust law works best when it’s concerned with economic efficiency and the protection of consumer welfare. That has been the consensus by economists, people in the field, and antitrust agencies for several decades now. My concern [is] that at a political level, people are looking for new scapegoats for wealth inequality, and particularly in recent times people have been looking at weak antitrust enforcement.”

#### Set 2 solves FTC regulation and trust

#### Set 3 provides the fiscal stimulus needed to solve long-run slow growth

**Stone 20** – Chief Economist at the Center on Budget and Policy Priorities, PhD in Economics from Yale

Chad Stone, 4-16-2020, "Fiscal Stimulus Needed to Fight Recessions," Center on Budget and Policy Priorities, <https://www.cbpp.org/research/economy/fiscal-stimulus-needed-to-fight-recessions>

The following are among the most important policies that meet the criteria for effective fiscal stimulus:

* Providing additional weeks of unemployment insurance and raising the weekly benefit level;
* Raising the maximum SNAP benefit level and ensuring that unemployed adults have access to food assistance;
* Providing state fiscal relief by reducing the percentage of Medicaid spending for which states are responsible (by increasing the federal matching rate) and giving states, tribes, and localities temporary block grants or other flexible funding to maintain needed services such as education;
* Providing cash assistance to people facing economic insecurity through monthly or one-time cash payments that can help address both emergencies and ongoing basic needs, as well as through expansions of refundable tax credits;
* Implementing a subsidized jobs program for low-income workers, although the special circumstances of COVID-19 require waiting until after the health crisis diminishes and such programs can be undertaken safely; and
* Increasing housing assistance to prevent a sharp rise in evictions and homelessness.

A recession stemming from COVID-19 also requires additional measures to deal with unique circumstances, but for many of the measures above, policymakers should design them not only to provide robust immediate stimulus but also to permanently strengthen their function as automatic stabilizers that trigger on early in future recessions, provide stimulus appropriate to the magnitude of the downturn, and do not trigger off prematurely. Such trigger mechanisms can ensure that needed stimulus measures are timely and that they neither end prematurely nor remain in effect too long.

As noted above, if a recession turns out to be deeper or last longer than initially anticipated, policymakers should be prepared to increase the size and/or duration of their fiscal policy response, including, if needed, following up with additional discretionary stimulus.

### 1NC---DA

Innovation DA---

#### Frenzy of M&A now because Biden’s executive order won’t be implemented for years

David French and Sierra Jackson, Reuters, July 12, 2021, Analysis: Dealmakers see M&A rush, then chills, in Biden's antitrust crackdown, https://www.reuters.com/business/dealmakers-see-ma-rush-then-chills-bidens-antitrust-crackdown-2021-07-12/

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

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

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

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

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

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

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

**Immediately expanding scope of antitrust liability brings innovation to a halt---undermines dynamism and global competitiveness**

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

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

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

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

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

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

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

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

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

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

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

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

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

GOP divided over bills targeting tech giants

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

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

**Internal link goes one way---large-firm dynamism is the only way to maintain tech leadership**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Tech innovation prevents nuclear conflict---US leadership is key

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

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

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

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

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

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

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

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

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

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

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

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

### 1NC---DA

Jurisprudence DA---

#### The aff’s disruption of antitrust distorts the principles that guide judicial decision-making and upsets developing coherence

**McGinnis and Meerkins 16** – George C. Dix Professor, Northwestern Pritzker School of Law; Associate, Shook, Hardy & Bacon LLP

John O. McGinnis and Andrew M. Meerkins, "Dworkinian Antitrust," Iowa Law Review, Volume 102, Issue 1, November 2016, https://ilr.law.uiowa.edu/print/volume-102-issue-1/dworkinian-antitrust/

VIII. Conclusion

Antitrust law is written in such broad term that the language alone does not appear to determine outcomes. Yet it would not be fair to describe antitrust jurisprudence today as reflecting broad judicial discretion to make policy judgments to fill in the interstices of the law. Thus, legal positivism does not provide a very good description of antitrust jurisprudence.

Today, antitrust reflects a consistent focus on a single principle, and that principle is realized in individual cases by operation of a series of subprinciples derived from microeconomics. Thus, a better description of antitrust is found in Dworkin’s jurisprudence. Dworkinian integrity also explains unusual features, like antitrust law’s relative disregard of precedent and judicial reliance on Department of Justice guidance to inform analysis.

Besides offering a good explanation of antitrust, Dworkinian jurisprudence turns out to be a relatively attractive one for the subject. Unlike other areas where a Dworkinian jurisprudence has been pushed, the principle at issue here is one that reflects consensus in the community and is capable of practical application. It may seem ironic given Dworkin’s political leanings that a subject area so greatly influenced by classical economics provides perhaps the best example of his legal philosophy in action. But it is not surprising. Economics provides a series of principles for achieving this goal that command consensus in the community and can provide a normative basis for preferring efficiency. Antitrust shows that judges can be better trusted with more than a legislative text when they have other, objective sources of discipline.

#### Successful and coherent judicial piloting of antitrust spills over to other areas of governance---specifically, judicial review of cost-benefit analyses (CBAs)

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John O. McGinnis and Andrew M. Meerkins, "Dworkinian Antitrust," Iowa Law Review, Volume 102, Issue 1, November 2016, https://ilr.law.uiowa.edu/print/volume-102-issue-1/dworkinian-antitrust/

VII. Integrity’s Province

Antitrust’s increasing coherence under the stewardship of the courts could conceivably lead to calls for increased judicial piloting of other substantive areas of the law. But judges will rarely face the Dworkinian-style restraints on discretion that they do in antitrust law. Thus, in this Part, we briefly outline and generalize the factors that have made a Dworkinian approach attractive in antitrust law. This Part concludes with the tentative hypothesis that other areas relying on microeconomic principles are the most likely candidates for Dworkinian jurisprudence, and that judicial review of administrative agency cost-benefit analyses may be one promising area. Integrity is plausible jurisprudence not within the entire empire of law, but only in a few small areas.

A. Requirements

The first prerequisite for appropriate and successful judicial policymaking is the presence of a single guiding principle or purpose of the law. Barring that, multiple goals that are almost universally consistent could be suitable as well. This possibility helps to explain why antitrust remains an acceptable subject for integrity jurisprudence, despite the lingering academic debate about whether the law should maximize consumer surplus or total surplus. In almost all cases, a judge could promote both goals with the same decision.

Consistency of principle, however, is not enough to curtail judicial discretion. Judges are entrusted with antitrust law not just because of the exclusivity of the consumer-welfare principle, but also because of the ubiquity of economic analysis to reach the goal. These economic subprinciples are capable of progressive reticulation. They are useful to judges in deciding the specific case before them, because they provide a toolbox of methods that can predict the consumer welfare consequences of the agreement or practice before the court. As in antitrust, the applicable subprinciples should derive from an independent, relative objective discipline, like microeconomics. Independence denies judges the ability to manipulate the principles to reach a preferred outcome. Moreover, the objective standing of the subprinciples seems crucial, insofar as they must be continually tested and revised to reflect the most current data and reality. Thus, integrity ultimately requires ascertainable and consistent guiding principles and accompanying subprinciples capable of reliably and consistently resolving live cases.

B. Areas Likely Suitable for Integrity

Given the requirements of singular or consistent guiding principle and independently established and practically useful subprinciples, we next consider which types of substantive law are the most fruitful candidates for increased judicial caretaking under an integrity regime. Our purpose here is modest, and we do not seek to definitively establish or defend any specific substantive areas of the law. Rather, we identify a few of the likely characteristics of the type of law suitable for our integrity jurisprudence, and conclude with a possible suggestion that could warrant further exploration.

The first place to turn for a suitable candidate is the underlying language from which the law arises, be it statute, regulation, or constitution. Recall that the antitrust laws are remarkable for their brevity, and are much less detailed than other statutes or regulations. This sort of abstract language is likely a prerequisite for Dworkinian jurisprudence. In the presence of a detailed regulatory or statutory scheme, there is far less room for doubt on what Congress or the promulgating administrative agency meant to accomplish. A judge dealing with a concrete scheme is more likely to find herself guided to the answer by the formal text itself, and is less likely to be forced to venture beyond it except in hard cases. Moreover, even when faced with difficult questions, she is likely to have a wealth of traditional legal materials to help guide her analysis. Thus, there is little need for the Dworkinian jurisprudence outlined above.

But abstract language alone does not necessarily make judicial shaping of the law desirable. First, the presence of abstract language does not necessarily tell us whether an underlying guiding principle or general aim of the law exists. A judge faced with an abstract provision must therefore analyze the law to ensure that the underlying principle or principles are ascertainable and consistent. An abstract provision with inconsistent guiding principles is inappropriate for integrity, as we have seen from antitrust’s troubled past. And even where the underlying principle or purpose of the law is clear, if there are only indeterminate analytical tools or subprinciples to guide analysis, the judge remains unconstrained. Thus, Dworkinian jurisprudence is only likely to be appropriate if the guiding principle of an abstract provision is readily ascertainable, and there are formal subprinciples to guide judicial decision-making.

In light of our criteria, we suspect that those areas of the law that rely on economic analysis are the most likely candidates for fruitful integrity jurisprudence. It is not immediately apparent which other set of subprinciples could exhibit the independence and objective bona fides necessary for meaningful constraints. Economic analysis alone is insufficient, however, if there is no agreement on the aims. For example, judicial review of agency cost-benefit analysis conducted in promulgating regulations is an area likely to feature economic analysis prominently. Yet if a reviewing court were forced to make distributional decisions—to decide which group should receive a benefit or cost—then it would be acting in the same way as earlier antitrust courts. Only if the structure of the law ignored distributional outcomes could courts then improve the direction of the law by employing economics to shape regulations while being meaningfully constrained and not impinging on the province of the legislature.

**Lack of judicial review creates a moral hazard for faulty and manipulated CBAs---opens the floodgates to widespread deregulation**

**Potter 17** – Associate Professor of Politics at the University of Virginia

Rachel Augustine Potter, "How the Trump administration can use benefit cost analysis to justify deregulation," Brookings, 8-1-2017, https://www.brookings.edu/research/how-the-trump-administration-can-use-benefit-cost-analysis-to-justify-deregulation/

The Trump administration recently released its regulatory blueprint for the next several months. Unsurprisingly, the plan centers on the administration’s deregulatory agenda. Benefit-cost analysis (BCA) will inevitably play an important role in this process.[1] This is because, as required under Executive Order 12,866, agencies will have to show quantitatively that the benefits of repeal justify the costs.

Many of the rules the Trump administration will be targeting were put into place—and justified through BCA—just a few years ago during the Obama administration. To repeal them, the very same agencies (and often even the same personnel) that put the rules in place will have to use the same analytical techniques to demonstrate that these rules are no longer warranted

One might reasonably think that having gone through this analytical process the first time would have created a safeguard against removing these rules. This post explains why that’s not the case.

Quantitatively Justifying Deregulation

Because it is only required for a subset of the most important rules,[2] BCA does not constrain all regulations. For those rules that do require analysis, agencies looking to pare back existing regulations will need to conduct BCA de novo. There are at least three avenues by which an agency’s new BCA could come to the conclusion that deregulation is justified.

First, agencies can choose to rely on different data sources to show that an existing rule is no longer quantitatively justified. For regulations that have been in effect for a while, agencies may, for instance, be able to use new data to show that expected benefits never materialized.

Second, agencies may choose less costly or less intrusive regulatory approaches. For example, an agency might propose to substitute an information disclosure provision for a regulatory mandate, which still accomplishes the same policy goal. Reducing the cost term in that way makes it relatively straightforward for agencies to demonstrate the value of a new approach.

Third, BCA is built upon a series of assumptions about how the world works, and agencies may rely on new and different assumptions that yield different conclusions. Some assumptions are specific to particular rules, and agencies revisiting old rules may choose to rely on new assumptions that were not used in previous BCAs. The Trump administration might also choose to alter across-the-board assumptions that apply to all of an agency’s rules or to all agencies in the executive branch.

Where Politics Comes Into Play

Each of these approaches (or some combination of the three) can be used to justify deregulation through BCA. In some cases, the deregulatory changes that occur will streamline existing regulatory burdens. Such rollbacks might happen under any administration, regardless of ideology. For instance, the Obama administration—which pursued a very different regulatory vision from Trump’s—pushed agencies to look back at their regulations and remove any that were outdated or ineffective. Trump, however, envisions deregulatory changes on a broader scale. And just as past administrations have done, the new administration can stack the analytical deck in ways that favor a particular outcome—in this case, deregulation.

The Trump administration has already made one broad analytical change that effectively lowers the bar for agencies to roll back climate-related regulations by changing how agencies calculate the benefits of CO2 emission reductions. The Obama administration established administration-wide estimates of the “social cost of carbon,” which agencies were to include in their analyses. These estimates were determined via an interagency review process, which was influenced by two key considerations. First, the estimates included the global benefits (i.e., the benefits to the rest of the world) of emissions reductions achieved within the U.S. Second, they relied on a lower discount rate—the rate at which agencies calculate the present value of future actions—than used for other environmental emissions. The Trump administration’s withdrawal of the carbon calculation allows agencies to revert to assessing just the domestic benefits of their climate regulations, using the same discount rates typically used for other (non-climate) regulations. The net effect is that climate regulations, which have near-term costs and long-term benefits, will yield lower estimated net benefits.

Other assumptions could potentially be changed to favor deregulation. For instance, agencies rely on estimates of the Value of a Statistical Life (VSL) to calculate the benefits of regulations that result in reduced mortality. Each agency has its own VSL calculation, which they can adjust to reflect societal changes. Trump’s agencies could conceivably adjust VSLs downward, making regulations appear less beneficial than they might otherwise. Such changes have been politically controversial before: the Environmental Protection Agency was accused of biasing the VSL downward during the Bush years and biasing it upward during the Obama years.

Finally, agencies may face pressure from the administration to deemphasize regulatory benefits when conducting BCA. As critics have noted (see here and here), Trump’s “2-for-1” executive order, which requires agencies to repeal two regulations for every new one they enact, references regulatory costs 18 times but omits any mention of regulatory benefits.

In general, costs are easier to quantify than benefits, since it can be difficult to put monetary values on things like human dignity and equity. While it is not unreasonable for agencies to discuss such benefits qualitatively—and is even envisioned in BCA guidelines—doing so may open the door to manipulation or misuse. If one side of the ledger (costs) is tangible and the other (benefits) is not, determining whether the former exceeds the latter is inevitably a judgment call. Consider, for example, a rule that is projected to cost $250 million each year for the next 10 years. On the benefits side of the ledger, the agency only partially quantifies the rule’s benefits at, say, $100 million annually and then indicates that the rule will enhance privacy for the affected population, but provides no monetary value of that benefit. Overseen by an office that is headed by a deregulation-focused Trump appointee and under considerable political pressure to deregulate, an agency can easily make the case that the benefits of privacy do not justify the costs of the rule.

Regulatory Analysis Is Still Valuable

BCA is not immune to political influence, but the baby should not be thrown out with the bath water. Just because BCA can be manipulated doesn’t mean it isn’t valuable. Regulation invariably creates societal winners and losers; conducting regulatory analysis forces an agency to be more transparent regarding its assumptions. In other words, the practice provides a departure point for an informed discussion among experts and stakeholders.

Nonetheless, to the extent that agencies do inappropriately manipulate BCA in their pursuit of regulatory or deregulatory goals, there is an additional backstop. Courts have recently turned a more critical eye towards agency regulatory analyses that are insufficiently rigorous.[3] Given this trend and the Obama-appointee-heavy makeup of the DC Circuit, agencies are not guaranteed a free pass on their analyses. Using the courts as a way to check the quality of BCA is imperfect, since it requires vigilance and resources, but it may well be the stage upon which future battles over deregulation will be fought.

**Unchecked deregulation collapses society---enforceable rules are a cornerstone of effective civilization**

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Steve Cohen, "The Dangers of Deregulation," State of the Planet, 12-2-2019, https://news.climate.columbia.edu/2019/12/02/the-dangers-of-deregulation/

From unsafe Boeing 737 Max jets to exploding chemical plants in Houston, we are seeing some visible and dramatic impacts of decades of deregulation. This trend did not start under President Donald Trump but has picked up momentum and increased legitimacy since his inauguration. Regulation is simply another word for policing. Cops inspect behavior for illegality and when they find it, turn it over to courts for adjudication. Rules and their enforcement are a requirement of civilization. Without it, we must all protect ourselves in a war of all against all. Only anarchists oppose all rules and it is difficult to find any pure anarchists. The issue of deregulation is not one of freedom versus tyranny, but simply how many rules we need and what behaviors we need protection from. A secondary issue relates to the method and style of regulation. Opponents of New York City’s police practice of stop, question and frisk did not favor deregulation of the rules of weapon possession, they objected to the method the NYPD used to enforce those rules.

In a world of growing technological complexity, the average person is in no position to understand, evaluate and prevent the potential dangers they might face. About 1 percent of us work on farms and all of us eat food produced by people we don’t know working for companies that are organized to achieve financial profit. We don’t really know much about the food we are eating. The capitalist form of organization provides great incentives for efficiency and creativity as companies seek financial gain. A food company that poisons its customers will find little market advantage in that behavior, and so you might argue that self-regulation is all that is needed, and government policing is unneeded. But we have a Food and Drug Administration and rules on food safety because we worry that the drive for short-term profit might encourage a company to seek short-cuts around food safety requirements. We believe that defining poisoning customers as criminal behavior provides an additional disincentive to take food safety short-cuts beyond the long-term self-interest of a food company. Remove the rule and threat of punishment and the probability of more poisoned consumers increases.

The idea that all regulation inhibits capitalism and that the freer the market the better is part of the ideological perversion of the idea of regulation. The opposite view that all regulation is good and only the state is capable of protecting us from harm is an equally ideological perversion of the idea of regulation. We need rules to ensure that the game is fair and that the players and bystanders are protected from the negative impacts of competition. But it is possible to over-regulate and under-regulate. Regulation can stifle production and creativity, but deregulation can harm us and kill us. Regulation, like policing, is necessary but not self-justifying. I accept the idea that risk is necessary for reward. But I want to calculate the risk and quantify the reward. In the case of highly complex technologies like jet planes and chemical plants, an analysis of risk and reward requires scientific observation, analysis, projection and debate. That can’t be done when anti-regulatory ideologues are blindly moving to dismantle science, rules and enforcement.

Deregulation by definition leads to increased danger. In place of deregulation, I would like to see more effective and scientifically sophisticated rules, enforced with humility and greater government-industry communication. I’d like to reduce the role of lobbyists and ensure that when self-policing is permitted, it always be subject to random and unannounced inspection.

What we have instead in Washington is actually worse than pure deregulation, but an effort to delegitimize the idea of government regulation of business. The danger of this approach is the same as taking the New York Police Department off the streets of New York City. It’s an invitation to lawlessness and dangerous behavior. Most of us don’t live on acres of land in the wild west, but in cities, whereas Paul Simon once wrote, “one man’s ceiling is another man’s floor.” Our actions almost inevitably impact others, and the behavior of others affects us.

Of course, rules, crime and punishment are not the only methods for encouraging socially responsible behavior. Positive role models, economic incentives, moral suasion, education and technical assistance can have equally positive results. But they require a foundation of law and correct behavior. Socially responsible behavior needs to be defined by law. Reducing greenhouse gasses is difficult to achieve if these emissions are not defined as pollutants. Once they are defined as pollutants, reductions can be achieved through tax incentives, technical assistance, or direct grants-in-aid. They can also be achieved through command-and-control regulation. The issue for policymakers should be: What would be more effective, incentives or disincentives? Or should there be a mix of both? Regulated parties are too often defined as criminals that have not yet been caught. That approach makes little sense if we want to achieve the benefits of production while minimizing the costs.

Two recent examples of under-regulation illustrate the danger of deregulation: The regulation of the Boeing 737 Max jet plane and the explosion of chemical plants in Texas. There are sadly many other examples we could examine.

The regulatory failure of the U.S. federal government and Boeing over the 737 Max is obvious. Due in part to budget cuts and in part to anti-regulatory ideology, the Federal Aviation Administration (FAA) delegated some of the regulatory process to Boeing which was in a hurry to bring its new plane to market. David Gelles and Natalie Kitroeff summarized the findings of a federal task force probing this regulatory process in the New York Times this past October. According to their piece:

“The Federal Aviation Administration relied heavily on Boeing employees to vouch for the safety of the Max and lacked the ability to effectively analyze much of what Boeing did share about the new plane, according to the report by a multiagency task force. The system of delegation is now being scrutinized by lawmakers in the wake of the tragedies. Boeing employees who worked on behalf of the F.A.A. faced “undue pressures” at times during the plane’s development because of “conflicting priorities,” according to the report.”

To Boeing senior management, regulation was just a little check-off process on the way to the market. The FAA has been hollowed out of technical capacity by decades of anti-regulatory ideology which was ineffectively countered by eight years of the Obama presidency. Once the Tea Party took over the budget process, the Obama White House was never able to restore capacity to regulatory agencies. The Environmental Protection Agency lost over 2,000 staff during the Obama years. The FAA did not have the ability to understand and assess the safety of the jet’s technology. Instead of preventing death and destruction, it took two tragic crashes to ground the plane and begin the assessment that should have taken place before the plane was allowed to fly.

And then we have last week’s massive fire and explosion at a chemical plant in Port Neches, Texas. The danger of additional explosions and toxic emissions forced the temporary evacuation of thousands of nearby residents and was not an isolated or rare occurrence. According to Merrit Kennedy of NPR:

“The explosion is the latest in a string of industrial incidents in the region. The Houston area saw three fires at chemical facilities in a month-long span in March and April — including an explosion at the KMCO plant in Crosby that killed a worker, as Houston Public Media’s Florian Martin reported. In July, more than 30 people were treated for minor injuries after a fire at an Exxon Mobil refinery in Baytown… A search of Texas Commission on Environmental Quality records shows that this year, TPC Group [owner of the plant] has been ordered to pay more than $378,000 in fines over multiple environmental violations at two facilities, in Port Neches and in Houston.”

Texas prides itself on its free market-focused, lightly policed approach to business policy, and so along with jobs and growth, they get blown out windows and toxic fumes. A well-managed factory controls its emissions and has enough safety protocols in place to avoid blowing up. But the people who work at the plant that might want to spend a little more time and money to make the place safer and cleaner are delegitimized by the absence of effective government oversight. The only good news is that the first explosion was at 1 AM and not 1 PM or the impact on workers and residents could well have been greater.

The danger of deregulation is that without adequate policing of complex technical processes, the public is left to the mercy of the market. Most businesses are well run and pay attention to safety and emissions. But clearly, some are poorly run and place short-run profits over health and safety. Regulation reinforces correct behavior and justifies investment in safety. Deregulation reinforces a Wild West mindset that is inappropriate for the crowded planet that we all live on.

### 1NC---DA

Convergence DA

**Global antitrust has effectively converged around the consumer welfare standard now**

**Lopez-Galdos 17** – Global Competition Counsel at the Computer & Communications Industry Association

Marianela Lopez-Galdos, "Antitrust in 60 Seconds: Is the Consumer Welfare Standard Appropriate?," Disruptive Competition Project, 11-17-2017, https://www.project-disco.org/competition/111717-antitrust-in-60-seconds-is-the-consumer-welfare-standard-appropriate/

What do other competition systems do?

In the rest of the world, including the European Union, most competition systems were put in place in the post-war periods. As such, the pursuit of pluralistic goals guided by public interest concerns through the competition system was a method by which these toddling democracies sought to boost and defend their nascent democratic process. That being said, competition systems have evolved, and mature ones have narrowed the antitrust analysis to focus on consumer welfare.

In this context, it is noteworthy that the UN and OECD have separately concluded that many competition systems pursue consumer welfare as the primary competition goal. In 1995, UNCTAD concluded that “There has in fact been an increasing convergence in the provisions or the application of competition laws over the laws two decades. Competition systems in many countries are now placing relatively greater emphasis upon the protection of competition, as well as upon efficiency and competitiveness criteria, rather than upon other public interest goals”.

**The aff crosses the Rubicon---moving even slightly away from CWS causes the collapse of the entire competition regime**

**Dorsey et al. 20** – Elyse Dorsey, Adjunct Professor, Antonin Scalia Law School at George Mason University; Geoffrey A. Manne, Founder and President of the International Center for Law & Economics; Jan M. Rybnicek, Senior Associate in the Washington, D.C., office of Freshfields Bruckhaus Deringer and Adjunct Professor and Senior Fellow at the Global Antitrust Institute at Antonin Scalia Law School at George Mason University; Kristian Stout, Associate Director at the International Center for Law & Economics; Joshua D. Wright, Executive Director, Global Antitrust Institute and University Professor, Antonin Scalia Law School at George Mason University

Elyse Dorsey, Geoffrey Manne, Jan Rybnicek, Kristian Stout , and Joshua D. Wright, "Consumer Welfare & the Rule of Law: The Case Against the New Populist Antitrust Movement," Pepperdine Law Review, Vol. 47, No. 861, 5-1-2020, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3592974

Moreover, as discussed, when antitrust policy is unmoored from economic analysis, it exhibits fundamental and highly problematic contradictions.304 Perhaps most critically, attempting to promote socio-political goals through competition laws tends to undermine competition itself.305 If competition law is unconstrained on its own terms—that is, if it is unmoored from a set of subject-specific limitations imposed by courts and legislatures—it threatens to morph into a large, sprawling, economy-wide set of regulations resembling a national industrial policy.306 The merits or demerits of actually having an economy-wide industrial policy aside, it is unquestionably a perversion of competition law to facilitate the imposition of policies from law and regulation outside of competition policy in ways that, of necessity, will promote other polices at the very expense of competition.

“[F]inally, if the underlying basis for antitrust enforcement is extended beyond economic welfare effects, how long can we expect to resist calls to restrain enforcement precisely to further those goals?”307 The effort and incentive to obtain exemptions would be significantly increased “as the persuasiveness of the claimed justifications for those exemptions [(]which already encompass non-economic goals308[) would] be greatly enhanced.”309 The end result could “even be more concentration . . . [as the] exceptions could subsume the rules.”310

This discussion highlights the “fundamental, underlying problem: If . . . antitrust [becomes] more political,” the outcome will be “less democratic, more politically determined, results—precisely the opposite of what proponents claim to want.”311

**American modelled consumer welfare standard is critical to enforcing the rule of law and discouraging protectionism**

**Dorsey et al. 20** – Elyse Dorsey, Adjunct Professor, Antonin Scalia Law School at George Mason University; Geoffrey A. Manne, Founder and President of the International Center for Law & Economics; Jan M. Rybnicek, Senior Associate in the Washington, D.C., office of Freshfields Bruckhaus Deringer and Adjunct Professor and Senior Fellow at the Global Antitrust Institute at Antonin Scalia Law School at George Mason University; Kristian Stout, Associate Director at the International Center for Law & Economics; Joshua D. Wright, Executive Director, Global Antitrust Institute and University Professor, Antonin Scalia Law School at George Mason University

Elyse Dorsey, Geoffrey Manne, Jan Rybnicek, Kristian Stout, and Joshua D. Wright, "Consumer Welfare & the Rule of Law: The Case Against the New Populist Antitrust Movement," Pepperdine Law Review, Vol. 47, No. 861, 5-1-2020, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3592974

Critics of the consumer welfare standard argue that the decision to focus on the welfare of consumers (rather than some other group or on non-welfare objectives) is inherently a political decision and therefore no more justified than alternative tests.118 There are at least two errors with this position. First, the decision to adopt the consumer welfare model is political only in the sense that every policy decision is a political decision.119 That is neither remarkable nor interesting for assessing the benefits of the consumer welfare standard.120 The more important question is whether the consumer welfare standard, as applied, is better or worse than alternative tests at minimizing the discretion of a decisionmaker and therefore the potential influence of politics and rentseeking in antitrust decisions.121 Significantly, what experience shows is that because the consumer welfare model is clear and objective, it cannot easily be contorted by a decisionmaker who may be motivated by a desire to pick winners and losers in a specific case.122 The singular focus on consumer welfare thus creates a predictable methodology that leads to more consistency across different antitrust cases and to treating similarly situated parties equally under the law.123 Indeed, by exporting the consumer welfare standard to other jurisdictions around the world, the United States has helped to foster the rule of law and limited the use of antitrust to promote protectionist goals.124

Second, although the consumer welfare standard may be imperfect, it is by far the best available antitrust framework because it maximizes the welfare of all Americans.125 Alternative tests pick between different groups or classes of people or, worse yet, allow decisionmakers to make those distributional choices based on personal preference.126 Not all Americans are small business owners or have the same social policy preferences as a decisionmaker. But every American is a consumer. And therefore, all Americans benefit from maximizing consumer welfare. The new populist antitrust movement aims to address a wide range of non-welfare policy preferences through antitrust because it is a convenient and potentially expeditious tactic for implementing progressive policies.127 But as history shows, these distributional decisions are inherently political; they are not well-suited for law enforcement agencies and judges; and they are better achieved through the legislative efforts of elected officials.128

#### Protectionism structurally risks great power conflict

Drezner 16 – nonresident senior fellow at the Brookings Institution, professor of international politics at the Fletcher School of Law and Diplomacy at Tufts University

(Daniel W., May. “Five Known Unknowns about the Next Generation Global Political Economy.” <https://www.brookings.edu/wp-content/uploads/2016/07/IOS-Drezner-web-1.pdf>)

Globalization therefore creates powerful pressures on governments not to close off their economies through protectionism or military aggression. Interdependence can also tamp down conflicts that would otherwise be likely to break out during a great power transition. Of the 15 times a rising power has emerged to challenge a ruling power between 1500 and 2000, war broke out 11 times.109 Despite these odds, China’s recent rise to great power status has elevated tensions without leading to anything approaching war. It could be argued that the Sino-American economic relationship is so deep that it has tamped down the great power conflict that would otherwise have been in full bloom over the past two decades. Instead, both China and the United States have taken pains to talk about the need for a new kind of great power relationship. Interdependence can help to reduce the likelihood of an extreme event—such as a great power war—from taking place.

## Inequality Adv

#### Inequality is declining now – proves their theories surrounding it is bunk

Falk 20 – Jeff Falk is director of national media relations in Rice University's Office of Public Affairs.

Jeff Falk, October 28 2020, “[US wealth, income inequality has declined, Baker Institute expert finds](https://news.rice.edu/2020/10/28/us-wealth-income-inequality-has-declined-baker-institute-expert-finds-2/),” Rice University, https://news.rice.edu/2020/10/28/us-wealth-income-inequality-has-declined-baker-institute-expert-finds-2/

Analysis of Federal Reserve survey data shows U.S. wealth inequality has declined for the first time in nearly 30 years, while income inequality has seen its largest decline in three decades, according to a new working paper from Rice’s Baker Institute for Public Policy.

The results come from the [Survey of Consumer Finances](https://en.wikipedia.org/wiki/Survey_of_Consumer_Finances) (SCF), a triennial family survey conducted by the Federal Reserve. The survey data for 2019, which was released in late September, gives one of the best insights into U.S. households’ wealth composition, said [Jorge Barro](https://www.bakerinstitute.org/experts/jorge-barro), fellow in public finance at the Baker Institute and author of the paper, titled [“Decline in U.S. Wealth and Income Inequality Between 2016 and 2019.”](https://www.bakerinstitute.org/media/files/files/5bc75df7/cpf-wp-us-inequality-102620.pdf)

What makes the shift particularly surprising is that it comes after a significant tax cut signed into law in 2017, Barro said. This tax reform, commonly known as the [Tax Cuts and Jobs Act](https://www.congress.gov/bill/115th-congress/house-bill/1/text) (TCJA), reduced the corporate tax rate from 35% to 21%.

“Given that this tax cut largely benefited those who hold corporate equity, many expected this change would actually increase wealth and income inequality,” Barro wrote. “A recent working paper at the National Bureau of Economic Research, however, notes that higher corporate taxation shifts corporate income to noncorporate businesses, increasing the dispersion of income and generating a rise in income inequality — an outcome that would reverse with a decline in the corporate tax rate.”

Wealth inequality rose persistently between 1992 and 2016 — a trend that saw a reversal in 2019, Barro found. “Income inequality also experienced the largest decline since 1992,” he wrote. “Both changes are a result of gains in the total shares (of wealth and income) by lower deciles (groups). While there are many plausible explanations, changing age demographics and the economic impact of the TCJA may have played a role in generating this outcome.”

Barro said an aging of the population shifts the age distribution from a large share of young and a low share of old to a low share of young and a large share of old. Because people generally have low assets early in life and higher assets later in life, this demographic shift can alter the wealth distribution from fewer high-wealth individuals to relatively many high-wealth individuals. Consequently, an aging of the population can plausibly generate a reduction in wealth inequality.

The SCF collects granular data on the financial positions of U.S. families, with regards to assets and liabilities. The extent to which a family’s assets exceed their liabilities determines their net worth, which in turn defines the family’s wealth. Between 2016 and 2019, real median family wealth grew 17.7% from $103,460 to $121,760. Even as broad measures of wealth grew over this time period, the dispersion of wealth contracted, Barro said.

Between 2016 and 2019, real median U.S. family income rose 5.4% from $56,019 to $59,051. Over that period, income inequality experienced its sharpest decline since the decline between 1989 and 1992, Barro said.

Rising wealth and income inequality have been focal points in debates in the economics profession for many years, Barro said. “Researchers and institutions have allocated considerable resources to understanding the causes of inequality and how policy can affect it. A decline in both income and wealth inequality between 2016 and 2019 will require researchers to rethink the mechanisms driving inequality.”

Barro’s area of research involves the development of dynamic macroeconomic models for fiscal policy evaluation. Prior to joining the Baker Institute, Barro was an economist at the University of Pennsylvania’s Wharton Public Policy Initiative, where he led the development of its dynamic macroeconomic model and helped launch the nonpartisan Penn Wharton Budget Model.

#### Worker oppression is baked into labor laws – just using antitrust to solve is insufficient

Rogers 18 – Brishen Rogers is an Associate Professor at Temple University's Beasley School of Law, and a Fellow at the Roosevelt Institute. Prior to law school, he worked as a community organizer promoting living wage policies and affordable housing, and spent several years organizing workers as part of SEIU’s “Justice for Janitors” campaign.

Brishen Rogers, April 30 2018, “The Limits of Antitrust Enforcement,” Boston Review, https://bostonreview.net/class-inequality/brishen-rogers-limits-antitrust-enforcement

I nevertheless want to sound a note of caution. More aggressive antitrust enforcement probably won’t do all that much to help workers, since the problem of employer power runs much deeper than monopsony, covenants, and other restraints on workers’ mobility. Capacious employer rights are written into the basic structure of our labor and employment laws and corporate laws. Those laws encourage investors to aggregate into corporations, while leaving workers atomized, and therefore largely powerless, unless the state encourages them to aggregate into unions or otherwise to exert countervailing power from below. Still more troubling, the basic logic of antitrust—that combinations in restraint of trade are forbidden—is in serious tension with workers’ organizing. Unions are literally cartels for the sale of labor, and unions’ major legal battle prior to the New Deal was to stop courts’ use of antitrust and related doctrines to thwart their efforts. Contemporary antitrust doctrine still has that effect in many instances.

This all points to a broader tension on the left: on the one hand, many are intuitively attracted to republican or progressive commitments to widely dispersed political and economic power; on the other hand, practically speaking, that may require strong countervailing institutions such as unions that have their own governance authority. Antitrust is clearly part of the solution here, but fundamental labor law reform is equally essential.

**Inequality doesn’t cause war**

Gal **Ariely 16**, senior lecturer in the Department of Politics & Government, Ben-Gurion University of the Negev, PhD from the University of Haifa’s School of Political Sciences, “Does National Identification Always Lead to Chauvinism? A Cross-national Analysis of Contextual Explanations,” Globalizations, 13(4), 10.1080/14747731.2015.1111654

With respect to internal explanations, the effects of income inequality and ethnic diversity are presented in Table 3. Models 3.1 and 3.2 indicate that neither directly affects chauvinism. H4 is therefore not supported. The results suggest, however, that both have a negative effect on the national-identification slopes. Contrary to our expectations, countries with higher levels of economic and ethnic division appear to exhibit a weaker relation between national identification and chauvinism. While these findings might seem to contradict H5, the pattern was caused by outliers. After excluding South Africa—the most unequal and ethnic diverse country in our sample—the effect of ethnic diversity is not even of borderline significance. After excluding Chile—the most unequal country in our sample—the interaction effects for economic inequality were also far from significant. The results, therefore, do not support H5.21 Conclusions During the historic phone call between President Obama and Iranian President Sheikh Hasan Rouhani in September 2013, the latter stated that his country’s nuclear program ‘represents Iran’s national dignity’.22 This declaration reflects the common perception that Iran’s nuclear program mobilizes Iranians in support of resisting further national humiliation at the hands of foreigners (Moshirzadeh, 2007). This reflects the important role national feelings play in the contemporary international arena. Evidence from other examples—such as the Israeli-Palestine conflict—indicates that national identity serves as a key factor in conflict resolution. The prominence of national feelings is not limited to the Middle East, their effect on public attitudes towards international issues, and conflicts also being manifest in the West (Billig, 1995; Kinder & Kam, 2010). It is thus hardly surprising that scholars seeking to develop a better understanding of conflicts adopt a social-psychology perspective, replacing the deterministic view that identification with one’s in-group necessarily leads to antagonism towards out-groups with an examination of the broader social context. In line with this approach, the present paper focuses on the way in which political and social contexts encourage chauvinistic views towards the international arena and how they affect the relation between national identification and chauvinism. Integrating various social and psychological theories, we investigated two external contextual explanations (globalization and conflict) and an internal explanation (social division). Employing cross-national survey data, we examined the relation between national identification and chauvinism across 33 countries. The findings indicate that a positive relationship exists between national identification and chauvinism across most of the countries, although the level differs from country to country. Using a multilevel regression analysis, we tested to see whether globalization, conflict, and social division correlate with this variation. The results indicate that social and political contexts are related to chauvinism and the ways national identifi- cation and chauvinism are linked. Although a closer relation exists between national identification and chauvinism in more globalized countries, globalization failed to explain the variation in chauvinism itself. These findings support the notion that globalization highlights the importance of national identity (Calhoun, 2007; Castells, 2011). While those sections of globalized societies that are attached to their country also tend to resist international cooperation and endorse hostile views, the complexity of the phenomenon—as evinced by the divergent findings of previous studies (e.g. Jung, 2008; Norris & Inglehart, 2009)—calls for further research of this interpretation. The fact that the current study is cross-sectional must also be taken into account, the findings adducing the relation but not the causal relations between the variables. In contrast to experimental studies, the present design is similarly limited in its ability to offer a robust control for alternative explanations. Another external factor found to be relevant—to a certain degree—was conflict. Countries that suffered large numbers of deaths in conflicts and mobilized resources and personnel exhibited higher levels of chauvinism. When other indices for conflict were used, however, these results were not replicated. A possible explanation for this finding lies in the inherent limitation in the way in which conflicts are measured across various countries. Measuring international conflicts is a challenging task (Anderton & Carter, 2011). While the ways of measuring conflict were chosen because they reflect different dimensions of conflict in order to be representative of a wide range of countries, the problem of comparability cannot be ignored. An alternative explanation may derive from the fact that only deaths from conflict and resources/personnel mobilization are sufficiently significant to contribute to chauvinism. The limitations of our measurements of conflict and research design mean that this idea must remain speculative, however. In addition, it is important to emphasize that the sample of countries is also limited as many countries are not involved in conflict and there is also limited variation in the types of conflicts. Contrary to what the divisionary theory of national mobilization would lead us to expect, neither economic inequality nor ethnic diversity were related to chauvinism or affected the relation between national identification and chauvinism. This finding might also be explained by the limitation of the current research design. The number of countries included in the ISSP 2003 National Identity Module being relatively small and the sample only covering countries with available survey data, the results relate solely to this specific sample of countries. Across another set of countries, social division might play a far more significant role. Another explanation might be the meaning given to national identification and chauvinism across the countries. While evidence exists for the comparability of the scales across most of the countries, the divergent meaning probably attributed to them in Germany, the United States, and Israel might form an additional limitation. The central finding is that both chauvinism and the relation between national identification and chauvinism are related to contextual factors. What ramifications do these results possess for peace research? Firstly, the fact that national identification and chauvinism are not axiomatically related to one another across all the countries supports the notion that national identifi- cation and chauvinism should not be viewed as deterministic or generic in nature (Brewer, 2001; Cook-Huffman, 2009; Spears, 2008). The relation between national identification and conflict is far more complex than has traditionally been assumed and is directly affected by social context. In view of the multiple transformations national identity is undergoing in the contemporary world, research would do well to pay greater attention to the impact of such changes on conflicts.

**No impact to slow growth.**

Dr. Christopher J. **Fettweis 17**, Associate Professor of Political Science at Tulane University, PhD in Government and Politics from the University of Maryland, “Unipolarity, Hegemony, and the New Peace”, Security Studies, Vol. 26, No. 3, p. 434-442 [language modified]

Others are more skeptical of institutions’ potential to shape behavior, and believe instead that stability is dependent upon the active application of the hegemon’s military power.51

The second version of the hegemonic-stability explanation is based upon a different view of human nature than is the liberal, one less sanguine about the potential for voluntary cooperation. Actors respond to concrete incentives, according to this outlook, and will ignore rules or law if transgressions are not punished. The would-be hegemon must enforce stability, therefore, not merely establish it. Policing metaphors are common in this literature, with the United States playing the role of sheriff or globocop charged with keeping the peace.52

[FOOTNOTE]

52 Richard N. **Haass**, The Reluctant Sheriff: The United States after the Cold War (New York: Council on Foreign Relations Press, 1997); Colin S. Gray, The Sheriff: America's Defense of the New World Order (Lexington: University Press of Kentucky, 2004).

View all notes

[END FOOTNOTE]

Take away the police, or damage their credibility, and instability would soon return. “The present world order,” according to Robert Kagan, “is as fragile as it is unique,” and would collapse without sustained US efforts.53 “In many instances,” add Lawrence Kaplan and William Kristol, “all that stands between civility and genocide, order and mayhem, is American power.”54 Though this argument is commonly associated with neoconservatism55—and will be referred to as the neoconservative explanation from here on in—it is also accepted by a number of scholars and observers generally considered outside of that ideological approach.56

The two versions are united on this point: it is not unipolarity in general that accounts for the New Peace, but American unipolarity in particular. US hegemony is essentially benevolent, according to both liberals and neoconservatives. The United States has constructed an order that takes the interests of other states into account, which decreases revisionist impulses. At the very least, it is nonthreatening, and does not generate the kind of balancing behavior that might be expected to bring it to an end.57 In the liberal version, the order constructed by the United States is beneficial to all its members, who have a stake in its maintenance. Adherents of the more muscular version, whether neoconservative or not, assume that the default position of smaller states in a unipolar system is to bandwagon with the center.58 No one seems to suggest that there is an irenic structural logic of unipolarity independent of US behavior. The question is therefore not so much about the connection between unipolarity and the New Peace as much as it is whether US behavior, in one form or another, has brought it about.

Hegemonic stability is in some ways more theoretically elegant than the other possible explanations for the New Peace. For one thing, it does not suffer from questions regarding its causal direction. While it may be reasonable to suggest that peace produced the expansion of democracy and/or economic development rather than the other way around, peace did not produce unipolarity. In fact, if the United States is indeed supplying the global public good of security, it might be able to take credit for a number of these positive trends. Not just peace but democracy, economic stability, and development all might be beneficial side effects of unipolarity. 59 “A world without U.S. primacy,” argued Samuel P. Huntington, “would be a world with more violence and disorder and less democracy and economic growth.”60

There is a great deal at stake here, for both scholarship and practice. If hegemony is responsible for the New Peace, then its peaceful trends are unlikely to last much beyond the unipolar moment. The other proposed explanations described above are essentially irreversible: nuclear weapons cannot be uninvented, and no defense against their use is ever going to be completely foolproof; the pace of globalization and economic interdependence shows no sign of slowing; democracy seems to be firmly embedded in the cultural fabric of many of the places it currently exists, and may well be in the process of spreading to the few places where it does not. The UN, while oft criticized, shows no signs of disappearing. And finally, history contains precious few examples of the return of institutions deemed by society to be outmoded, barbaric, and/or futile.61 In other words, liberal normative evolution is typically unidirectional. Few would argue, for instance, that either slavery or dueling is likely to reappear in this century; illiberal normative recidivism is exceptionally rare.62 If the neoconservatives are correct and US hard power is primarily responsible for the New Peace, however, then it cannot be expected to last long after US hegemonic decline, or adjustment in its grand strategy toward retrenchment. If liberal internationalists are right and the New Peace is largely a product of the world order that the United States has forged, then it may have a bit more staying power beyond unipolarity, but not necessarily much.

Determining the relationship between hegemony and the New Peace has importance that goes beyond the academy. Whether or not decline is on the immediate horizon, unipolarity is unlikely to last forever. If the New Peace is essentially an American creation, that post-unipolar future is likely to be quite a bit more violent than the present.

Evidence for and against Pax Americana

Since the world had never experienced system-wide unipolarity prior to the end of the Cold War, judgments about its relative stability and likely duration are necessarily speculative.63 Extrapolations can be made from regional unipolar systems, like the Roman Mediterranean, but definitive system-wide statements cannot be made from one case. Still, if US power were primarily responsible for the New Peace, one would expect that it would leave some clues about its effects. This section reviews three kinds of evidence regarding Pax Americana in order to determine whether an empirical relationship can be said to exist between various kinds of US activity and global stability.

Conflict and Hegemony by Region

Even the most ardent supporters of the hegemonic-stability explanation do not contend that US influence extends equally to all corners of the globe. The **U**nited **S**tates has concentrated its policing in what George Kennan used to call “strong points,” or the most important parts of the world: Western Europe, the Pacific Rim, and Persian Gulf.64 By doing so, Washington may well have contributed more to great power peace than the overall global decline in warfare. If the former phenomenon contributed to the latter, by essentially providing a behavioral model for weaker states to emulate, then perhaps this lends some support to the hegemonic- stability case.65 During the Cold War, the United States played referee to a few intra-West squabbles, especially between Greece and Turkey, and provided Hobbesian reassurance to Germany’s nervous neighbors. Other, equally plausible explanations exist for stability in the first world, including the presence of a common enemy, democracy, economic interdependence, general war aversion, etc. The looming presence of the leviathan is certainly among these plausible explanations, but only inside the US sphere of influence. Bipolarity was bad for the nonaligned world, where Soviet and Western intervention routinely exacerbated local conflicts. Unipolarity has generally been much better, but whether or not this was due to US action is again unclear.

Overall US interest in the affairs of the Global South has dropped markedly since the end of the Cold War, as has the level of violence in almost all regions. There is less US intervention in the political and military affairs of Latin America compared to any time in the twentieth century, for instance, and also less conflict. Warfare in Africa is at an all-time low, as is relative US interest outside of counterterrorism and security assistance.66 Regional peace and stability exist where there is US active intervention, as well as where there is not. No direct relationship seems to exist **across regions**.

If intervention can be considered a function of direct and indirect activity, of both political and military action, a regional picture might look like what is outlined in Table 1.

These assessments of conflict are by necessity relative, because there has not been a “high” level of conflict in any region outside the Middle East during the period of the New Peace. Putting aside for the moment that important caveat, some points become clear. The great powers of the world are clustered in the upper right quadrant, where US intervention has been high, but conflict levels low. US intervention is **imperfectly correlated** with stability, however. Indeed, it is conceivable that the relatively high level of US interest and activity has made the security situation in the Persian Gulf and broader Middle East **worse**. In recent years, substantial hard power investments (**Somalia**, **Afghanistan**, **Iraq**), moderate intervention (**Libya**), and reliance on diplomacy (**Syria**) have been equally **ineffective in stabilizing** states torn by conflict. While it is possible that the region is essentially unpacifiable and no amount of police work would bring peace to its people, it remains hard to make the case that the US presence has improved matters. In this “strong point,” at least, US hegemony has **failed** to bring peace.

In much of the rest of the world, the United States has not been especially eager to enforce any particular rules. Even rather incontrovertible evidence of genocide has not been enough to inspire action. Washington’s intervention choices have at best been erratic; Libya and Kosovo brought about action, but much more blood flowed uninterrupted in Rwanda, Darfur, Congo, Sri Lanka, and Syria. The US record of peacemaking is not exactly a long uninterrupted string of successes. During the turn-of-the-century conventional war between Ethiopia and Eritrea, a highlevel US delegation containing former and future National Security Advisors (Anthony Lake and Susan Rice) made a half-dozen trips to the region, but was unable to prevent either the outbreak or recurrence of the conflict. Lake and his team shuttled back and forth between the capitals with some frequency, and President Clinton made repeated phone calls to the leaders of the respective countries, offering to hold peace talks in the United States, all to no avail.67 The war ended in late 2000 when Ethiopia essentially won, and it controls the disputed territory to this day.

The Horn of Africa is hardly the only region where states are free to fight one another today without fear of serious US involvement. Since they are choosing not to do so with increasing frequency, something else is probably affecting their calculations. Stability exists even in those places where the potential for intervention by the sheriff is minimal. Hegemonic stability can only take credit for influencing those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. It seems hard to make the case that the relative peace that has descended on so many regions is primarily due to the kind of heavy hand of the neoconservative leviathan, or its lighter, more liberal cousin. Something else appears to be at work.

Conflict and US Military Spending

How does one measure polarity? Power is traditionally considered to be some combination of military and economic strength, but despite scores of efforts, no widely accepted formula exists. Perhaps overall military spending might be thought of as a proxy for hard power capabilities; perhaps too the amount of money the United States devotes to hard power is a reflection of the strength of the unipole. When compared to conflict levels, however, there is no obvious correlation, and certainly not the kind of negative relationship between US spending and conflict that many hegemonic stability theorists would expect to see.

During the 19**90s**, the **U**nited **S**tates cut back on defense by about 25 percent, spending $100 billion less in real terms in 1998 that it did in 1990.68 To those believers in the neoconservative version of hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities doubts that the defense budget has been cut much too far to meet America’s responsibilities to itself and to world peace,” argued Kristol and Kagan at the time.69 **The world grew dramatically more peaceful**

**[CUT HERE.]**

**while the United States cut its forces, however**, and stayed just as peaceful while spending rebounded after the 9/11 terrorist attacks. The incidence and magnitude of global conflict declined while the military budget was cut under President Clinton, in other words, and kept declining (though more slowly, since levels were already low) as the Bush administration ramped it back up. Overall US military spending has varied during the period of the New Peace from a low in constant dollars of less than $400 billion to a high of more than $700 billion, but war does not seem to have noticed. The same **nonrelationship** exists between other potential proxy measurements for hegemony and conflict: there does not seem to be much connection between **warfare** and **fluctuations in US GDP**, **alliance commitments**, and **forward military presence**. There was very little fighting in Europe when there were 300,000 US troops stationed there, for example, and that has not changed as the number of Americans dwindled by 90 percent. Overall, there **does not seem to be much correlation** between US actions and systemic stability. Nothing the United States actually does seems to matter to the New Peace.

It is possible that absolute military spending might not be as important to explain the phenomenon as relative. Although Washington cut back on spending during the 1990s, its relative advantage never wavered. The United States has accounted for between 35 and 41 percent of global military spending every year since the collapse of the Soviet Union.70 The perception of relative US power might be the decisive factor in decisions made in other capitals. One cannot rule out the possibility that it is the perception of US power—and its willingness to use it—that keeps the peace. In other words, perhaps it is the grand strategy of the United States, rather than its absolute capability, that is decisive in maintaining stability. It is that to which we now turn.

Conflict and US Grand Strategy

The perception of US power, and the strength of its hegemony, is to some degree a function of grand strategy. If indeed US strategic choices are responsible for the New Peace, then variation in those choices ought to have consequences for the level of international conflict. A restrained United States is much less likely to play the role of sheriff than one following a more activist approach. Were the unipole to follow such a path, hegemonic-stability theorists warn, disaster would follow. Former National Security Advisor Zbigniew Brzezinski spoke for many when he warned that “outright chaos” could be expected to follow a loss of hegemony, including a string of quite specific issues, including new or renewed attempts to build regional empires (by China, Turkey, Russia, and Brazil) and the collapse of the US relationship with Mexico, as emboldened nationalists south of the border reassert 150-year-old territorial claims. Overall, without US dominance, today’s relatively peaceful world would turn “violent and bloodthirsty.”71 Niall Ferguson foresees a post-hegemonic “Dark Age” in which “plunderers and pirates” target the big coastal cities like New York and Rotterdam, terrorists attack cruise liners and aircraft carriers alike, and the “wretchedly poor citizens” of Latin America are unable to resist the Protestantism brought to them by US evangelicals. Following the multiple (regional, fortunately) nuclear wars and plagues, the few remaining airlines would be forced to suspend service to all but the very richest cities.72 These are somewhat **extreme versions** of a

central assumption of all hegemonic-stability theorists: a restrained United States would be accompanied by utter disaster. The “present danger” of which Kristol, Kagan, and their fellow travelers warn is that the United States “will shrink its responsibilities and—in a fit of absentmindedness, or parsimony, or indifference— allow the international order that it created and sustains to collapse.”73 Liberals fear restraint as well, and also warn that a militarized version of primacy would be counterproductive in the long run. Although they believe that the rule-based order established by United States is more durable than the relatively fragile order discussed by the neoconservatives, liberals argue that Washington can undermine its creation over time through thoughtless unilateral actions that violate those rules. Many predicted that the invasion of Iraq and its general contempt for international institutions and law would call the legitimacy of the order into question. G. John Ikenberry worried that Bush’s “geostrategic wrecking ball” would lead to a more hostile, divided, and dangerous world.74 Thus while all hegemonicstability theorists expect a rise of chaos during a restrained presidency, liberals also have grave concerns regarding primacy.

Overall, if either version is correct and global stability is provided by US hegemony, then maintaining that stability through a grand strategy based on either primacy (to neoconservatives) or “deep engagement” (to liberals) is clearly a wise choice.75 If, however, US actions are only tangentially related to the outbreak of the New Peace, or if any of the other proposed explanations are decisive, then the **U**nited **S**tates can **retrench without fear of negative consequences**. The grand strategy of the United States is therefore crucial to beliefs in hegemonic stability. Although few observers would agree on the details, most would probably acknowledge that post-Cold War grand strategies of American presidents have differed in some important ways. The four administrations are reasonable representations of the four ideal types outlined by Barry R. Posen and Andrew L. Ross in 1996.76 Under George H. W. Bush, the United States followed the path of “selective engagement,” which is sometimes referred to as “balance-of-power realism”; Bill Clinton’s grand strategy looks a great deal like what Posen and Ross call “cooperative security,” and others call “liberal internationalism”; George W. Bush, especially in his first term, forged a strategy that was as close to “primacy” as any president is likely to get; and Barack Obama, despite some early flirtation with liberalism, has followed a restrained realist path, which Posen and Ross label “neo-isolationism” but its proponents refer to as “strategic restraint.”77 In **no case** did the various anticipated disorders materialize. As Table 2 demonstrates, **armed conflict levels fell** steadily, **irrespective** of the grand strategic path Washington chose.

Neither the primacy of George W. Bush nor the restraint of Barack Obama had **much effect** on the level of global violence. Despite continued warnings (and the high-profile mess in Syria), the world has not experienced an increase in violence while the United States chose uninvolvement. If the grand strategy of the United States is responsible for the New Peace, it is leaving **no trace** in the evidence. Perhaps we should not expect a correlation to show up in this kind of analysis. While US behavior might have varied in the margins during this period, nether its relative advantage over its nearest rivals nor its commitments waivered in any important way. However, it is surely worth noting that if trends opposite to those discussed in the previous two sections had unfolded, if other states had reacted differently to fluctuations in either US military spending or grand strategy, then surely hegemonic stability theorists would argue that their expectations had been fulfilled. Many liberals were on the lookout for chaos while George W. Bush was in the White House, just as neoconservatives have been quick to identify apparent worldwide catastrophe under President Obama.78 If increases in violence would have been evidence for the wisdom of hegemonic strategies, then logical consistency demands that the lack thereof should at least pose a problem.

As it stands, the **only evidence** we have regarding the relationship between US power and international stability suggests that the two are **unrelated**. The rest of the world appears **quite capable and willing** to operate **effectively** without the presence of a global police~~man~~. Those who think otherwise have **precious little empirical support** upon which to build their case. Hegemonic stability is a belief, in other words, rather than an established fact, and as such deserves a different kind of examination.

## FTC Adv

**2NC**

**Adv CP**

**Tax code reform and directing that revenue towards social programs directly combats inequality on a far larger scale than the aff – the aff is insufficient because it doesn’t redistribute wealth OR make a dent in hedge funds**

**PIIE ’20** – Peterson Institute for International Economics, think tank based in DC

“How to Fix Economic Inequality? An Overview of Policies for the United States and Other High-Income Economies” <https://www.piie.com/sites/default/files/documents/how-to-fix-economic-inequality.pdf>

TAX POLICIES

Expand the Child Tax Credit (CTC) and the Earned Income Tax Credit (EITC).

The Child Tax Credit provides a $2,000 per child tax credit for parents but excludes the lowest earners, i.e., those with the smallest tax bills, from receiving the full credit. Parents without taxable income cannot claim this refund.

Making the CTC fully refundable would allow the lowest earning families, including those without an income, to claim the full imbursement. Such a change would function as a child allowance available to those with earnings under a certain threshold. This step would be an effective way of reducing childhood poverty.

The Earned Income Tax Credit is calculated based on the number of dependents (children) and work status. It has been effective at reducing poverty since its enactment in 1975. Periodic increases in the program’s disbursements have improved child educational and health outcomes and increased employment among single parents. Expanding the program would further reduce poverty while encouraging work.

Hilary Hoynes (University of California Berkeley) **estimates** in a National Academy of Sciences **report that an investment of $90 billion** to $100 billion a year **in expanding existing policies**—such as EITC, Child and Dependent Care Tax Credit, housing vouchers, and food assistance—**would cut child poverty in half.**

Shift taxes toward capital and away from labor to encourage hiring workers.

Laura D’Andrea Tyson (University of California Berkeley) suggests reducing payroll taxes to ease the burden on workers and taxing capital gains (profit from the sale of an asset like a stock or bond) at the same rate as personal income or higher. She also suggests that local governments agree not to compete against each other in a race to provide ever more expensive tax breaks for corporations to locate there. There are also growing calls for crosscountry coordination to tax “mobile” stateless capital income.

Create a wealth tax.

Adjusting the top marginal tax rate alone would not increase the effective tax rate on the superrich, argues Gabriel Zucman (University of California Berkeley). Incomes are only a very small fraction of their wealth. Many billionaires accumulate their wealth through shares and other assets, which are subject to capital gains taxes, rather than income taxes.

Two former 2020 presidential candidates, Senators Elizabeth Warren and Bernie Sanders, backed taxing wealth directly. Their wealth tax plans sought to tax the net wealth, the assets held minus debts, of the richest citizens on an annual basis. Supporters of a wealth tax, including Emmanuel Saez (University of California Berkeley) and Zucman, contend that **it would curtail the power of the superrich while funding valuable programs to help those in need.** Other experts, such as Lawrence Summers (Harvard University), argue it is impractical because calculating individual wealth (real estate, possessions) is problematic, and wealth can be shifted abroad. Still others say a wealth tax may be unconstitutional and note that it has been difficult to implement in Europe.

Keep the estate tax.

Taxing inheritances with an estate tax has been a feature of US tax policy since the Civil War. Proponents of the tax, which is levied on the wealth of the deceased (including real estate, stocks and bonds, cash, and other assets) before it is passed on to their heirs, see it as a tool to address inherited economic inequality and incentivize spending over holding wealth. Opponents deride it as a “death tax” that prevents family farms and small businesses from being transferred to heirs.

Stefanie Stantcheva (Harvard University) finds the estate tax is often misunderstood. The American public vastly overestimates how many families are over the exemption threshold— that is, how many families actually pay the estate tax. The exemption threshold has been raised over the years (from $3.5 million in 2009 to $11.58 million in 2020), so in reality only 1 in 1,000 US households have estates above the exemption level. Stantcheva suggests that informing the public about the threshold and the small number of estates that would be taxed would increase support for the estate tax.

Impose a value-added tax (VAT).

Many advanced industrial economies impose a value-added tax (VAT), which is like a retail sales or consumption tax but collected at each stage of production of goods and services and harder to evade. VATs raise significant revenue in countries that use it, but the financial costs are borne more heavily by low-income consumers since they spend a higher percent of their income on taxable goods. To combat inequality, advocates say that products that take up a larger share of low-income family expenditures, like food, should be exempted from the VAT. Also, **revenues generated from the tax could be used for government aid programs or direct cash transfers.**

Create automatic tax cuts and unemployment benefits.

Policymakers should set up automatic tax cuts and benefits, known as automatic stabilizers, in the United States that kick in when the unemployment rate rises above a certain threshold in a given time period, instead of having to draw up new legislation that has to pass through Congress every time there is a downturn. Unemployment benefits could also start automatically during recessions.

Provide tax credits for more research and development (R&D)

Support for R&D, in the form of investment or tax credits, would spur job creation and raise wages through increased productivity. As new fields emerge there will be more training opportunities. Federal R&D could be more directed away from military and toward economic development. **Climate change has been identified as a national security threat and defense spending could be invested in R&D to combat and/or adapt to climate change**, which would create jobs as well.

**Federal labor reform fills in massive gaps left by the aff – GOP states circumvent the aff by keeping wages low, plaintiffs still lack monetary resources to win antitrust cases, jobs lost to automation cant be recovered by the aff, CEOs and courts will continue to discriminate – federal job guarantee overcomes all of those**

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“How to Fix Economic Inequality? An Overview of Policies for the United States and Other High-Income Economies” <https://www.piie.com/sites/default/files/documents/how-to-fix-economic-inequality.pdf>

LABOR POLICIES

Raise the federal minimum wage and wages for essential low-paying jobs

**Raising the federal minimum wage would help the lowest paid workers in states that have not already introduced their own higher minimum wages**. Opponents say raising the minimum wage would burden employers and reduce the number of jobs available, but several studies find there is little effect on employment.

Jobs in childcare, nursing, elder care, food service, and healthcare are vital to society, but they pay poorly with little to no opportunities for advancement. **Workers** in these fields **need higher wages** and career progression opportunities **to raise social mobility.** These jobs are also less susceptible to automation.

Enforce existing minimum wage laws.

Some employers evade minimum wage laws by classifying employees as independent workers, deducting company costs from wages (for example, taking the cost of a uniform from an employee’s pay), failing to pay overtime, and through other forms of wage theft.

One study suggests that the total wages US employers steal by violating minimum wage and other labor laws exceeds $15 billion each year. More resources to combat wage theft and incentives for compliance would help.

Increase government investment in job creation programs

Fiscal and monetary stimulus—more government investment in job-creating projects—can be more effective than specific government transfer programs to spur a “hot economy” that pushes wages up faster than prices, according to Jason Furman (PIIE). **Governments can** also **spend** on infrastructure or other programs **to generate employment** (which was done during 2009-10), supplement worker income, or train workers for jobs, as programs did during the Great Depression.

Give employees more bargaining power at companies.

Richard Freeman (Harvard University) calls **trade unions the one “institutional force that fights against inequality.”** Several experts point out that as US union membership has fallen, **worker bargaining power has declined**. As a result, growth in labor productivity has benefitted mainly top wage earners. Easing restrictions on the formation of unions would help. Daron Acemoglu (MIT) says **corporations should have nonexecutive workers serve on their boards**, the way some German companies do.

Many experts advocate for empowering unions to bargain for better compensation, benefits, access to training, and education. A recent Business Roundtable initiative recommends that big companies make commitments to all stakeholders, including workers and customers, not just investor shareholders.

Protect workers in the “gig economy” and other alternative work arrangements.

Shifts in technology and labor arrangements, such as temporary, part-time, on-call, and selfemployment jobs, have sometimes disadvantaged workers. Firms are incentivized to hire or classify existing workers as independent contractors because they do not have to provide them with traditional labor protections and worker benefits. The **government can develop universal and portable systems that give social protections** and benefits **for** these **workers** and prevent worker misclassification.

**Create a federal job guarantee**.

The federal government can become the employer of “last resort” through a National Investment Employment Corps spending $750 billion to $1.5 trillion while eliminating the need for some antipoverty programs, argues William Darity Jr. (Duke University). A federal job guarantee **would cut inequality** by lifting the lowest earners and **protecting employment opportunities for groups subject to discrimination**.

Richard Freeman (Harvard University) maintains that a federal job guarantee could have been effective at managing the economic shock of the COVID-19 crisis. It could have put newly unemployed workers to work on critical government projects, such as contact tracing, at a wage above the poverty level. As economies rebuild, the federal government can facilitate access to labor through job programs that expand during periods of economic slowdown and shrink during periods of private sector job growth. The same can be said of the need for climate-related labor—federal governments can provide jobs to work on critical green projects.

Expand Trade Adjustment Assistance beyond trade-affected workers.  
Trade Adjustment Assistance (TAA) is much criticized as ineffective, but those who received training through the program enjoyed substantial increases in earnings. **The program falls short because** of its limited scope—**it only helps workers demonstrably hurt** by trade, **not by technology or other factors beyond their control**. Removing the conditions and expanding the TAA program to include workers displaced by automation and other factors would deliver the program’s benefits to a wider group of recipients.

**Social safety net reforms solve other sources of inequality the aff doesn’t like access to healthcare, housing, and employment---only large, structural programs create the necessary change**

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SOCIAL SAFETY NET POLICIES

Expand access to health care.

The Affordable Care Act (ACA) enacted in the United States in 2010 offers to fund 90 percent of the cost if states expand Medicaid eligibility to include a segment of low-income adults and children, and people with mental illness, who remain uninsured. Some states have declined this incentive. Macroeconomic stability during a public health crisis depends on access to health care, as the COVID-19 crisis amply makes clear. **Expanding access to healthcare** through Medicaid, Medicare, or subsidized COBRA health insurance plans (for laid off workers) **would go far in combating economic inequality** and improving economic resilience during a crisis.

**Relax eligibility conditions for safety net programs.**

In 2019, the Trump administration imposed work requirements for accessing the Supplemental Nutrition Assistance Program (SNAP), formerly known as food stamps, tightening eligibility. Extremely poor families, including children, are often denied access to the program because of work requirements, which punishes families with children especially, according to Hilary Hoynes and Jesse Rothstein (University of California, Berkeley).

Such steps have been part of a **wider trend** in the United States **of diverting public spending on safety net programs away from families without earnings to families with at least one employed parent**. Various studies show that tying work requirements to government aid has little effect on employment. Reversing this trend and channeling more assistance to the most disadvantaged segments of the population would help reduce inequality.

Expand other programs to assist the poor.

**Housing vouchers, unemployment benefits**, Supplemental Security Income (SSI), and Social Security Disability Insurance (SSDI) have helped the elderly and disabled during the opioid crisis of recent years. Expanding these programs **could help tackle rising inequality** and build an economy resilient to future shocks.

Ensure existing safety net administration is scalable and up-to-date.

The COVID-19 pandemic exposed the administrative weakness of some existing safety nets in the United States. Out-of-date unemployment insurance systems could not handle the massive influx of unemployment insurance claims as the pandemic hit and businesses shuttered, slowing payments to people in need. Ensuring that safety net systems can be scalable in times of need will reduce wait times for those who need these systems the most.

**Guarantee a minimum level of income for everyone.**

One longstanding idea among some economists is to **enact a universal basic income** (UBI), which grants everyone a fixed cash transfer every month, regardless of income or need. Greg Mankiw (Harvard University) argues that a UBI would be simple to administer and financed efficiently by a VAT. Jesse Rothstein (University of California Berkeley) suggests a broad negative income tax scheme instead of UBI, where people earning under a certain amount receive supplemental pay from the government instead of paying taxes (this could be seen as a massive expansion in the EITC program) **along with a tax increase for the wealthy to fund those transfers**.

**No impact to deficits---historical trends of low interest rates prove sustainability**

**Furman and Summers 19** – Jason Furman is an American economist and professor at Harvard University's John F. Kennedy School of Government and a Senior Fellow at the Peterson Institute for International Economics. On June 10, 2013, Furman was named by President Barack Obama as chair of the Council of Economic Advisers. Lawrence Henry Summers is an American economist, former Vice President of Development Economics and Chief Economist of the World Bank, senior U.S. Treasury Department official throughout President Clinton's administration, and former director of the National Economic Council for President Obama.

Jason Furman and Lawrence Summers, January 28 2019, “[Who’s Afraid of Budget Deficits?](http://larrysummers.com/2019/01/28/whos-afraid-of-budget-deficits/)” LarrySummers.Com, http://larrysummers.com/2019/01/28/whos-afraid-of-budget-deficits/

Economic textbooks teach that government deficits raise interest rates, crowd out private investment, and leave everyone poorer. Cutting deficits, on the other hand, reduces interest rates, spurring productive investment. Those forces may have been important in the late 1980s and early 1990s, when long-term real interest rates (nominal interest rates minus the rate of inflation) averaged around four percent and stock market valuations were much lower than they are today. The deficit reduction efforts of Presidents George H. W. Bush and Bill Clinton contributed to the investment-led boom in the 1990s.

Today, however, the situation is very different. Although government debt as a share of GDP has risen far higher, long-term real interest rates on government debt have fallen much lower. As shown in the table, in 2000, the Congressional Budget Office forecast that by 2010, the U.S. debt-to-GDP ratio would be six percent. The same ten-year forecast in 2018 put the figure for 2028 at 105 percent. Real interest rates on ten-year government bonds, meanwhile, fell from 4.3 percent in 2000 to an average of 0.8 percent last year. Those low rates haven’t been manufactured by the Federal Reserve, nor are they just the result of the financial crisis. They preceded the crisis and appear to be rooted in a set of deeper forces, including lower investment demand, higher savings rates, and widening inequality. Interest rates may well rise a bit over the next several years, but financial markets expect them to end up far below where they stood in the 1980s and 1990s. Federal Reserve Chair Jay Powell has noted that the Fed’s current 2.375 percent interest rate is close to the neutral rate, at which the economy grows at a sustainable pace, and financial markets expect that the federal funds rate will not rise any further.

Low interest rates mean that governments can sustain higher levels of debt, since their financing costs are lower. Although the national debt represents a far larger percentage of GDP than in recent decades, the U.S. government currently pays around the same proportion of GDP in interest on its debt, adjusted for inflation, as it has on average since World War II. The cost of deficits to the Treasury is the degree to which the rate of interest paid on the debt exceeds inflation. By this standard, the resources the United States needs to devote to interest payments are also around their historical average as a share of the economy. Although both real and nominal interest rates are set to rise in the coming decade, interest payments on the debt are projected to remain well below the share reached in the late 1980s and early 1990s, when deficit reduction topped the economic agenda.

Government deficits also seem to be hurting the economy less than they used to. Textbook economic theory holds that high levels of government debt make it more expensive for companies to borrow. But these days, interest rates are low, stock market prices are high relative to company earnings, and major companies hold large amounts of cash on their balance sheets. No one seriously argues that the **cost of capital is holding back businesses** from investing. Cutting the deficit, then, is unlikely to spur much private investment.

Moreover, the lower interest rates that would result from smaller deficits would not be an unambiguously good thing. Many economists and policymakers, including former Treasury Secretary Robert Rubin and the economist Martin Feldstein, worry that interest rates are already too low. Cheap borrowing, they argue, with some merit, has led investors to put their money in unproductive ventures, created financial bubbles, and left central bankers with less leeway to cut rates in response to the next recession. If the United States cut its deficits by three percent of GDP, enough to stabilize the national debt, **interest rates would fall even further.**

Some commentators worry that rising deficits don’t just slowly eat away at economic growth, as the textbooks warn; they could lead to a fiscal crisis in which the United States loses access to credit markets, sparking an economic meltdown. There is precious little economic theory or historical evidence to justify this fear. **Few**, if any, fiscal cris**es have taken place in countries that borr**ow in their own currencies and print their own money. In Japan, for example, the national debt has exceeded 100 percent of GDP for almost two decades. But interest rates on long-term government debt remain near zero, and real interest rates are well below zero. Even in Italy, which does not borrow in its own currency or set its own monetary policy and, according to the markets, faces a substantial risk of defaulting, long-term real interest rates are less than two percent, despite high levels of debt and the government’s plans for major new spending.

The eurozone debt crisis at the start of this decade is often held up as a cautionary tale about the perils of fiscal excess. But stagnant growth (made worse by government spending cuts in the face of a recession) was as much the cause of the eurozone’s debt problems as profligate spending. And countries such as those in the eurozone, which borrow in currencies they do not control, face a far higher risk of debt crises than countries such as the United States, which have their own currencies. Countries with their own currencies can always have their central bank buy government debt or print money to repay it; countries without them can’t.

Higher levels of debt do have downsides. They could make it harder for governments to summon the political will to stimulate the economy in a downturn. But saying that a country would be better off with lower debt is not the same as saying that it would be better off lowering its debt. The risks **associated with high debt levels are small relative to the harm cutting deficits would do.**

It’s true that future generations will have to pay the interest on today’s debt, but at current rates, even a 50-percentage-point increase in the U.S. debt-to-GDP ratio would raise real interest payments as a share of GDP by just 0.5 percentage points. That would bring those payments closer to the top of their historical range, but not into uncharted territory.

**Education reform lifts the country out of poverty and democratizes society – the plan doesn’t address overwhelming causes of personal debt AND fails to provide paths for social mobility – those both directly implicate their ability to solve any advantage**

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EDUCATION POLICIES

Provide universal early childhood education and increase support for childcare.

Government-provided universal preschool education and childcare could financially benefit low-skilled and low-income workers and help keep women in the workforce. The COVID-19 crisis has heightened the need for sustained, increased public investment in childcare, as many working women disproportionately have left the workforce to take on care responsibilities. Investing in and increasing publicly funded childcare is also a way to create jobs that cannot be automated.

Improve access to quality higher education.

Making quality public higher education more accessible to more people is one important way to boost incomes. Many policies have been put forward to address this: tax credits to offset college costs; expanding grants and providing reduced or free tuition for low-income students (i.e. Pell grants); a national service program to allow students to earn money that can be put toward education; canceling outstanding loans based on income, time passed, or amount repaid; providing grants to colleges and universities to give more scholarships; or even cancelling tuition entirely. The debate continues over which schools any of these policies should apply to—community colleges and other 2-year degree programs, all public colleges, all 2- and 4-year programs, private schools, etc.

Germany has made almost all programs at public universities tuition-free for domestic and international students.

Provide more job training.

Improving access to low-tuition and tuition-free community colleges and vocational and apprenticeship programs would help prepare young people for new jobs in technology, health care, and other expanding fields that require learned skills. Sectoral training programs can raise earnings 20 to 40 percent, says Lawrence Katz (Harvard University). State and local governments can supplement federal programs in this area: 11 states in the United States have already implemented tuition-free community college, says Laura D’Andrea Tyson (University of California Berkeley). Programs must combine on-the-job training with more general occupation-specific knowledge to build a flexible workforce that can adapt to changing technologies and is receptive to retraining.

Implement talent discovery and matching programs.

Identifying talent in low-income areas and giving them access to educational and training opportunities would improve social mobility. Talent matching programs could link people with a specific set of skills with jobs they can pursue in the long term.

**Passing the CPRA solves**

Testimony of Ted 1AC **Mermin 21**. Executive Director Center for Consumer Law & Economic Justice UC Berkeley School of Law. Before the United States House of Representatives Committee on Energy & Commerce Subcommittee on Consumer Protection and Commerce Hearing on “The Consumer Protection and Recovery Act: Returning Money to Defrauded Consumers”. https://docs.house.gov/meetings/IF/IF17/20210427/112501/HHRG-117-IF17-Wstate-MerminT-20210427.pdf

10. **Trust the FTC**. This final step **informs all the others**. There can be no doubt that there is more work to do protecting consumers than the FTC currently has the tools or resources to accomplish. There is also no doubt that the FTC has been **trammeled** in ways that its sister agencies, federal and state, have not. Whatever the reason, it is high time to retire the “zombie ideas” about the FTC – that the Commission is **unnecessary**, or overreaching, or heavy-handed, or **inefficient**.23 It is time, as one commissioner stated in Senate testimony last week, to “**turn the page** on the FTC’s perceived powerlessness.”24 For an American public eager for **greater** – not lesser – **protection** from increasingly sophisticated **scam artists**, **deceptive advertisers, and privacy violating** tech companies, building an **effective FTC** is an easy decision. It can and should be for this committee as well. IV. Conclusion This subcommittee meets at a remarkable historical moment, when the COVID-19 pandemic has revealed the profound need for a robust Federal Trade Commission just days after the Supreme Court made action by Congress an absolute necessity. This is a perilous time, with the chief protector of American consumers rendered nearly powerless just when those consumers are experiencing a heightened threat resulting from a once-in-a-century pandemic. The Consumer Protection and Recovery Act provides a critical first step toward restoring authority and effectiveness to the nation’s leading consumer protection agency. Swift action to restore the FTC’s traditional 13(b) authority means that when constituents contact your office, and tell your staff that they have lost their life’s savings to a work-at-home scam, or their identity has been stolen and someone has opened accounts in their name, or they just spent their stimulus payment on a supposed cure for COVID for their grandmother who’s on a respirator – there will still be an agency to refer them to. No one wants that staffer to have to add: “Well, we could send you to the FTC, but **they don’t actually have the power** to get you your money back.” **Inaction** or **delay** will mean **no recovery** for millions of wronged American consumers. The time to pass the Consumer Protection and Recovery Act is now.

**FTC regulation of emerging tech solves---green**

Michael 1AC **Spiro 20**. JD from the University of Washington School of Law, an L.L.M. in Innovation and Technology Law from Seattle University School of Law. Corporate counsel at Smartsheet Inc. “The FTC and AI Governance: A Regulatory Proposal.” Seattle Journal of Seattle Journal of Technology Environmental & Innovation Law. Volume 10 Issue 1 Article 2. 12-19-2020. https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?article=1001&context=sjteil

Despite these limitations, the FTC has a **formidable reputation** as an **enforcement authority**, and commercial entities, and their lawyers, pay close attention to its orders and decisions.248 For example, when the FTC issues a complaint, it is published on the FTC’s website, which often **generates significant attention in the privacy community**.249 One reason for this is **the fear firms have of the FTC**’s auditing process, which not only is “exhaustive and demanding,” but can last for as long as 20 years.250 As such, the FTC settles most of the enforcement actions it initiates.251 Firms are motivated to settle with the FTC because they can avoid having to admit any wrongdoing in exchange for taking remedial measures, and thus they also avoid the costs to their reputation from apologizing.252 Though done by necessity, the rule-making process the FTC engages in with its consent orders and settlement agreements can be of benefit when regulating emerging technologies. 253 For one, it allows the **flexibility** needed to adapt to new and rapidly changing situations.254 Further, the FTC can wait and see if an industry consensus develops around a particular standard before codifying that rule through its enforcement actions.255 As with the common law, which has long demonstrated the ability to adjust to technological changes iteratively, the FTC’s incremental case-bycase approach can help minimize the risks of producing **incorrect or inappropriate regulatory policy outcomes**.256 In addition to its use of consent orders and settlement agreements, the FTC has created a type of “soft law” by issuing guidelines, press releases, workshops, and white papers.257 Unlike in enforcement actions, where the FTC looks at a company’s conduct and sees how its behavior compares to industry standards, the FTC arrives at the best practices it develops for guidance purposes through a “deep and ongoing engagement with all stakeholders.”258 As such, not only is the FTC’s authority **broad enough to regulate** the use of **emerging technologies** such as AI in commerce, but the FTC’s **enforcement actions** also constitute a body of **jurisprudence the FTC can rely on** to address the real and potential harms that stem from the deployment of consumeroriented AI.259 Given its broad grant of **authority**, the regulatory **tools** at its disposal, and its **experience** dealing with **emerging technologies**, the FTC is currently in the **best position** to take the lead in regulating AI. **The FTC’s leadership is sorely needed** to fill in the remaining – and quite large – gaps in those few sectoral laws that specifically address AI and algorithmic decision-making.260 Several factors make the **FTC the ideal agency** for this role. First, the FTC can use its broad Section 5 powers to respond **rapidly and nimbly** to the types of unanticipated regulatory issues AI is likely to create.261 Second, the FTC has an established history of approaching **emerging technologies** with “a light regulatory touch” during their beginning stages, waiting to increase its regulatory efforts only once the technology has become more established.262 This approach provides the innovative space needed for new technologies such as AI to develop to their full potential. Thus, as it has in the past, the FTC would focus on disclosure requirements rather than conduct prohibition, and take a case-by-case approach rather than rely on rulemaking.263 Also, as it has traditionally done, the FTC can hold public events on consumer-related AI and issue reports and white papers to guide industry.264 In other words, the FTC has long taken a co-regulatory approach to regulation, which it can and should proceed to do with AI. As in other emerging technology areas, this will help industry continue to grow and innovate, while allowing for the calibration among all relevant stakeholders of the “appropriate expectations” concerning the use and deployment of AI decision-making systems.265 At the same time, the FTC should use its regulatory powers to nudge, and when necessary, push companies to refrain from engaging in unfair and deceptive trade practices in the design and deployment of AI systems.266 The FTC should also place the onus on firms that design and implement those systems to ensure misplaced or unrealistic consumer expectations about AI are corrected.267 By nudging (or pushing) firms in this way, the FTC can “gradually impose a set of sticky default practices that companies can only deviate from if they very explicitly notify consumers.”268 In terms of disclosure requirements, as it has done in other contexts, the FTC can develop rules and guidelines for “when and how a company must disclose information to avoid deception and protect a consumer from harm,” which can include requiring firms to adopt the equivalent of a privacy policy. 269 Given the black box like nature of most algorithmic decision-making processes, there is much that AI developers might have to disclose to prevent those processes from being deemed unfair or deceptive.270 In addition, given its broad authority under Section 5, the FTC is able to address small, nuanced changes in AI design that could adversely affect consumers, but that other areas of law, such as tort, may not be able to adequately handle.271 Again, this is important because AI and algorithmic decision-making can pose **profound and systemic risks of harm**, even though the actual harm to individual consumers may be small or hard to quantify. And as it has done in the area of privacy, the FTC can become the **de facto federal agency authority** charged with protecting consumers from harms caused by AI systems and other algorithmic decisionmaking processes.272 The FTC also can, and should, seek to **work with other agencies** to address AI-related harms, given that the regulatory efforts of other agencies will still occur and be needed in specific sectors or industries, which would impact and be relevant to the FTC’s efforts as well.273 Agency cooperation is essential to ensuring regulatory consistency, accuracy, and efficiency in the type of complex, varied technological landscape that AI presents.274 This should not be a problem as the FTC’s Section 5 authority overlaps regularly with the authority of other agencies, and the FTC itself has a history of cooperating with those agencies.275 Further, the FTC can use its **experience working with other agencies to build standards and policy consensus** within the **regulatory community** and **among stakeholders**. 276 The overarching role the FTC has played in protecting consumer privacy within the United States also has given it **legitimacy** within the wider privacy community. The FTC has been pivotal over time in **promoting international confidence in the United States’** ability to regulate privacy by for example acting as the **essential mechanism** for enforcing the Safe Harbor Agreement with the European Union.277 As it takes on a similar overarching regulatory role for AI and algorithmic decision-making processes in this country, **the FTC should gain** a similar level of **legitimacy internationally**. This is important given the increasingly **cross border nature of AI** research and development.

**Targeted federal programs solve best by addressing the root causes of inequality**

**Vinelli and Weller 21** – Andres Vinelli is the vice president for Economic Policy at the Center for American Progress. Christian E. Weller is a senior fellow at the Center and a professor of public policy at the McCormack Graduate School of Policy and Global Studies at the University of Massachusetts, Boston

Andres Vinelli and Christian Weller, 4-27-2021, "The Path to Higher, More Inclusive Economic Growth and Good Jobs," Center for American Progress, https://www.americanprogress.org/article/path-higher-inclusive-economic-growth-good-jobs/

**Recommendations to boost economic growth**

Relief efforts, such as President Biden’s American Rescue Plan, primarily support the demand side of the economy. The federal funds going to households, businesses, and state and local governments are desperately needed to support all parts of the economy that are struggling from an unprecedented onslaught on their financial health. **These payments are an important first step to lift the economy back up to its previous levels, reducing unemployment, stabilizing economic growth, and improving financial stability.**

**More is needed**, though, **to return the economy to much faster growth** and build a sustainable economy that works for everybody. The goal is to raise economic capacity by emphasizing the economy’s supply side. Faster productivity growth, and thus faster economic growth, will create even more opportunities for employment and wage gains. It will also make it easier to address the country’s looming challenges of massive economic inequality, climate change, lackluster caregiving support, and crumbling public health and other infrastructure, to name a few. The ARP already includes some measures, such as financial support for higher education, that would have positive supply-side effects.

Importantly, public policies can break the interconnected trends of high inequality, widespread insecurity, and low investment that underlie low productivity growth. First, **policies can reduce income inequality by strengthening workers’ wages and benefits**. Second, **a number of policies can substantially reduce income uncertainty and volatility for households**. Most notably, social insurance programs, such as **unemployment insurance**, health insurance, and Social Security, are **critical tools to give working families some peace of mind.** Third, more federal funding for research and development, a green infrastructure, and more support for education—all purviews of the public sector—can lift up productivity growth.

All three types of policies will boost productivity growth. Higher incomes due to increased pay and better benefits, such as paid family and medical leave, make it less likely that workers leave an employer. **Less turnover boosts workers’ on-the-job experience and their productivity**, while more income stability reduces financial, psychological, and health stress for workers. This makes it easier for workers to concentrate on their work since they are typically worrying less about how to pay their bills. Less income uncertainty also makes it easier for workers to plan for, save for, and invest in their own future—for example, by moving to a new location when better opportunities arise, starting a business, or supporting their children’s education. All of these steps mean **that households will have more skills and be able to better use those skills, thereby increasing productivity across the economy.** Moreover, large-scale public investments will create new technologies for companies and reduce the financial risks associated with new ventures. In the end, businesses and people will be better positioned to use scarce resources.

Supporting workers both present and future

**Support for workers** includes providing help for people to pursue the careers they want. **This can be done in several ways**, mainly by Congress through legislation and the administration **through regulatory and executive actions:**

**Expand social insurance spending**. Improved unemployment insurance, Social Security, and health insurance will put a higher floor underneath people’s financial security. More families will be protected from sharp income declines. **This will give them peace of mind and allow them to better plan for their future.** In some cases, peace of mind and stability can enable people to take risks, invest in the future, and start new businesses. The ARP is an important step in this direction, as it increases weekly unemployment insurance checks by $300 through September 6, 2021.41 But American families will ultimately need a more enduring social safety net, which Congress can make happen, when a crisis hits.

Expand and enforce anti-discrimination and anti-harassment legislation. This would help ensure that all people in the labor market receive equitable opportunities, especially groups that have traditionally encountered discrimination due to race, ethnicity, gender, disability, LGBTQ status, national origin, and religion, allowing businesses to take advantage of all of the country’s talent. President Biden has already signed an executive order establishing far-reaching anti-discrimination protections for LGBTQ people.42 To pursue additional measures, the federal government will need to invest in more data collection in gender identity and sexual orientation to better assess, among other things, how LGBTQ workers are doing, as well as additional resources to enforce the new executive order and other laws that protect workers against discrimination, harassment, and retaliation.43

**Build a comprehensive care infrastructure**. Workers need more support to manage caring for children and other family members in order to participate fully in the labor market.44 This requires creating a permanent paid family and medical leave program; financially supporting child care centers; making the monthly child allowance, established by the ARP’s child tax credit expansions, permanent and successful in reaching all low- and middle-income families; improving the wages and benefits of the care workforce, for example, through higher Medicaid reimbursements; and providing direct payments for family caregivers. People, especially women of color, should not have to choose between their family’s financial security and caring for their loved ones. And in the short to medium term, ensuring access to reliable, affordable child care will be crucial to reconnecting millions of parents, especially mothers, with the paid labor force. According to analysis of 2014 data, women’s labor contributes $7.6 billion to the U.S. GDP each year.45 But women’s labor force participation is at a level commensurate with the late 1980s; any persistence of this phenomenon will hamper economic growth.46

Build a fair, humane, and workable immigration system. This would give millions of undocumented immigrants opportunities to contribute their skills and experience to the American economy. It would also boost entrepreneurship and innovation, as immigrants are more likely to start new companies.47

**Provide health security for all Americans**. Households will need more affordable health insurance that no longer leaves them with medical debt after unexpected health events. It will also include investments in health care infrastructure so that people living in currently underserved areas and neighborhoods will have equal access to high-quality care. These investments will pay off in the form of a healthier workforce, less debt, and thus fewer financial and physical worries among workers, allowing them to better plan and focus on their future and careers. A substantial share of the ARP will go to COVID-19 testing and vaccinations, with some additional funds for expanding the public health workforce. The federal government will need to make more sustained efforts to give currently underserved communities, for instance, communities of color and rural communities, greater access to quality health care.48

**Support food security and other policies that help individuals and families with low incomes meet basic needs.**49 This is especially important for children: 1 in 6 children live in families with incomes below the federal poverty level. Policies such as the monthly distribution of the child tax credit, as expanded by ARP, can have many positive effects.50 They can potentially reduce child poverty by half and **enhance children’s future economic mobility and productivity**.51 Other measures included in ARP, such as **enhanced** Supplemental Nutrition Assistant Program (**SNAP**) and Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) **benefits and a boost in earned income tax credit, will help to reinforce this positive effect**. Improvements in health status, nutrition, and immediate educational attainment can lead to future educational success, higher career trajectories, and more productivity.52 These programs are investments in a healthier and more educated and better prepared workforce. Numerous studies show that the earned income tax credit program increases labor force attachment, increasing employment stability and therefore economic growth.53

Avoid state-level funding cuts and invest in K-12 education. Investments in public education tend to generate positive outcomes in the labor market, such as higher earnings for children in the future.54 State-level financial problems often result in funding cuts to public education, reducing educational attainment and hampering the future workforce and economic growth that it generates. The ARP will make substantial down payments toward avoiding such cuts and enhancing key public services at the state and local government levels. For instance, a pre-COVID-19 analysis by the Government Accountability Office concludes that 54 percent of school districts need to make updates to buildings to ensure safe and healthy environments.55 There are pressing needs in providing historically marginalized communities with expanded access to broadband, building a more racially diverse educator workforce, and establishing a strong continuum from cradle to career. Other needs include providing neglected communities with clean water and making neighborhoods more resilient to climate change, among other challenges. The post-pandemic needs of state and local governments are large.56 Addressing these needs will provide more opportunities and lower costs for households and businesses, thus boosting economic growth.

Boost public support for formal training, including but not limited to higher education. Not all high school students want to go to college. Public support will mean making higher education more affordable so that people do not drown in debt when they graduate as well as expanding and improving a continuing training infrastructure so that those who do not attend college also enjoy rewarding and family-sustaining careers. These urgent needs are apparent in the number of people who are postponing or canceling postsecondary education plans. The ARP offers an estimated $40 billion in support to colleges and universities. Supporting expanded and equitable access to other training opportunities also deserves attention in subsequent investment legislation.57

**Create policies that help reduce inequality in order to boost growth.** Most of the measures in the ARP are designed to support the most affected populations, helping to reduce inequality—particularly as inequality has worsened during the COVID-19 crisis—and boosting future growth. For instance, **increasing the federal minimum wage,** which **should be enacted in legislation** even though it did not make it into the final version of ARP, **will reduce inequality** and may even help small businesses.58

**Inequality Adv**

**Their evidence does not demonstrate that enforcement causes a reduction in inequality – the entire advantage is at best speculative**

**Wright et al.**, J.D., PhD, University Professor and Executive Director, Global Antitrust Institute at Scalia Law School, former FTC Commissioner, **‘18**

(Joshua, Elyse Dorsey, Attorney Advisor to Commissioner Noah Phillips, United States Federal Trade Commission, Jonathan Klick, Professor of Law, University of Pennsylvania, and Jan M. Rybniek, : Senior Associate, Freshfields, Bruckahus Deringer LLP, “Requiem for a Paradox: The Dubious Rise and Inevitable Fall of Hipster Antitrust,” August 10, <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3249524>)

As discussed, Furman & Orszag take a more empirical approach, arguing that “a rising share of firms are earning super-normal returns on capital…workers at those firms are both producing and sharing in those super-normal returns, **driving up wage inequality**…the high returns to labor and capital at those firms reduces labor mobility by discouraging workers from leaving firms that earn higher rents.”134 In support, Furman & Orszag provide evidence that returns of S&P 500 firms have become more skewed over time. Furman & Orszag also outline that the return on invested capital has also become highly skewed at least since the 1990s. While such evidence suggests some implications, there is no implication of antitrust concerns because these results could be indicative of firms engaging in greater risk-taking or the presence of superior products.135 Furman & Orszag use metrics that **bear little resemblance** to **actual antitrust markets**, and **do not provide any evidence** that increases in antitrust enforcement **would actually reduce these metrics**, much less have any **discernable effect** on levels of economic inequality.

Marc Jarsulic et al. also point out that income inequality is rising. They argue that firms with “dominant market power” raise prices and earn supra-normal economic rents while simultaneously lower the real incomes of consumers.136 Jarsulic et al. argue that rent extraction in the U.S. economy is on the rise because of “unchallenged market power.”137 Jarsulic et al. outline other undesirable results, including higher barriers to entry for new firms, stifled innovation, degraded product quality, reduced prices paid to workers and suppliers, and increased influence with government officials.138 To reverse these effects, the authors argue that the antitrust laws can be employed, but have not been deployed vigorously enough over the last few decades.

Sean F. Ennis, Pedro Gonzaga, and Chris Pike take a calibration approach to examine the effect of increasing concentration on inequality.139 Their calibration model makes the following assumptions: 1) “Market power for each country can be approximated by the difference between the average mark-up (across all sectors) in the country and a minimum mark-up that reflects the best-practices of most competitive economies”; (2) “The marginal propensity to save from increased income arising from lower prices is constant across wealth groups.”140 The authors assert that “this assumption simplifies the solution to the model, but does not prevent the average saving rate from varying across wealth groups”; (3) “Market power gains are distributed in proportion to the current net wealth distribution.” According to Ennis et al., “this reflects the observations that corporate income and capital gains are distributed via business ownership, so that those with the largest wealth shares…will, in proportion, receive the largest share of the profits”; and (4) “The price of different baskets of goods will be inflated by market power in an equal percentage.”141 According to the authors, “this implies that product for the poor and products for the wealthy will be equally affected by market power. To the extent that the poor are more exposed to monopolization, the model provides conservative, lower-bound estimates.”142

Based on their study, Ennis et al., conclude that market power may contribute significantly to economic inequality;

“violations of competition law, government-created barriers to entry or natural monopolies may be significant sources of market power”; the authors “do not suggest that competition law and policy should specifically target inequality” instead they “suggest that reduced inequality is a beneficial by-product of government actions and policies to reduce illegitimate market power.”143

Although these commentators uniformly suggest that increased antitrust enforcement could have beneficial effects on inequality, **none directly examine this proposition using empirical data.** The underlying economic logic of the claims that lax antitrust has resulted in increased inequality is fairly simple. In the absence of antitrust enforcement, firms gain market power, reduce output, raise prices, and generate monopoly profits, which enrich shareholders. Because shareholders tend to live in the top end of the wealth and income distributions, inequality increases. Further, because of rising prices, those in the lower end of the distributions (where a greater fraction of income and wealth are devoted to consumption) are made relatively worse off, increasing welfare inequality as well.

The question is whether this simple account of the problem **is correct**. **There is little systematic empirical evidence of a link between antitrust enforcement and inequality**. Below are some preliminary empirical analyses of the effect of antitrust enforcement on measures of inequality. Regardless of whether we examine income, wealth, or (in our view, the more relevant) consumption distribution, **there is no evidence that metrics of enforcement are related to inequality**. While these results do not guarantee that increased antitrust enforcement could not affect inequality, they do suggest that proposals for increased enforcement to address inequality concerns are **premature and potentially misguided.**

**FTC Adv**

**No emerging tech impacts – gradualism and hype.**

**Sechser 19** – Todd S. Sechser, Public Policy Professor at the University of Virginia. Neil Narang, Political Science Professor at the University of California, Santa Barbara. Caitlin Talmadge, Security Studies Professor at Georgetown University. [Emerging technologies and strategic stability in peacetime, crisis, and war, Journal of Strategic Studies, 42(6), Taylor and Francis]

Yet **the history** of **technological revolutions** counsels against alarmism. Extrapolating from current technological trends is problematic, both because technologies often do not live up to **their promise**, and because technologies often have **countervailing or conditional effects** that can temper **their negative consequences**. Thus, the fear that **emerging technologies** will necessarily cause **sudden and spectacular changes** to international politics should be treated with **caution**. There are at least two reasons to be circumspect.

First, very few technologies **fundamentally reshape** the dynamics of international conflict. Historically, **most technological innovations** have amounted to incremental advancements, and some have **disappeared into irrelevance** despite **widespread hype**

**about their promise**. For example, the introduction of **chemical weapons** was **widely expected** to **immediately change** the nature of warfare and deterrence after the British army first used poison gas on the battlefield during World War I. Yet chemical weapons quickly turned out to be **less practical**, **easier to counter**, and **less effective** than conventional high-explosives in inflicting damage and disrupting enemy operations.6 Other technologies have become important only after advancements in other areas allowed them to reach their full potential: until armies developed tactics for effectively employing firearms, for instance, these weapons had little effect on the balance of power. And **even when** technologies do have **significant strategic consequences**, they often take **decades to emerge**, as the invention of airplanes and tanks illustrates. In short, it is easy to **exaggerate** the **strategic effects** of **nascent technologies**.7

Second, **even if** today’s emerging technologies are poised to drive **important changes** in the international system, they are likely to have **variegated** and **even contradictory effects**. Technologies may be **destabilising** under **some conditions**, but **stabilising in others**. Furthermore, **other factors** are likely to mediate **the effects of new technologies** on the international system, including **geography**, the distribution of **material power**, **military strategy**, **domestic and organisational politics**, and **social and cultural variables**, to name only a few.8 Consequently, the strategic effects of new technologies often defy simple classification. Indeed, more than 70 years after nuclear weapons emerged as a new technology, their consequences for stability continue to be debated.9

# 1NR

**Inequality Adv**

**Inequality doesn’t cause war**

Elise **Must 16**, PhD student at LSE, this was her PhD thesis, “When and how does inequality cause conflict? Group dynamics, perceptions and natural resources”, http://etheses.lse.ac.uk/3438/1/Must\_When\_and\_how\_does\_inequality.pdf

Does economic inequality lead to conflict? This question has attracted the attention of prominent scholars at least since the time of Aristotle (Nagel 1974). The frequent assumption that unequal distribution somehow fuels rebellion has resulted in a vast amount of theoretical as well as empirical work. For long, **results remained mixed**. Despite countless qualitative studies asserting that inequality is a major reason for conflict outbreak, quantitative studies **struggled to establish a firm relationship** **between the two** (Blattman and Miguel 2010, Cramer 2005, Lichbach 1989). These quantitative studies, including the most influential ones by Collier and Hoeffler (2004) and Fearon and Laitin (2003), rely on analysis of **individual measures** of inequality. **However**, as most prominently set forth by Frances Stewart, it is **minority groups** or **collectives of individuals** who rebel, **not the whole population**, nor individuals (Stewart 2002). Stewart’s theoretical development has given rise to several quantitative studies which uniformly support the role of economic group inequality in inducing conflict (Buhaug, Cederman, and Gleditsch 2014, Cederman, Weidmann, and Bormann 2015, Cederman, Weidmann, and Gleditsch 2011, Deiwiks, Cederman, and Gleditsch 2012, Østby 2008a, b, Østby, Nordås, and Rød 2009). Hence, there is an emerging consensus in the literature that inequality causes civil conflict when it overlaps with relevant group identities. Promising as these studies are, they nevertheless neglect a potential crucial part of the inequality-conflict causal chain. Seemingly all studies of inequality and conflict, including those measuring group inequalities, **are based on objective inequalities**. Yet, as Stewart (2010, 14) herself notes, ‘People take action because of **perceived injustices** rather than because of **measured statistical inequalities** of which they **might not be aware**’. Economic inequality measured by the **Gini coefficient**, or by local GDP data, is most commonly used as proxies, leaving completely aside how economic inequality is **actually interpreted and perceived** **by both groups and individuals** (ref. Zimmermann 1983). It remains obvious, however, that in order for people to take action to address inequalities, the first step is to recognize them and to consider them unjust (Han et al. 2012). The use then, of objective measures in current empirical studies, is based on the assumption that both objective and perceived horizontal inequalities essentially amount to the same thing. Put another way it is assumed that all objective inequalities are actually perceived as inequalities by relevant groups, and conversely all perceived inequalities have an objective basis. These are strong claims that are so far largely untested. Existing studies of the link between objective and perceived horizontal inequalities range from concluding that there is no such link (Langer and Smedts 2013) to documenting imperfect correlations – ranging from 0.27 to 0.30 depending on indicators and datasets (Holmqvist 2012). While cross-country analyses of conflict have **neglected perceptions** **of inequality**, the case study literature does offer some examples demonstrating their importance. Interviewing Muslim immigrants in London and Madrid, Gest (2010, 178) finds that what distinguishes democratic activists from those who engage in anti-system behavior, is the nature of their individual expectations and perceptions about shared economic realities. Moving on to larger conflicts, a recent World Bank report concludes that the so called ‘Arab Spring’ was driven by a decrease in popular subjective satisfaction, while the objective economic situation actually improved in the years before the widespread mobilization (Ianchovichina, Mottaghi, and Shantayanan 2015). The report also points to the importance of inter-group inequality as opposed to individual inequality. My main argument is that in order to better capture the role of inequality in inducing civil conflict, measures have to account for relevant groups as well as for the perception of inequality in these groups. In addition, my analyses fill two other gaps in the literature. While Stewart emphasizes how groups can mobilize around different identities, current studies have almost exclusively focused on ethnic groups. However, a regional identity might be just as relevant (ref. Posner 2004). I will therefor look at the effect of regional economic inequality on civil war. And finally, most of the studies, and all of those with a global scope, rely on time invariant measures of economic horizontal inequality. This is commonly defended by referring to the demonstrated ‘stickiness’ of horizontal inequalities (see e.g. Stewart and Langer 2008, Tilly 1999). Still, a recent study covering 1992 to 2013 demonstrates a global decline of ethnic inequality (Bormann et al. 2016), while Kanbur and Venables (2005) compare case studies of 26 developing countries and conclude that regional inequalities are rising. The data used in this analysis also show that horizontal inequalities change quite substantially over time. Using inequality data from one particular year to analyze decades of conflict incidents is therefore questionable. Hence, my study represents the first time-variant analyses of the effect of both objective and perceived regional inequality on civil war covering developed and developing countries in all world regions14 . Analysing data for the period 1989 to 2014 from the World Values Survey (WVS), I find that countries with a high level of perceived regional economic inequality have an elevated risk of civil war outbreak. On the other hand, **mere objective regional economic inequalities do not have any significant effect**. The group aspect remains essential, as neither objective nor perceived individual inequality is linked to increased civil conflict risk.

**‘Slow growth’ is inevitable AND is proof of a strong economy.**

Dietrich **Vollrath 20**, Professor of economics at the University of Houston, "Slow economic growth is a sign of success," USAPP, 02/22/2020, https://blogs.lse.ac.uk/usappblog/2020/02/22/slow-economic-growth-is-a-sign-of-success/.

We’re accustomed to looking at the growth rate of GDP to evaluate the **health of our economy**. Which is why the recent slowdown in growth **appears** so troubling. In the US, GDP growth for 2019 was **2.3%**, meaning it has been nineteen years since growth hit 4%, and nearly as long since it touched **3%**. For the UK the story is similar, as it has been fifteen years since growth hit 3%. In the Eurozone as a whole, growth last came close to 4% in 2000. These slowdowns across developed economies **predates** the financial crisis, and leads to **natural questions**: what went wrong with the economy, and how do we fix it?

But the slowdown we’re observing isn’t something **we can fix** – or that we would want to fix – because the slowdown was never a **consequence of things that went wrong**. Instead, as I show my new book, the slowdown is a **consequence** of things that went right.

From a simple accounting perspective, there are **two main factors** behind slower growth: the **fall in fertility** during the 20th century, and the **shift** of our expenditures **away from goods and towards services**. And both of those explanations can be traced back to economic success.

The fall in fertility had a **significant** impact on economic growth for decades, particularly **in the US**. The baby boom generated a one-time wave of human capital that hit the economy during the middle of the 20th century. As those new workers hit the workforce, the proportion of **workers to population** rose **substantially**, as evidenced by the fall in the youth dependency ratio between 1960 and 1980 (see Figure 1). Combined with the relatively high educational attainment of the baby boomers compared to prior generations, this provided a substantial boost to the growth rate, increasing it around 1.25 percentage points in 1990 compared to immediately after World War II.

Chart, line chart

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As that wave of **human capital** receded, so did the growth rate. Starting in the early 2000s, the old age dependency ratio started to rise (see Figure 1) the inevitable consequence of the **drop** in youth dependency back in the 1960s and 1970s. As workers **aged out of the workforce** – and continue to do so – this **dragged down** the growth rate of the aggregate economy. That 1.25 percentage point boost during the 20th century disappeared in the 21st, explaining most of the slowdown in the US.

But why should we see these demographic shifts as a success? The drop in **fertility** after the baby boom which explains the shifts was driven by **several successes**. **Expanded access to college education** pushed back the age at which people were willing to marry. The opening up of many **professions** to women, along with **growth in overall wages**, meant that it made sense for many women to delay marriage. Finally, advances in contraceptive technology meant it was **possible** for women to take advantage of the new **educational and professional** opportunities that arose. The growth slowdown today is a **consequence** of family decisions made decades ago in response to **rising** living standards and the **expansion** of women’s rights.

The second source of the slowdown, the **shift from goods towards services**, was also driven by success. In the past one hundred years we became **incredibly efficient** at producing goods like clothes, food, furniture, and computers. The consequence was a **steady reduction in the price** of those goods relative to services. We could have used that reduction to buy even more goods than we did, but instead we took advantage of the savings to purchase more services like education, healthcare, and travel. Therefore the composition of our expenditures shifted away from goods and towards services (see Figure 2). We still consume more goods than before; it is just that they got so cheap that their share of our **total expenditure** fell relative to services.

Chart, line chart

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This had a consequence for overall economic growth, however. Productivity growth in services is lower than for goods. That wasn’t a failure of services in the last few years. It appears to be an inherent quality noted by economist William Baumol in the 1960s. If a restaurant — a service — tried to operate with half their normal staff, you’d complain about the slow service and lack of attention. In comparison, if a manufacturer produced a laptop – a good – with half as much labour, you’d never know. This makes productivity growth harder for services than for goods. As we shifted expenditures towards services, aggregate productivity growth was thus bound to fall. Between the middle of the 20th century and today, that probably shaved another 0.2 to 0.25 percentage points off of the growth rate. But note that this only happened because of the productivity growth we experienced in the first place, a success.

Relative to the successes in the demographic shifts and spending shifts, the usual suspects are not capable of explaining the growth slowdown. Tax rates fell right as the slowdown started, and evidence from across states and industries shows that, if anything, more regulation was associated with faster growth, not slower. Trade with China exploded in the last twenty years, but evidence suggests that this had little effect on growth for the economy as a whole, even though individual regions and industries saw booms or busts. Economy-wide measures of the mark-up of price over cost rose, but it turns out that this didn’t lower growth. The shift of activity to high mark-up industries kept economic growth rates from falling even further than they did, as it meant we produced more valuable products.

If you’re still **uncertain** that the growth slowdown is a **consequence of success**, ask yourself what you’d give up to bring growth back to 4%. We could destroy half of **all our goods**: cars, couches, TVs, laptops, houses, trampolines, and so on. That would lead to a **massive** shift of spending towards goods as we scrambled to replace everything, and we’d see a jump in productivity growth. Alternatively, we could roll back contraceptive rights and women’s participation in the workforce in the hopes of starting a new baby boom. Wait twenty years and we’d have another surge of human capital into the economy. Would either of those be worth it just to see growth hit 4% again, perhaps not until 2040? Assuming the answer is “no”, that tells us the growth slowdown happened because of things that went **right**, things we would not sacrifice.

**Slow growth is okay.**

**Posen 16** Adam S. Posen, Government and Economics PhD from Harvard, economic advisor to the Congressional Budget Office, faculty of the World Economic Forum, consultant for the International Monetary Fund and the United States government. [Why We Need A Reality Check, Reality Check for the Global Economy, Peterson Institute for International Economics Briefing 16-3]//BPS

**Greater confidence** in the world economy’s **resilience** and near-term prospects is **justified**. Market fears about the ability of policy to stabilize growth and promote inflation, if understandable, are **exaggerated** or in some cases **unfounded**. All the more reason then not to allow ourselves to be distracted by a financial market tail wagging the macroeconomic dog. At a fundamental level, most of the major economies, starting with China and the United States, are growing **more sustainably now** than a decade ago, at their slower rates. That growth is **not built** on rising private or public leverage, with the notable exception of China—and even in China some restructuring is under way with ample savings to cushion the process. Even where the situation is not so rosy, many in the markets seem to be confusing strains and suboptimal situations with acute instability, not just for Italian banks and for Brazilian budgets but also for Latin America more generally or for trends in global trade. A **more normal muddling** through with **poor but stable** conditions is a **far better bet**. And where some in the **markets moving prices fear** that normal economic laws have been reversed—that monetary policy is ineffective or that low oil prices are on net harmful—they are **likely to be proven** clearly wrong, as they were previously on inflation and commodity prices. Having some clarity to distinguish between the more solid **underlying economic outlook** and the **shadows thrown by financial puppetry** is **critical** to making the right policy decisions to avoid an **unnecessary recession**.

A combination of **public policies** and **decentralized private-sector responses** to the crisis have **increased our economic resilience**, **diminished** the **systemic spillovers** between economies, and even created some **room for additional stimulus** if needed. Large parts of the **global financial system** are better **capitalized**, **monitored**, and frankly **more risk averse** than they were a decade ago, with less leverage. The riskier parts of today’s global economy are less directly linked to the center’s growth and fi nancing than when the troubles were within the United States and most of Europe in 2008. Trade imbalances of many key economies are smaller, though growing, and thus accumulations of foreign debt vulnerabilities are also smaller than a decade ago. Most central banks are now so committed to stabilization that they are attacked for being too loose or supportive of markets, making them at least unlikely to repeat some policy errors from 2007–10 of delaying loosening or even excessive tightening. Finally, corporate and household balance sheets are far more solid in the US and some other major economies than they were a decade ago (though not universally), and even in China the perceptions of balance sheet weakness exceed the reality in scope and scale.

**Jurisprudence DA**

**Chemical plant explosions are worse than nuclear explosions**

**Latynina 3** – journalist for Novaya Gazeta

Yulia Latynina, "America in the Dark," World Press Review, Vol. 50, No. 11, November 2003, https://www.worldpress.org/Americas/1579.cfm

The scariest thing about the cascading power outages was not spoiled groceries in the fridge, or elevators getting stuck, or even, however cynical it may sound, sick patients left to their own devices without electricity-powered medical equipment.

The scariest thing of all was **chemical plants** and **refineries** with 24-hour operations, which, if interrupted, can result in consequences even **more disastrous** and **on a larger scale** than those of an **atomic bomb explosion**. So it is safe to say that Americans got lucky this time.

Several hours after the disaster, no one could know for certain whether the power outage was caused by an accident or someone’s evil design. In fact, the disaster on the East Coast illustrates just one thing: A modern city **is in itself a bomb**, regardless of whether someone sets off the detonator intentionally or **by accident**.

As I recall, when I was writing my book Industrial Zone, in which business deals were bound to lead to a massive industrial catastrophe, at some point in time I was considering making a cascading power outage the cause of a catastrophe.

Back then, I was amazed and shocked at the swiftness of the process. Shutting down at least one electric power plant is enough to cause a drop in power output throughout the entire power grid. This is followed by an automatic shutdown of nuclear power plants, a further catastrophic drop in power, and finally a cascading outage of the entire grid system.

To start with, the electric power plant may burn out because of just about anything. In Ekibastuz [Kazakhstan] under the Soviet regime, a large hydroelectric power station was burned to the ground because of the negligence of one extremely smart worker, who used a wrench to unscrew the cap from a pressurized oil vessel.

A stream of oil shot up to the ceiling; the worker got scared and dropped the wrench, which hit against the steel floor and created a spark that set the stream of oil on fire. Then the lights went off.

Which brings us back to our main thesis. In order to destroy a modern city, one does not need to have nuclear weapons, because the **modern city** is in itself **a weapon**. The city infrastructure is an infrastructure with dual purpose.

Why should terrorists need chemical weapons if their enemies already have **chemical plants**?

Why should terrorists need nuclear weapons if their enemies already have skyscrapers and airplanes with tanks full of fuel, which can be hijacked with the help of a penknife?

Why would they need sophisticated military technologies and stolen explosives if the KamAZ truck that blew up the hospital in Mozdok was carrying a load of, let us say, fertilizer? So-called dictatorship regimes and terrorists themselves have long since figured that out.

That is exactly why there were no nuclear or bacteriological weapons in Iraq. Why not? A bomb planted on an airplane would kill dozens fewer people than a failure of the air traffic control system of a large airport.

Sept. 11 taught the world that the **infrastructure** of the **modern civilization** could be **as lethal as the weapons** themselves.

Last week, a significant and major addition was made to the lesson of Sept. 11: The actions of terrorists can’t always be distinguished from the actions of a **drunken dispatcher** or **random lightning**.

**And greenhouse gas emissions cause extinction**

**Schultz 16**

Robert A. Schultz, retired Professor and Chair of Computer Information Systems at Woodbury University, 2016, “Modern Technology and Human Extinction,” <http://proceedings.informingscience.org/InSITE2016/InSITE16p131-145Schultz2307.pdf>

There is **consensus** that there is a relatively **short window** to reduce carbon emissions **before drastic effects occur**. **Recent credible projections** of the result of **lack** of rapid drastic action is an average temperature increase of about **10o F by 2050**. This change alone will be **incredibly disruptive to all life**, but will also cause great weather and climate change. For comparison purposes, a 10 degree (Fahrenheit) decrease was enough to cause an ice layer 4000 feet thick over Wisconsin (Co2gether, 2012). Recently relevant information has surfaced about a massive previous extinction. This is the Permian extinction, which happened 252 million years ago, during which 95% of all species on earth, both terrestrial and aquatic, vanished. The ocean temperature after almost all life had disappeared was 15 degrees (Fahrenheit) above current ocean temperatures. Recent information about the **Permian extinction** indicates it was caused by a rapid increase in land and ocean temperatures, caused by the sudden appearance of stupendous amounts of carbon in the form of greenhouse gases (Kolbert, 2014, pp. 102-144). The origin of the carbon in these enormous quantities is not yet known, but one possibility is the **sudden release** of methane gases stored in permafrost. This is also a possibility in our current situation. If so, **extinction would be a natural side effect of human processes**. There is also a real but smaller possibility of what is called “**runaway greenhouse**,” in which the earth’s temperature becomes like Venus’ surface temperature of **800 degrees**. The threat of **extinction** here is not entirely sudden. The threat is, if anything, worse. Changes in the atmosphere--mainly increases in the concentration of greenhouse gases in the atmosphere-- can **start processes that can’t be reversed** but which take long periods of time to **manifest**. “Runaway greenhouse” may be the worst. Once again, suggestions of **technological solutions** to this situation should be treated with some skepticism. These proposals are often made by technophiles ignoring all the evidence that technology is very much subject to unanticipated side effects and **unanticipated failures**. What has happened concerning the depletion of the ozone layer should be a clear warning against the facile uses of technology through geoengineering to alter the makeup of the entire planet and its atmosphere. The complicating factor in assessing extinction likelihood from climate change is corporations, especially American fossil fuel corporations such as Exxon-Mobil and Shell. Through their contributions, they have been able to **delay legislation ameliorating** global warming and **climate change**. As mentioned before, recently released papers from Exxon-Mobil show that the corporation did accept the scientific findings about global warming and climate change. But they concluded that maintaining their profits was more important than acting to ameliorate climate change. Since it is not a matter of getting corporations to appreciate scientific facts, **the** **chances of extinction from climate change are good**. To ameliorate climate change, it is important to leave a high percentage of fossil fuel reserves in the ground. But this is exactly what a profit-seeking fossil fuel corporation **cannot do**. One can still hope that because fossil fuel corporations are made up of individuals, increasingly bad consequences of global warming and climate change will change their minds about profits. But because of the lag in effects, this mind change will probably be too late. So I conclude we will probably see something like the effects of the Permian extinction perhaps some time **around 2050**. (The Permian extinction was 95% extinction of all species.) This assumes the release of methane from the arctic will take place around then.

**The internal link also turns the aff---rule of law in antitrust is critical to broader governance---failure causes economic decline, corruption, investment dry-up, and bureaucratic instability**

**Yoo and Wendland 19** – John H. Chestnut Professor of Law, Communication, and Computer & Information Science and Founding Directorof the Center for Technology, Innovation and Competition, University of Pennsylvania; Research Fellow at the Center for Technology, Innovation and Competition, University of Pennsylvania

Christopher S. Yoo and Hendrik M. Wendland, "Procedural Fairness in Antitrust Enforcement: The U.S. Perspective," Faculty Scholarship at Penn Law, 2049, 2019, https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=3051&context=faculty\_scholarship

I. Introduction

The **rule of law** is one of the founding principles of the United States of America and has **shaped U.S. legal thinking** and practice in many areas. The basic idea is simple: the people and their actions are not governed and regulated by arbitrary decisionmakers, but by a **set of rules** that **serves as a check** against potential abuses of power.

**Due process** and **fairness** in enforcement procedures represent a **critical aspect** of the **rule of law**. Allowing greater participation by the parties and making enforcement procedures more transparent serve several functions, including **better decisionmaking**, greater **respect for government**, **stronger economic growth**, **promotion of** **investment**, **limits on corruption** and politically motivated actions, **regulation of bureaucratic ambition**, and greater control of agency staff whose incentives may not align with agency leadership or who may be using an enforcement matter to advance their careers. That is why international legal organizations such as the International Competition Network (ICN),1 the Organization for Economic Cooperation and Development (OECD),2 the Association of Southeast Asian Nations (ASEAN),3 the International Chamber of Commerce (ICC),4 and the American Bar Association (ABA)5 have all offered frameworks that promote **greater fairness** and transparency in **antitrust enforcement**.

**Due process** and **fairness** are **particularly important** in **antitrust enforcement**. Because the U.S. was the first country to enact an antitrust law, it has enjoyed the **greatest opportunity** to **develop** its **enforcement practices**. As such, after first introducing the key antitrust enforcement institutions, this chapter will explore the manner in which the U.S. implements four key procedural protections to provide insights into ways to improve U.S. law.

**The aff’s reformulation of government policy warps court decision-making to move away from previous norms of antitrust development---limitations hamper the ability for antitrust to develop cogently by the courts**

**Gifford 95** – Robins, Kaplan, Miller & Ciresi Professor of Law, University of Minnesota Law School

Daniel J. Gifford, "The Jurisprudence of Antitrust," 48 SMU L. REV. 1677, 1995, https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1338&context=faculty\_articles

VIII. Successful Antitrust Policy Development

Antitrust policy was **largely unproblematic** during its first fifty years because the caselaw could be understood as a **judicial effort** to **foster** and to **reinforce** a **norm of competitive-market behavior**. The basic components of such a norm were **widely understood** to consist of avoiding cartel-like activity: business firms should not agree on price with their rivals nor should they attempt to corner the market on goods. There were, of course, other rules which in hindsight might be questionable but which could be generally accepted as **falling within** the imprecisely defined concept of a free and open market: no vertical price-fixing agreements 171 and no tying unpatented goods to patented products. 172 The success of the caselaw lay in the largely **norm-reinforcing role** which was performed by **judicial antitrust decisions**.

Antitrust policy **became problematic** in the 1960s when the Court **switched** from a role of reinforcing a **preexisting normative construct** into the role of **formulating new norms** which **exceeded the expectations** of the professional and business communities. Antitrust law became a set of rules which were **imposed coercively** **rather than** a **self-enforcing** set of **generally accepted norms**. As previously pointed out, the Court did not adopt this new policy **without outside help**. The government **encouraged** the **expansionist tendencies** of the Court majority. Indeed, the government continued the push for an expansionary antitrust caselaw well beyond the time that the Court itself had concluded that its expansionary decisions had been in error.

The **government's role** in this expansionary period is **troublesome**. The government possessed the resources and capabilities for developing a coherent and comprehensive antitrust policy. The Court had **understood** that the government's role over regulatory affairs generally-and including **antitrust** in particular-was to **develop comprehensive policy positions** which could then **inform judicial decision making**. It is possible that much of the Court's **deference** to the government during the 1960s rested upon the Court's belief that the government had **assessed the larger ramifications** of the legal positions which it was asserting before the Court.

In retrospect, it appears that the Antitrust Division was just performing the role of an aggressive litigator. It asked for as much relief as it thought the Court would give it. Instead of exercising a responsibility to develop a **comprehensive view** of wise antitrust policy, the Division left to the Court **the responsibility** for **drawing limits.** The result was that **no limits were drawn** and **antitrust policy** **became irrational**.

**Courts respond greatly to government positions and gives deference to new developments**

**Gifford 95** – Robins, Kaplan, Miller & Ciresi Professor of Law, University of Minnesota Law School

Daniel J. Gifford, "The Jurisprudence of Antitrust," 48 SMU L. REV. 1677, 1995, https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1338&context=faculty\_articles

While some of these decisions were issued in private litigation, most of these **expansionary antitrust decisions** were issued in **government actions** where the Court was responding to the urgings of government litigators. In short, the **responsibility** for this **transformation in antitrust law** from symbolic reaffirmation of a widely accepted norm to a set of coercive rules **lay not on the Court alone**. Courts **always rely heavily** upon the input of the parties before them. The Supreme Court had reason to **give special deference** to the **government's positions**, because the government possessed the **institutional capacity and resources** (which the Court lacked) to develop a **coherent position on antitrust** issues as a whole. Indeed, if antitrust was to develop beyond the largely symbolic role that it had hitherto played, the government would be the institutional actor **best equipped** to guide that development.

Beginning about 1974, the Court began to view the antitrust law which it had created during the previous decade and a half as wrongly conceived. The Court's rejection of government contentions in three merger cases of that year27 and in two of the following year 28 are widely understood to evidence the Court's change of position. Its decision in the GTE Sylvania case in 197729 confirmed its new approach. In GTE Sylvania the Court reversed the detailed control which it had assumed over the terms of distribution arrangements during the previous decade. In a series of decisions extending into the 1980s, the Court attempted to undo the work that it had so enthusiastically performed in the 1960s.

**Causes a domino effect---the aff splinters the coherent vision of antitrust that the courts have spent decades converging toward, implicating all antitrust jurisprudence**

**Gifford 95** – Robins, Kaplan, Miller & Ciresi Professor of Law, University of Minnesota Law School

Daniel J. Gifford, "The Jurisprudence of Antitrust," 48 SMU L. REV. 1677, 1995, <https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1338&context=faculty_articles>

IX. Conclusion

Antitrust law has grown from the largely symbolic role which it played during its early years into a potent force with which business firms must reckon in their daily affairs. It has undergone at least two major periods of transformation. The first period, from 1957 to 1973, created an antitrust law which imposed substantial inefficiencies upon American business firms. During the second period, beginning in 1974, most of the changes introduced during the 1957-73 period were undone, although at significant cost to the business firms who were parties to cases litigated during this second period. Today, antitrust law is drawn from a complex set of materials, of which the caselaw itself is only a part. The Justice Department's guidelines have played a major role in the second transformation of antitrust law, as have newly developed limitations on standing and the academic literature. The state attorneys general and private litigants forcefully provide policy input, not all of which is consistent with the national interest in a fully efficient marketplace. **Successful antitrust policy** over a long term **requires** the courts to be **resistant** to those demands which do not **conform to this efficiency goal**. Yet to do so, they need a **coherent vision of antitrust law** as a whole and to **relate** **individual claims** to this **larger vision**. Institutional limitations ~~handicap~~ [**hinder] courts** in developing this broad perspective. The Justice Department's input can assist the courts to overcome their limitations, but it involves both a challenge and the acceptance of a responsibility vastly beyond the litigating role which the Department played during the period of the 1957-73 transformation. The courts too need to recognize their own **institutional limitations**.

**The aff’s removal of the consumer welfare standard decks principles of consistent antitrust jurisprudence---only a sole focus on consumer welfare can create an effective antitrust framework**

**Dorsey et al. 20** – Elyse Dorsey, Adjunct Professor, Antonin Scalia Law School at George Mason University; Geoffrey A. Manne, Founder and President of the International Center for Law & Economics; Jan M. Rybnicek, Senior Associate in the Washington, D.C., office of Freshfields Bruckhaus Deringer and Adjunct Professor and Senior Fellow at the Global Antitrust Institute at Antonin Scalia Law School at George Mason University; Kristian Stout, Associate Director at the International Center for Law & Economics; Joshua D. Wright, Executive Director, Global Antitrust Institute and University Professor, Antonin Scalia Law School at George Mason University

Elyse Dorsey, Geoffrey Manne, Jan Rybnicek, Kristian Stout, and Joshua D. Wright, "Consumer Welfare & the Rule of Law: The Case Against the New Populist Antitrust Movement," Pepperdine Law Review, Vol. 47, No. 861, 5-1-2020, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3592974

B. Consumer Welfare **Tethers Decisions to Economics** and Economic Evidence

A key feature of the consumer welfare standard is that it **institutionalizes** an **economics-based approach** to competition policy.134 At its core, the consumer welfare standard takes antitrust law’s mandate of protecting competition and gives it meaning through the common language of economics.135 By tethering antitrust decisions **tightly** to modern economics, the consumer welfare standard creates an **evidence-based framework** for distinguishing when conduct results in anticompetitive or procompetitive effects.136 Moreover, although the consumer welfare standard offers a concrete framework for competition analysis, it is **flexible enough** to incorporate developments in economics and learning regarding the likely effects of new commercial business practices and business models that would never have been contemplated by the drafters of the antitrust laws.137

The consumer welfare standard is tethered to economics in at least two significant ways. First, the goal of promoting consumer welfare ultimately informs **what type of liability** rules a court **should apply** in any particular case depending on the specific conduct at issue.138 By relying on **economic theory** and **empirical evidence**, the consumer welfare standard allows courts to **apply filters and presumptions** as part of liability rules that **decrease** the **probability of error** and increase the probability that antitrust benefits consumers. Second, in cases requiring a more detailed assessment, the goal of promoting consumer welfare influences the factors a court will examine and how those factors are weighed against each other.139 The emergence of the consumer welfare standard has driven **significant advances** in antitrust economics and spurred debate about economic theories, empirical research, and the sufficient conditions for concluding the presence of anticompetitive conduct.140 Indeed, antitrust economics has **developed significantly** since courts first adopted the consumer welfare standard, providing an **increasingly insightful basis** for decisions.141

The consumer welfare standard’s inherent economic framework has also resulted in antitrust decisions and enforcement efforts being **remarkably consistent** across administrations.142 While enforcement may change on the margin based upon the agency leadership, the economic approach to antitrust **prevents wild swings** in enforcement **based on ideology**.143

**Even seemingly complementary economic standards fail---the predictability, coherence, and effectiveness of the consumer welfare standard make its sole focus irreplaceable**

**McGinnis and Meerkins 16** – George C. Dix Professor, Northwestern Pritzker School of Law; Associate, Shook, Hardy & Bacon LLP

John O. McGinnis and Andrew M. Meerkins, "Dworkinian Antitrust," Iowa Law Review, Volume 102, Issue 1, November 2016, https://ilr.law.uiowa.edu/print/volume-102-issue-1/dworkinian-antitrust/

2. Consumer Welfare as a Dworkinian Justification

Even assuming that the statutory framework **can** yield goals other than consumer welfare, these **cannot be as well-justified** in a Dworkinian sense as consumer welfare. It is true that some commentators have continued to argue that antitrust law should reflect **other economic and noneconomic aims**. Alternative principles suggested include **equality**, **political decentralization**, and the **protection of small business**. But **none** of these principles reflect a **plausible “political morality**,” in Dworkin’s term, given that our political morality includes matching statutory schemes to those objectives they can actually **carry out effectively**, and also **rule-of-law values** that are concerned with **limiting judicial discretion.**

The rejection of populist and nonefficiency goals by both the Chicago and Harvard school commentators reflects a determination not only that antitrust is a **poor mechanism** for accomplishing many of these **alternative goals**, but that their inclusion **quickly** gives rise to the sort of **incoherence** and **unpredictability** that motivated Bork to write The Antitrust Paradox in the first place. For example, antitrust is, at best, an **inefficient vehicle** for promoting equality or distributive goals, which are better accomplished through a direct tax and transfer system. The redistributive effects brought about by a tax and transfer system are not only more certain, they are better targeted and achieved at a lower cost than effects achieved through competition policy. There are similar reasons to be skeptical about antitrust’s potential for promoting other equity goals like **dispersing political** **or** **market power**. Given the potential for competing interests and political tradeoffs, sector regulation, legislation and taxation may be more desirable tools than antitrust for addressing concerns about concentrated power and inequality.

Second, given that is **impossible** for antitrust to exclude considerations of **efficiency** and **consumer welfare**, adding other goals creates **substantial costs**. I

t is generally thought that the introduction of noneconomic goals into antitrust **engenders unpredictability**, and sets up the **potential for competing principles** **that** **cannot be reconciled** with any kind of integrity. The relatively **ineffective pursuit** of other noneconomic goals **threatens** to diminish antitrust law’s ability to increase consumer welfare, and it is this high-risk, low-reward dynamic that has led to the near-universal rejection of supplementing modern antitrust with other goals. Thus, **even if** **the alternative goals** **loosely fit** the statutory scheme, they **cannot be justified** as a matter of the **jurisprudence of integrity**.

**Antitrust is the model for judicial developed standard regarding CBA---they are converging now, but it’s not settled**

**Masur and Posner 17** – John P. Wilson Professor of Law and David and Celia Hilliard Research Scholar, The University of Chicago Law School; Kirkland & Ellis Distinguished Service Professor and Arthur and Esther Kane Research Chair, The University of Chicago Law School

Jonathan S. Masur and Eric A. Posner, "Cost-Benefits Analysis and the Judicial Role," University of Chicago Law Review, Vol. 85, No. 4, 2-11-2017, https://lawreview.uchicago.edu/publication/cost-benefits-analysis-and-judicial-role

3. Federal common law.

While courts like to tie their decisions to statutes, we think a better explanation of the development of CBA is as a kind of (**federal) common law**. By this we mean **judge-made law** that is **not necessarily tethered** to the language of the APA or any other statute.190 The courts have **awoken** to the **value of CBA** and have **increasingly mandated it** because they believe that CBA should play a role in regulation. Seen in this perspective, we can reframe Sunstein’s APA argument by interpreting the APA as a general authorization to courts to develop a common law of the administrative state, **just as the Sherman Act is today understood as an authorization for courts to develop a common law of antitrust.**191 The two statutes are **equally ambiguous**: they all but insist that courts **develop their own standards**.19

2 Just as the courts groped around blindly for decades before settling on economic principles for guiding antitrust litigation, so have they finally, after much meandering, **begun to settle on CBA** for regulatory review. Why? It seems likely that courts have come to recognize that the **technical advantages** of CBA make it a **good practice**, not much different from keeping records, announcing deadlines, using data rather than anecdotes, using science rather than astrology, explaining decisions, and listening to criticism. The White House’s support for CBA over many decades and the increasing sophistication of agencies’ CBAs have probably also played a role.193

Taking a wide view and relying on hindsight, one can see CBA as the second stage of the rationalization of American government. The first stage was the New Deal, which transferred authority from state legislatures and common-law courts to federal agencies. The agencies were staffed with experts and given broad authority to regulate in the public interest. But from an early stage the New Deal was opposed by people who feared that federal regulators would abuse their discretion. Congress grappled with this problem by imposing procedural requirements on agencies and providing for an ambiguous level of judicial review in the APA.194 By the 1970s, however, it was clear that the system was unsustainable. Much regulation turned out to be ill conceived and ideologically motivated. A bipartisan deregulatory movement corrected many of the worst errors, but by the 1980s the deregulatory movement splintered into a faction that sought to turn the clock back to 1932 and a faction that sought technocratic rationalization. CBA was born amid these controversies, and it was initially considered a “conservative” decision procedure because of its association with President Reagan. Its survival across Democratic administrations has put that myth to rest.

The natural interpretation of this legal trajectory is that the three branches of government are **converging** on the view that **regulatory agencies should normally comply with CBA**. As a technical matter, the courts have mostly relied on **organic statutes** rather than on the APA. At the level of legal theory, we think it **best** to describe this development as one of **federal common law**. But the end result is the same: cost-justified administrative law.

**CBA is currently vulnerable to conservative manipulation to justify mass deregulation---checks are key**

**Phillips and Berger 20** – government lawyer who focuses on regulatory process; vice president of Democracy and Government Reform at the Center for American Progress, former senior attorney at the Office of Management and Budget

Todd Phillips and Sam Berger, "Reckoning With Conservatives’ Bad Faith Cost-Benefit Analysis," Center for American Progress, 8-14-2020, https://www.americanprogress.org/article/reckoning-conservatives-bad-faith-cost-benefit-analysis/

The demise of regulatory cost-benefit analysis at conservative hands

Conservatives have **upended this status quo** after finding that CBA requirements still allow progressives to regulate (albeit less effectively than they might otherwise) and **inhibit their own efforts** to unwind regulations. As shown by the actions of the current administration, conservatives **do not treat** CBA as a tool for **maximizing the public good** through the regulatory process but instead as an **excuse** **for slowing regulation** under progressive administrations—an excuse that is **quickly discarded** when it conflicts with their **deregulatory goals.**

Imposing an arbitrary ‘regulatory budget’ that ignores regulatory benefits

President Donald Trump and his administration have made clear from the start that their focus was not on ensuring the greatest societal benefits but instead on ensuring the **lowest costs** to well-connected **special interests**, regardless of the impact on broader society.

The directive in Reagan’s executive order mandating that, “Agencies shall set regulatory priorities with the aim of maximizing the aggregate net benefits to society” has been the cornerstone of regulation for the past four decades.7 Yet this principle—that the benefits of an action should exceed its costs—has been replaced with a focus only on the costs of actions, regardless of any benefits that could be provided. **Cost-only analysis** **has replaced cost-benefit analysis.**

Ten days after his inauguration, President Trump signed Executive Order 13771, “Reducing Regulation and Controlling Regulatory Costs,” which imposed two forms of a “regulatory budget.”8 First, the order imposed a “one-in, two-out” requirement on all new regulations so that whenever an agency proposes a new regulation, “it shall identify at least two existing regulations to be repealed.” Second, the order requires agencies to “cap” the total costs imposed by all their new regulations each year, limiting “the total incremental cost of all new regulations, including repealed regulations.”

Importantly, the order says **nothing** about the **benefits of a regulatory action**. Agencies are not directed to maximize net benefits but instead to **minimize total costs** at the **expense of any benefits** regulations may bring. In the words of two advocates, “If you followed the logic of the order in your own life … you would not invest in a car, a house, or a college education, even though the benefits of such products are unquestionable.”9 This executive order **kicks any semblance of rational rulemaking to the curb**. Under the requirements of the order,10 any new rule that is appropriate, necessary, and imposes only minor costs to provide significant public benefits could still only be issued if the agency repeals two additional rules, even if those repeals reduce benefits.

Further, the caps imposed by this executive order can be negative—and in many cases are. The order allows OIRA to set “a total amount of incremental costs that will be allowed for each agency in issuing new regulations and repealing regulations” for each fiscal year. For fiscal year 2020, for example, OIRA has required the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) each to reduce the total costs to the public of their cumulative rulemakings by $40 billion.11 Under the rules of the order and OIRA’s cap, even if DOT wishes to issue a set of rules that imposes no cumulative costs on society but provides billions of dollars’ worth of benefits, it could not do so. Such a requirement completely overturns the premise that the goal of regulations is to maximize public benefit, placing the objective squarely on reducing costs to regulated entities, many of which are politically well-connected.

Hiding the true costs of (de)regulation

The rejection of CBA extends beyond ignoring benefits. Perhaps the most significant change conservatives have made to the regulatory process is to **shamelessly hide** the **true costs of deregulation**. Any regulation has trade-offs, and policymakers are expected to demonstrate that they fully considered a rule’s impacts by publicly disclosing the costs and benefits. Yet **time and again**, conservatives ha

ve worked to **ensure** that the **costs** of their deregulatory policies **do not come to light.**

The EPA under the Trump administration has likely been the worst offender. In 2017, the EPA, along with the Army Corps of Engineers, began the process of repealing the 2015 rule defining “Waters of the United States” under the Clean Water Act by proposing a new definition backed by a new regulatory impact analysis.12 In creating this new analysis, EPA economists and statisticians reviewed the RIA that the EPA had developed for the 2015 rule and concluded that many of the numbers it had used just two years prior were outdated and created too much “uncertainty” to be usefully considered.13 They wrote: “In the case of the forgone benefits of wetland protection [from repealing the 2015 regulation] the agencies believe the cumulative uncertainty in this context is too large to include quantitative estimates in the main analysis for this proposed rule.” Essentially, in May 2015, the EPA concluded that protecting wetlands would have a quantified benefit of from $306.1 million to $501.2 million,14 but by July 2017, the agency concluded it could not quantify the benefits of protecting wetlands because the data were too old.

In the words of one expert, “They reach a conclusion that wetlands have no value, none that is knowable.”15 In the words of another, then-EPA Administrator “Scott Pruitt is not just cooking the books, he is **burning the books**.”16

Much as it hid the true costs of deregulating under the Clean Water Act, the Trump administration sought to **hide the benefits** of an Obama administration regulation under the Clean Air Act that limited toxic mercury emissions from coal- and oil-fired power plants—known as the mercury rule—which can affect neurological development in fetuses and young children. In making a required finding that the rule was “appropriate and necessary,” the Obama administration considered co-benefits—benefits that are ancillary to a rule’s intended purpose—from the mercury rule.17 In this case, that meant considering benefits that were not the direct result of reducing mercury emissions, such as the impact that installing control equipment to reduce mercury emissions would have on other pollutants, notably fine particulate matter (often referred to as soot). From the standpoint of an accurate CBA, these benefits must be considered, as must any co-costs; the benefits to society are not affected by whether they arise from an intended or ancillary effect of the rule. Taking into account both co-costs and co-benefits, the EPA found that its regulation would result in annualized benefits from $37 billion to $90 billion, 99.9 percent of which stems from co-benefits.

However, in seeking to undermine the mercury rule, the EPA redid the analysis in 2020 to exclude co-benefits.18 The results were significant: The quantifiable benefits of the Obama-era rule were now calculated to be roughly $4 million to $6 million per year—orders of magnitude less than under the prior analysis. Given the rule’s estimated costs of $7.4 billion to $9.6 billion, ignoring co-benefits severely weakens the justification for the rule.

The **impact** of this attack on co-benefits is **broader** than just the mercury rule. Co-benefits are, rightly, **considered in a wide range of rules**.19 They are particularly important to Clean Air Act regulations. While scientists know certain pollutants are damaging to human health, determining specific quantifiable costs for specific, pervasive air pollutants can be quite difficult. As one scholar noted, “the EPA has been unable to generate dollar estimates of benefits for the vast majority of the pollutants the agency is charged with regulating because the data simply don’t exist.”20 One notable exception is particulate matter, which is easier to monitor and has negative health impacts that can be observed in short-term studies.21 Thus, reductions in particulate matter have constituted the lion’s share of benefits for many air pollutant regulations; eliminating the consideration of co-benefits would significantly undermine efforts to regulate a wide range of harmful pollutants.

The EPA is **not the only agency** hiding the **costs of deregulation**. For example, in December 2017, the Department of Labor (DOL) proposed to repeal a regulation that prevented employers from confiscating tips earned by their employees.22 In that proposal, DOL released an economic analysis where it provided a “qualitative discussion of the benefits and transfers that may result from the proposed rule”; it predicted that “tip pooling may foster service that is customer-focused and promotes a setting where employees get along well, and may increase productivity,” “employers may see a decreased turnover rate amongst [untipped] employees,” and “traditionally tipped employees” would benefit from having a “guaranteed direct cash wage.” The DOL further declared that “the potential benefits and transfers have not been quantified in this” notice.

However, it was reported in February 2018 that the DOL had conducted a quantified analysis of the proposed rule that estimated “that potentially billions of dollars in gratuities could be transferred from workers to their employers,”23 meaning that employers would steal their workers’ tips. According to one report, senior DOL officials “ordered staff to **revise** the data methodology to **lessen the expected impact**” after seeing the initial analysis. But even with analyses showing reduced transfers from workers to their employers, political leadership at the DOL were “said to have still been uncomfortable with including the data in the eventual proposal” and decided to leave it out entirely. In 2018, Congress amended the law to prohibit the behaviors the DOL was proposing to allow,24 and the rule was never finalized.

Hiding deregulatory costs is **akin to ignoring CBA entirely**; if important information is left out, then the weighing of costs and benefits will tell policymakers little about the true impact of a rule.