## 1NC

### 1NC OFF

First off is T

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

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

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

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

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

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

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

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

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

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

#### Vote neg for limits—too many distinct standards require huge numbers of case negs—topic becomes unmanageable

#### New plantexts bad—they should disclose 30 minutes before the round—makes being neg impossible as we can’t preround prep

### 1NC OFF

Next off is ICN

#### The International Competition Network should establish that increasing prohibitions on anticompetitive business practices conducted against wholly owned foreign subsidiaries of United States based parent companies is a best practice recommendation.

#### Solves the aff and international protectionism—key to efficiency and preventing extinction

Budzinski, 12

(Oliver, Professor of Economic Theory at Ilmenau University of Technology and Professor of Competition and Sports Economics, Markets & Competition Group, at the University of Southern Denmark, Campus Esbjerg. “International Antitrust Institutions,” Ilmenau Economics Discussion Papers, Vol. 17, No. 72 NL)

3.3. The Multilateral Strategy: International Antitrust Institutions in Trade Agreements The basic idea to fight international anticompetitive arrangements and conduct on an international level has been so straightforward to the political sphere that as far back as in 1927, the League of Nations’ World Economic Conference in Geneva put the problem of international cartels on its agenda, discussing options for a coordinated international anti-cartel policy effort (Wells 2002: 10-11). This early initiative did not have any chance of success, however, since in the 1920s a consensus that hardcore cartels are detrimental to welfare and should be combated by antitrust policy was just about to form.10 Still, less than two decades later, the next attempt to establish multilateral antitrust institutions appeared on the agenda. This time, it was driven by the desire to create a coherent and comprehensive post-war world economic order, consisting of international institutions and organizations for the governance of (i) the monetary system and international currency relations (International Monetary Fund; The World Bank Group), (ii) public cross-border restrictions to competition, i.e. trade barriers (Havana Charter and International Trade Organization; in advance established in 1947 as the General Agreement on Tariffs and Trade, GATT), and (iii) private cross-border restraints of competition (the 1948 Havana Charter; International Trade Organization). While the first two institutions were set into force while the window of opportunity due to the global catastrophe of World War II was open, the international antitrust institution-part missed out and was subsequently abandoned in 1953 due to a lack of ratification by leading members states (Wells 2002: 116-125). However, the idea of international antitrust institutions being a complement to trade liberalization rules remained virulent. The benefits of trade liberalization can only be reaped in a sustainable way if the competition-intensifying effects of opening up national markets for international competition (Budzinski 2008a: 27-32) are not counteracted by the emergence of cross-border anticompetitive arrangements and conduct, re-establishing the pre-liberalization non-competitive equilibrium. Therefore, effective means against international cartels and against international market dominance need to accompany trade liberalization. This is in line with theoretical economic thinking (inter alia, Ross 1988; Feinberg 1991; Jacquemin 1995; Cadot et al. 2000; Hamilton & Stiegert 2000; Gaudet & Kanouni 2004; Mehra 2011; rather contrasting: Hauser & Schoene 1994). Consequently, competition provisions somewhat survived on the agenda of the World Trading System and in some instances found their way into regional trade agreements, albeit predominantly in rather rudimental shape (Alvarez et al. 2005; Cernat 2005; Evenett 2005). After the establishment of the World Trade Organization (1995, comprising GATT, the General Agreement on Trade in Services GATS and the agreement on Trade-Related Intellectual Property Rights, TRIPS), international competition resurfaced on the agenda, leading to the adoption of WTO antitrust institutions in the Doha Declaration (2001). However, in the aftermath of the Cancún conflicts, centering predominantly on agricultural markets issues, the antitrust provisions were provisionally abandoned in 2004 – and since then a reappearance does not look likely. While the recurring attempts to establish multilateral competition rules can easily be motivated both by the shortcomings and limits of unilateral and bilateral approaches (see sections 4.1. and 4.2.) as well as by the complementary nature of trade liberalization and protection of competition on international markets, the likewise recurring failures to actually establish international antitrust institutions have motivated additional economic research. From a game-theoretic perspective, negotiations on international antitrust institutions among sovereign nations resemble the characteristics of a prisoners’ dilemma game. Even if adopting international antitrust institutions would represent the world welfare optimum, the players may end up in an inferior equilibrium because it is individually rational to choose strategic competition policies (beggar-my-neighbor policies) in the absence of an effective institution. Due to the incentive structure, such an institution is notoriously difficult to establish outside specific ‘windows of opportunity’ – at least in rather simplistic game-theoretical models (à la Budzinski 2003). More advanced models (building upon so-called supergames) allow for much more differentiated analyses that also display self-enforcing cooperation patterns (Cabral 2003, 2005). However, also dynamic prisoners’ dilemma games show that cooperation is possible but not necessary and may take long to be successfully established. 3.4. The Network Strategy: The ICN after 10 Years During the years where the hitherto last attempt to establish WTO competition rules failed, a new avenue towards international antitrust institutions surfaced. On its route a multilateral perspective was combined with a focus on voluntary cooperation among competition agencies and within one decade the resulting network developed to become the most important international antitrust player in the world. There have been attempts to establish voluntary multilateral cooperation before. In 1967, the Organization for Economic Cooperation and Development (OECD) created a forum for their members in order to debate international competition issues and issue consensus-based recommendations on competition policy – with the latter goal being abandoned in the 1990s (Zanettin 2002: 53-57). Furthermore, in 1980, the United Nations Conference on Trade and Development (UNCTAD) adopted a so-called Restrictive Business Practices Code with the particular aim of protecting developing countries against inbound anticompetitive arrangements and conduct by powerful multinational enterprises. It attempted to ban, inter alia, pricefixing arrangements and other hardcore cartels as well as boycotts. However, the comparatively ambitious code lacked enforceability (First 2003). At the end of the day, both initiatives failed to produce considerable effects regarding a satisfying level of protection of international competition (Wells 2002; First 2003). Based on the concept of a Global Competition Initiative developed by the International Competition Policy Advisory Committee to the U.S. Department of Justice (ICPAC 2000), 15 national competition agencies (including the European Commission) established the International Competition Network (ICN) in October 2001 (Finckenstein 2003; Janow & Rill 2011). Until today, membership of the ICN has risen to 121 competition agencies from more than 100 jurisdictions all around the world.11 Being a network of competition agencies and calling itself a virtual organization, the ICN neither is based on an international contract, nor has its own administrative staff or budget. The ICN is led by a steering group consisting of leading officials from member agencies with the board positions rotating among the members.12 Annual conferences of all member agencies with participation of different stakeholder groups represent the major ‘decision body’. The actual work is done in so-called working groups (WGs), which typically start out by reviewing and comparatively evaluating the current practices of the member agencies. They constitute themselves project-oriented and expire if the respective agenda has been finished. The general goal of the WGs is to develop best practice recommendations that are subsequently consensually adopted by the annual conference. In addition to the substantive WGs, administrative working groups address problems of internal governance. Currently, the ICN consists of five substantive and two administrative WGs, which are overviewed in figures 1-6. The voluntariness of cooperation and the non-binding character of all best practice recommendations represent a fundamental principle and an important characteristic of the ICN. Still, the eventual goal of the ICN is about improving international competition governance. By promoting multilateral cooperation among competition agencies and by creating a common competition culture, convergence of national and regional competition policies, starting with procedural issues but aiming at substantive issues as well, is on the long-run agenda (ICN 2011; Mitchell 2011: 5).13 During its first decade, the ICN has produced an impressive output of more than 10,000 pages of ‘virtual’ paper. While the dozens of comparative analyses of worldwide existing practices and institutions regarding specific competition policy fields represent a valuable stock of knowledge, inter alia, also for competition economics, law and policy researchers, the main institutional contribution of the ICN is represented by the consensually adopted best practice recommendations as well as by enforcement manuals on various topics (ICN 2011). They include, for instance, the Recommended Practices for Merger Notification and Review Procedures, the Anti-Cartel Enforcement Manual or the Market Studies Good Practices Handbook (see also fig. 1-5). The question whether purely voluntary cooperation, resting on the publication of consensual best practice recommendations, can actually be successful triggered theoretical and empirical economic research. Budzinski (2004a, 2004b) analyzed the economics of combing consensual best practice recommendations with peer pressure. Even though it remains completely voluntary whether individual competition policy regimes bring their practices and institutions in line with the published ICN best practice recommendations or not, the consensual character of the recommendations and their public availability creates peer pressure. Agencies that have agreed that a certain practice is the best one will face a loss of reputation if they stick to an inferior practice – even according to their own evaluation expressed in the consensually adopted ICN recommendation. Thus, the combination of published best practice recommendations and peer pressure sets strong incentives to actually comply with the ICN recommendations on the regime level. Furthermore, it is in line with behavioral economic thinking that a systematic and cooperative discussion of competition policy matters among the competition agencies has the potential to harmonize views on competition and antitrust issues, thus, promoting the targeted common competition culture (Budzinski 2004a). Once this ‘cognitive’ harmonization process has taken off, it can develop strong force. However, particularly in the early period considerable obstacles may impede this process altogether. Nonetheless, peer pressure through publication and transparency of superior antitrust practices, which have been consensually acknowledged as superior, should promote a widespread adoption of the ICN best practice recommendations by the member authorities. This economic theory reasoning is supported by early empirical analyses, suggesting that ICN best practice recommendations actually influence competition regime reforms and implementation processes in member jurisdictions (Rowley & Campbell 2005; Evenett & Hijzen 2006). 4. Challenges and Unsolved Problems: The Way Forward 4.1. The Success Story ICN Without any doubt, the ICN has managed many impressive achievements in its first decade – and more so than many experts were expecting. First of all, the combination of consensual best practice recommendations and peer pressure through the publication of the recommendations has been effective in the sense that many countries cited the ICN recommendations as motivation and guideline for domestic reforms of antitrust institutions. Moreover, both scientific analysis (Rowley & Campbell 2005; Evenett & Hijzen 2006) and internal assessment (ICN 2011) confirm that many member jurisdictions indeed reformed their competition rules to be more in line with the ICN recommendations. Thus, there is a harmonization effect on national competition policy regimes through the ICN membership that has potentials to reduce jurisdictional conflicts over antitrust issues as well as to decrease the volume and severity of negative externalities, albeit not to zero. Secondly, the ICN has been very successful in promoting the implementation of competition regimes in developing and transitory countries. The impressive rise in membership is partly due to the establishment of new competition policy regimes in previously antitrust-free jurisdictions and the ICN played a considerable role in this process. Furthermore, the ICN comprehensively engaged in capacity building for agencies in newly-established and also in previously defunct or ineffective competition policy regimes. This has contributed to reduce loopholes in the worldwide protection of competition, which were due to a lack of effective competition policy regimes in particular in many developing and transitory countries (Sokol 2009). And the newly-established regimes have to a large extent particularly used the ICN best practice recommendations as a role-model for their antitrust institutions. Thirdly, the ICN has published compilations of current practices in member jurisdictions (inter alia, merger review including substantive assessment and prohibition standards, anti-cartel enforcement techniques, unilateral conduct, competition advocacy, etc.). In many cases, for instance in the case of the unilateral conduct compilation, the main function of the compilations is to highlight the differences among member jurisdictions. While not directly promoting harmonization, the resulting transparency serves to improve the mutual understanding of differing and potentially incompatible case decisions and, thus, may contribute to reducing conflicts over such decisions (‘informed divergence’; Mitchell 2011: 6). Fourthly, the ICN has produced handbooks, manuals and toolkits on many downto-earth competition policy practices. They represent an important practical help for competition agency officials regarding the everyday handling of cases. Together with the curriculum project (see figure 1), they serve as materials for the training of agency staff and proved particularly useful to young agencies that lack longstanding experiences how to deal with antitrust cases. Fifthly, it is certainly a success story that the ICN managed to actually issue an impressive number of consensually adopted best practice recommendations (see figures 1-5). This achievement alone exceeds the output of former multilateral cooperation attempts. It proved to be considerably supportive for the success of cooperation that competition agencies have been driving the process and negotiated the agreements – instead of governments and government officials. Even across jurisdictions, the interests of competition agencies are significantly more homogenous and consensus-suited than the interests of governments. Eventually, a rather informal effect is often cited by participants as representing the main benefit from the ICN: mutual experience-sharing and getting-to-know each other (ICN 2011; Mitchell 2011: 3). The strong working relationship developed through the face-to-face contact on ICN seminars, workshops and conferences facilitates informal cooperation also outside the direct ICN scope. 4.2. Limits of the ICN Approach? Notwithstanding the achievements, the fifth aspect, however, already hints at some inherent limits of the ICN approach to international antitrust institutions from an economic perspective. A closer look on the best practice recommendations reveals that there are barely any recommendations on substantive issues. The recommendations that were possible in consensus among all the members are predominantly referring to procedural issues like transparency of notification requirements, fees, timetables, etc. One must not underestimate that this type of best practice recommendations represents an important progress in international antitrust both for interacting agencies and norm addressees (the companies). However, along with the lack of substantial convergence (substantive rules and standards, delineation between pro- and anticompetitive effects, theories of harm, assessment practices and policies, etc.), the potential of the ICN to internalize negative externalities from diverging and incompatible case decisions appear to be rather limited and this limited scope has effectively been reaped in the first decade. Without consensus on more ambitious best practice recommendations, diminishing returns on further ‘low controversial’ recommendations must be expected for the second decade. With respect to the problem of negative externalities, the economic analysis identifies the inbound focus of competition policy, i.e. the absence of an international welfare goal for national competition policy regimes, as a sufficient condition to create negative cross-border externalities (see section 2.1). This problem is not addressed by the ICN so far. Furthermore, it appears to be rather unlikely that an institutional arrangement like the ICN can be capable of introducing a world welfare goal for national competition policy regimes. Since it is the very nature of the ICN to rely on consensus and voluntary participation and implementation, it cannot provide any binding, contractual agreement which in case of defection may be enforced in member jurisdictions. Thus, the only way would be to issue a best practice recommendation on antitrust goals (world welfare) and hope for (i) a consensual adoption on an annual conference and (ii) voluntary compliance to the recommendation by the member jurisdictions. Since this typically refers to ‘hard’ law, the members of the ICN – competition agencies – would not be able to implement that recommendation without support from the legislative chambers (e.g. parliaments) and executive institutions (e.g. government) in their jurisdictions. This might well represent a limit to the ‘soft’ law approach of the ICN. Another problem of international competition governance – the deficiencies of multiple procedures (see section 2.2) – has been alleviated by the ICN only to a negligible extent. Due to the imperfect convergence of procedures through the adopted best practice recommendations, the costs of multijurisdictional antitrust case handling have been decreased marginally. However, since there has been no reduction of the number of antitrust procedures in conjunction with, for instance, a multijurisdictional merger, the vast majority of transaction and administration cost burdens remain unchanged. In the end, there is still nothing remotely close to a one-stop shop. Ironically, the impressive increase in active competition policy regimes around the world has actually increased the number of jurisdiction that declares themselves competent for international and particularly intercontinental competition cases. This in turn increases the deficiencies of multiple procedures and most probably more than compensates for the cost improvement due to soft and imperfect procedural harmonization. With the ICN as it is now, it is difficult to see how the second decade can bring significant improvements. The ICN does not entail direct case-related cooperation but exactly this would be necessary if considerable efficiency gains from international antitrust institutions are to be realized. Even though the ICN indirectly facilitates case-related cooperation because the member agencies and their staff know each other and know whom to call for informal exchange and cooperation over a given case (ICN 2011; Mitchell 2011), this grassroots effect – which without any doubt is highly important and helpful for everyday work – remains rather limited in the absence of an institutionalized caserelated cooperation. The loopholes in the worldwide landscape of competition regimes (see section 2.3) have been substantially reduced by the ICN’s activities. Next to the impressive increase in newly-established competition regimes, the ICN has also been very active in arming previously rather ineffective competition regimes. However, there has been virtually no change in a particularly problematic area, which is the power asymmetry when it comes to enforcing domestic competition rules against multinational companies by means of the effects doctrine (see section 3.1). If domestic markets are not sufficiently important for the business of the multinational, then the multinational remains in a position to avoid compliance by boycotting the respective country. The threat of this alone influences the decisions of smaller and less powerful regimes. Again, the regime of the uncoordinated effects doctrine can only be overcome by (i) replacing inbound competition policy goals with international welfare standards and (ii) a case-related cooperation approach. As has been argued in the preceding paragraphs, both seem to be difficult to achieve with an ICN of the current nature and structure. The fourth criterion to assess international antitrust institutions from an economic perspective (as derived in section 2) is the diversity of regimes reflecting the diversity and the provisional nature of economic thinking on competition. It refers to the dynamic and evolutionary efficiency of international antitrust institutions. The ICN highlights this by systematically reviewing the different practices in the member jurisdictions and its compilations of the differences create transparency that serves to speed up mutual learning processes. Actually, the ICN best practice recommendations represent the result of such a learning process. However, this is exactly where problems kick in: with a best practice result that leads to all member jurisdiction harmonizing their regimes according to this result the dynamic learning process comes to an end. This implies no more future learning due to a lack of experiments with new insights and new methods, theories, etc. Thus, the provisional economic knowledge of the time of the best practice recommendation becomes a persistent standard and scientific progress of the future will find it much more difficult to enter the stage.14 If learning from diversity is useful for finding today’s best practices, then learning from diversity will also be useful to detect future’s best practices. Consequently, three hazards are incorporated to the ICN’s harmonization approach. Firstly, the identification of best practices to some extent relies on and promotes academically controversial practices (like the case-by-case effects approach in merger control). Secondly, the injection of new scientific knowledge is deterred. Both hazards together may lead to a deficient harmonization. Thirdly, the ICN best practice approach implicitly assumes that there actually are one-size-fits-all benchmarks. However, best practices for old-industrialized countries’ competition regimes may differ from such for newly-industrialized or developing or transitory countries’ ones. Of course, the reasoning in this paragraph must be qualified to the extent that it becomes only relevant when the ICN is unexpectedly successful in achieving also substantive harmonization. In summary, the first decade of the ICN must be hailed for bringing the most significant progress to global competition governance of all times so far. However, from the viewpoint of global economic welfare, there are still a lot of challenges and unsolved problems, covering all the four criteria (international externalities, deficiencies from multiple procedures, loopholes, and regime diversity) that can be formulated from an economic perspective. Moreover, and even more seriously, it appears to be rather doubtful whether in its current form (purely voluntary cooperation, reliance on consensus and peer pressure), the ICN is well-suited and well-equipped to address the remaining issues. Ironically, the (unexpected) success of the ICN’s first decade may imply bad news for its second decade since the potentials have already been exploited so that from now on diminishing returns of the network strategy must be expected. 15 4.3. A Way Forward? Towards a Multilevel Lead Jurisdiction Model So, how can international antitrust institutions be designed to embrace all four criteria with their conflicting incentives toward more centralization (internalizing externalities and reducing multiple procedures; stationary efficiency) o the one hand and preservation of regime diversity (dynamic and evolutionary efficiency through decentralization) on the other hand? The economic literature offers two interesting concepts to approach this balancing act. The first concept is the idea of a lead jurisdiction model (Campbell & Trebilcock 1993, 1997; Trebilcock & Iacobucci 2004). It extends the positive comity concept (see section 3.2) by allocating competence and responsibility for multijurisdictional competition cases to one of the affected regimes that subsequently handles and decides the case with a view to avoiding anticompetitive effects in the overall geographic market (i.e. in all affected jurisdictions) and by relying on the assistance of the other involved regimes.16 The second concept is the idea of multilevel governance (Kerber 2003) in which regimes on different vertical levels (regional, national, supranational) are interconnected with each other. In such a complex multilevel system of institutions, the design of competence allocation rules, managing the interfaces of the participating regimes, becomes particularly important. Economic analysis reveals that different competence allocation rules (such as the effects doctrine, interjurisdictional commerce clauses, turnover thresholds, nondiscrimination, principle of origin doctrine, relevant markets rule or x-pus rule) are more or less appropriate when it comes to specified horizontal or vertical regime interfaces (Budzinski 2008a: 151-217). With a view to the four economic problems of international antitrust (as derived in section 2), it represents an interesting step to combine these two concepts towards a multilevel lead jurisdiction model (Budzinski 2009, 2011). The advantage of adding the vertical multilevel dimension to the lead jurisdiction concept lies in the option to introduce a referee authority, monitoring and supervising the impartiality of the assigned lead jurisdictions and providing conflict resolution if necessary. Thus, the antitrust institutions on the global level are not about materially deciding cases. Instead, they allocate lead jurisdiction according to agreed-upon criteria on a case basis17, monitor and supervise the lead jurisdiction in respect of its impartial treatment of anticompetitive effects in the overall relevant international market (irrespective where – in which jurisdiction – the effects display) and settle conflicts in case of affected jurisdictions allege that their domestic effects were disregarded by the lead jurisdiction. Consequently, ‘only’ procedural competences are assigned to the global level and all material and substantive decision competences remain on the level of the existing national and regional-supranational regimes. From an economic perspective, the charm of this concept is that it (i) replaces the inbound focus of existing competition policy regimes by a focus embracing all effects in the relevant geographic (international) market, (ii) provides a one-stop shop for the norm addressees (thus avoiding deficient transaction and administration costs of multiple procedures), (iii) closes many loopholes due to the lead jurisdiction being powerful and also providing protection of competition abroad, and (iv) maintains diversity of competition regimes because each assigned lead jurisdiction handles and decides the case according to this regime’s antitrust rules and procedures, just with the explicit inclusion of cross-border effects. On the downside, it requires an international agreement on procedural rules (in particular criteria for allocating case-specific lead jurisdiction as well as for monitoring and conflict resolution mechanisms) and willingness to accept (i) procedural decisions by the international level and (ii) material decisions by the lead jurisdiction as long as all effects are treated impartially irrespective of their jurisdictional location. This certainly represents a higher hurdle for consensus than the ICN-style network cooperation, but certainly a lower hurdle than consensus on binding global competition rules within the WTO framework. And from an economic perspective, such a multilevel lead jurisdiction model appears to be welfare-superior to these alternatives. However, the concept of a multilevel lead jurisdiction model is far from being comprehensively researched. Furthermore, an interesting exploration would be whether such a model could develop from the contemporary ICN when it seriously strives to solve the economic problems of international antitrust in its second or third decade. 5. Conclusion The global governance of competition represents an important economic problem. Economic theory clearly shows that non-coordinated competition policies of regimes that are territorially smaller than the international markets on which business companies compete violate cross-border allocative efficiency and are deficient with respect to global welfare. At the same time, some diversity of antitrust institutions and policies promotes dynamic and evolutionary efficiency so that globally binding, worldwide homogenous competition rules do not represent a first-best solution – even when neglecting obvious agreement and implementation difficulties. Since 2001, the world of international antitrust institutions has been significantly influenced by the then-established International Competition Network. This multilateral forum for voluntary cooperation among competition agencies has been a success story in its first decade – by far exceeding most experts’ expectation. The ICN has considerably contributed to alleviate the negative economic effects from the previous, virtually non-coordinated world of international antitrust. However and notwithstanding, from an economic welfare point of view, considerable challenges and problems remain on the agenda. Whether the ICN in its current structure and nature has the potential to solve the remaining problems represents a decisive question for the future of international antitrust institutions. Despite the success story of its first decade, however, economic analysis justifies skepticism whether the contemporary ICN is up to the remaining challenges. In particular, a change from inbound-, national-welfarefocused competition policies to such pursuing supranational and suprajurisdictional welfare goals as well as cooperation on concrete, specified cases are necessary from an economic perspective. However, both topics are hardly compatible with the contemporary governance principles of the ICN. A way forward can be expected from the economic concept of a multilevel lead jurisdiction model that possesses the potential to balance allocative and dynamic efficiency. It remains an open question, though, whether such a model could evolve out of the ICN during the next decade(s).

### 1NC OFF

Next off is politics

#### B3 passes now

Victor Reklaitis 1/13, MarketWatch's Money & Politics reporter and is based in Washington, D.C., “Biden 'will still be looking' to make parts of Build Back Better happen, says top White House economist,” MarketWatch, 1-13-2022, https://www.marketwatch.com/story/biden-will-still-be-looking-to-make-parts-of-build-back-better-happen-says-top-white-house-economist-11642018410

Top White House economist Cecilia Rouse on Wednesday used the past tense to refer to President Joe Biden’s big social-spending and climate plan, but said parts of it still could become reality.

“Build Back Better was a package. It was a way to put a bow around a lot of important investments,” said Rouse, who chairs Biden’s Council of Economic Advisers.

“The president will still be looking for ways to make them happen — maybe not in that particular bow, but these are important investments that we need to make if we’re going to continue growth.”

Her remarks, which came during a Council on Foreign Relations virtual event, fit with what some analysts have predicted — that parts of Biden’s roughly $2 trillion plan still have a chance of getting enacted, even after a key moderate Democratic senator, West Virginia’s Joe Manchin, said last month that he can’t support Build Back Better.

“It will take weeks to craft a viable package that satisfies Sen. Manchin without losing progressives, but we continue to believe a $1T+ package is probable,” said Isaac Boltansky, BTIG’s director of policy research, in a recent note.

Manchin had proposed a $1.8 trillion counteroffer to Build Back Better last month, but it’s no longer on the table after a breakdown in talks, according to a Washington Post report on Saturday citing unnamed sources.

#### The plan drains PC—it’s zero sum

Carstensen, 21

(Peter C. Carstensen Fred W. & Vi Miller Chair in Law Emeritus, University of Wisconsin Law School "THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST," Feb 2021 <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#adelstein> NL)

14. Similarly, despite bipartisan murmurs about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would have to trade off other goals, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to give up stricter competition rules in order to achieve other legislative priorities. 15. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorney general and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate! 16. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest significant political capital in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamically competitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### Extinction

Blinken, 21

(Antony J.; U.S. Secretary of State, “Tackling the Crisis and Seizing the Opportunity: America’s Global Climate Leadership,” <https://www.state.gov/secretary-antony-j-blinken-remarks-to-the-chesapeake-bay-foundation-tackling-the-crisis-and-seizing-the-opportunity-americas-global-climate-leadership/>, //pa-ww)

Well, good afternoon, everyone. And Will, thank you for a wonderful introduction. And thank you for lending us this absolutely spectacular setting and backdrop – certainly the best setting and backdrop I’ve had in my brief tenure as Secretary. And thanks so much to the Chesapeake Bay Foundation for your lasting commitment to save the Bay. The Chesapeake Bay was formed nearly 12,000 years ago by melting glaciers. Today, it stretches 200 miles and is home to over 3,600 species of plants and animals. A hundred thousand rivers and streams feed over 50 billion gallons of water into the Bay every single day. More than 18 million people live in the watershed, and many rely on it for their livelihood. The local seafood industry alone provides some 34,000 jobs and nearly $900 million in annual income. And yet, as Will alluded to, warming temperatures caused by human activity are transforming the Bay. Its water is rising. And the land – including where I stand right now – is sinking due to the melting of the glaciers that formed the Bay. If this continues at the current pace, in just 80 years, the Bay will extend inland for miles, overtaking the homes of 3 million people, destroying roads, bridges, farms. Many of the Bay’s plants and animals will die out. So will the fishing industry. To my children’s children, the landscape will be unrecognizable. We have to stop this from happening while we still can. That’s why President Biden took steps to rejoin the Paris Agreement right after taking office, and named Secretary Kerry as our nation’s first Special Presidential Envoy for Climate to lead our efforts around the world. It’s also why President Biden invited 40 world leaders to Washington this week for a summit on climate. And it’s why the Biden-Harris administration will do more than any in history to meet our climate crisis. This is already an all-hands-on-deck effort across our government and across our nation. Our future depends on the choices we make today. As Secretary of State, my job is to make sure our foreign policy delivers for the American people – by taking on the biggest challenges they face and seizing the biggest opportunities that can improve their lives. No challenge more clearly captures the two sides of this coin than climate. If America fails to lead the world on addressing the climate crisis, we won’t have much of a world left. If we succeed, we will capitalize on the greatest opportunity to create quality jobs in generations; we’ll build a more equitable, healthy, and sustainable society; and we’ll protect this magnificent planet. That’s the test we face right now. Today, I want to explain how American foreign policy will help us meet that test. Not too long ago, we had to imagine the impact of climate change. No one has to imagine it anymore. For the last 60 years, every decade has been hotter than the one that came before it. Weather events are becoming more extreme. During the cold wave this February, temperatures from Nebraska to Texas were more than 40 degrees below normal. In Texas alone, thousands were left homeless, over 4 million people went without heat and electricity, more than 125 people died. It may seem counterintuitive that global warming leads to cold weather. But as the Arctic warms, cold weather gets pushed south. And that can contribute to record cold spells like the one in Texas. The 2020 wildfire season burned more than 10 million acres. That’s more than the entire state of Maryland. We saw five of the six biggest wildfires in California’s history, and the single biggest wildfire in Colorado’s history. Together, natural disasters in 2020 cost the United States around $100 billion. Meanwhile, 2019 was the wettest year on record for the lower 48 states. Heavy rains and floods prevented farmers in the Midwest and Great Plains from planting 19 million acres of crops. And from 2000 to 2018, the American Southwest experienced its worst drought since the 16th century – the 16th century. We’re running out of records to break. The costs – in monetary damage, livelihoods, human lives – keep going up. And unless we turn this around, it’s going to get worse. More frequent and more intense storms; longer dry spells; bigger floods; more extreme heat and more extreme cold; faster sea level rise; more people displaced; more pollution; more asthma. Higher health costs; less predictable seasons for farmers. And all of that will hit low-income, black and brown communities the hardest. The last part’s important. The costs of the climate crisis fall disproportionately on the people in our society who can least afford it. But it’s also true that addressing climate change offers one of the most powerful tools we have to fight inequity and systemic racism. The way we respond can help break the cycle. These are all reasons why we must succeed in preventing a climate catastrophe. But the world has already fallen behind on the targets we set six years ago with the Paris Agreement. And we now know those targets didn’t go far enough to begin with. Today, the science is unequivocal: We need to keep the Earth’s warming to 1.5 degrees Celsius to avoid catastrophe. America has a key role to play in hitting that mark. We only have around 4 percent of the world’s population, but we contribute nearly 15 percent of global emissions. That makes us the world’s second biggest emitter of greenhouse gases. If we do our part at home, we can make a significant contribution to addressing this crisis. But that won’t be enough. Even if the United States gets to net zero emissions tomorrow, we’ll lose the fight against climate change if we can’t address the more than 85 percent of emissions coming from the rest of the world. Coming up short will have major repercussions for our national security. Pick a security challenge that affects the United States. Climate change is likely to make it worse. Climate change exacerbates existing conflicts and increases the chances of new ones – particularly in countries where governments are weak and resources are scarce. Of the 20 countries the Red Cross considers most vulnerable to climate change, 12 are already experiencing armed conflicts. As essential resources like water dwindle, as governments struggle to meet the needs of growing populations, we’ll see more suffering and more strife. Climate change can also create new theaters of conflict. In February, a Russian gas tanker sailed through the Arctic’s Northern Sea Route for the first time ever. Until recently, that route was only passable a few weeks each year. But with the Arctic warming at twice the rate of the rest of the global average, that period is getting much longer. Russia is exploiting this change to try to exert control over new spaces. It is modernizing its bases in the Arctic and building new ones, including one just 300 miles from Alaska. China is increasing its presence in the Arctic, too. Climate change can also be a driver of migration. There were 13 Atlantic hurricanes in 2020 – the highest number on record. Central America was hit especially hard. Storms destroyed the homes and livelihoods of 6.8 million people in Guatemala, Honduras, and El Salvador, and wiped out hundreds of thousands of acres of crops, leading to a massive rise in hunger. Months after the storms, entire villages are still subsumed in mud, and people are carving off pieces of their buried homes to sell as scrap metal. When disasters strike people who are already living in poverty and insecurity, it can often be the final straw, pushing them to abandon their communities in search of a better place to live. For many Central Americans, that means trying to make it to the United States – even when we say repeatedly that the border is closed, and even though the journey comes with tremendous hardships, especially for women and girls who face heightened risk of sexual violence. All of these challenges are placing greater demands on our military. The U.S. Naval Academy is only five miles north of here, and Naval Station Norfolk, the largest naval base in the world, about 200 miles to the south. Both bases – and the critical missions they support – face an imminent threat from climate change. And these are just two of the dozens of military facilities that climate change puts at risk. What’s more, our military often responds to natural disasters, which are getting more frequent and more destructive. In January, Secretary of Defense Austin announced that the military would immediately integrate climate change into its planning and operations and how it assesses risk. As Secretary Austin put it, and I quote, “There is little about what the department does to defend the American people that is not affected by climate change.” Having said all that, it would be a mistake to think about climate only through the prism of threats. Here’s why. Every country on the planet has to do two things – reduce emissions and prepare for the unavoidable impacts of climate change. American innovation and industry can be at the forefront of both. This is what President Biden means when he says, and I quote, “When I think of climate change, I think jobs,” end quote. To give you a sense of scale, consider that, by 2040, the world will face a $4.6 trillion infrastructure gap. The United States has a big stake in how that infrastructure is built. Not only whether it creates opportunities for American workers and businesses, but also whether it’s green and sustainable, and done in a way that’s transparent; respects workers’ rights; gives the local population a say; and doesn’t mire developing countries and communities in debt. That’s an opportunity for us. Or consider the massive investments countries are making in clean energy. Renewables are now the cheapest source of bulk electricity in countries that contain two-thirds of the world’s population. And the global renewable energy market is projected to be $2.15 trillion by 2025. That’s over 35 times the size of the current market for renewables in the United States. Already, solar and wind technicians are among the fastest growing jobs in America. It’s difficult to imagine the United States winning the long-term strategic competition with China if we cannot lead the renewable energy revolution. Right now, we’re falling behind. China is the largest producer and exporter of solar panels, wind turbines, batteries, electric vehicles. It holds nearly a third of the world’s renewable energy patents. If we don’t catch up, America will miss the chance to shape the world’s climate future in a way that reflects our interests and values, and we’ll lose out on countless jobs for the American people. Now, let me be clear: Goal number one of our climate policy is preventing catastrophe. We’re rooting for every country, business, and community to get better at cutting emissions and building resilience. But that doesn’t mean we don’t have a stake in America developing these innovations and exporting them to the world. And it doesn’t mean we don’t want to shape the way countries reduce their emissions and adapt to climate change. So how can we do that? We can start with leading by the power of our example. As we work to meet our ambitious climate targets, the following core principles will guide our approach. We will significantly increase our investment in clean energy research and development, because it’s how we will catalyze breakthroughs that benefit American communities and create American jobs. In all our climate investments, we will aim not only to promote growth, but also equity. We’ll be inclusive, focusing on providing Americans across the country – and from a range of communities – with good-paying jobs, and the opportunity to join a union. We’ll empower youth, not just because they will bear more of the consequences of climate change, but also because of the urgency, ingenuity, and leadership they’ve demonstrated in confronting this crisis. We will enlist states, cities, businesses large and small, civil society, and other coalitions as partners and models. Others have been doing groundbreaking work in this field for a long time. We’ll lift them up and share best practices. And this is important: We will be mindful that for all the opportunities offered by the unavoidable shift to clean energy, not every American worker will win out in the near term. Some livelihoods and communities that relied on old industries will be hit hard. We won’t leave those Americans behind. We’ll provide our fellow Americans with pathways to new, sustainable livelihoods, and support as they navigate this transition. Right after taking office, President Biden created the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization. It’s working across the government to identify and deliver federal resources to revitalize the local economics of coal, oil, gas, and power plant communities, and ensure benefits and protections for workers in those same communities. And as part of his American Jobs Plan, the President proposed a $16 billion upfront investment to put hundreds of thousands of people to work in union jobs plugging abandoned oil and gas wells and mines. If we can stay true to these principles while meeting our climate targets, we’ll demonstrate a model that other countries will want to partner with and follow. With those values in mind, here’s how the State Department will leverage our foreign policy to deliver for the American people on climate. First, we’ll put the climate crisis at the center of our foreign policy and national security, as President Biden instructed us to do in his first week in office. That means taking into account how every bilateral and multilateral engagement – every policy decision – will impact our goal of putting the world on a safer, more sustainable path. It also means ensuring our diplomats have the training and skills to elevate climate in our relationships around the globe. Now, what it does not mean is treating other countries’ progress on climate as a chip they can use to excuse bad behavior in other areas that are important to our national security. The Biden-Harris Administration is united on this: Climate is not a trading card – it’s our future. I am particularly delighted that President Biden named my friend John Kerry to serve as our Special Presidential Envoy for Climate. No one is more experienced or effective in convincing other countries to raise their climate ambitions. We need the whole world focused on taking action now, and through this decade, to promote the achievement of net-zero global emissions by 2050. I am with John 100 percent in this effort. The leaders of our other U.S. Government agencies, they are as well. And his leadership will be indispensable in weaving climate into the fabric of everything we do at the State Department. Second, as other countries step up, the State Department will mobilize resources, institutional know-how, technical expertise from across our government, the private sector, NGOs, and research universities to help them. In the last few weeks alone, we announced new funding for clean energy entrepreneurship and more efficient renewable energy markets in Bangladesh and to help India’s small businesses invest in solar energy. These investments move us toward our climate goals and bring energy access to people who had never had it before. Third, we’ll emphasize assisting the countries being hit hardest by climate change, most of which lack the resources and capacity to handle its destabilizing impacts. Now, that includes Small Island Developing States, a number of which are literally sinking into the ocean because of rising sea levels. In 2020, only 3 percent of climate finance was directed toward these countries. We’ve got to fix that. To that end, America is deploying experts and technology to vulnerable islands in the Pacific and the Caribbean to improve early warning and response systems, and we’re investing in building resilience in areas like infrastructure and agriculture. Fourth, our embassies will lead on the ground. They already are – helping governments design and implement climate-smart policies, while looking for ways to draw on the unique strengths of America’s public and private sectors. Just last month, the U.S. company Sun Africa broke ground on two massive solar energy facilities in Angola, including the 144-megawatt Biopio site. When finished, it will be the biggest solar facility in all of Sub-Saharan Africa. The project will provide enough power for 265,000 homes and eliminate 440,000 gallons of carbon-intensive diesel fuel that Angola imports and burns each year. Plus, this project is expected to use around $150 million in solar energy equipment exported from the United States. This effort is good for the Angolan people, good for climate, and good for American jobs and business. And it simply wouldn’t have happened if not for the efforts of our diplomats. Fifth, we will use all the tools in our kit to make U.S. clean energy innovators more competitive in the global market. That includes leveraging instruments like the financing provided by the Export-Import Bank to incentivize renewable energy exports; the proposed expansion of tax credits for clean energy generation and storage in the President’s American Jobs Plan; and the Administration’s ongoing efforts to level the global playing field for American-made products and services. Support like these can have an outsized impact, particularly because the current market for renewables is only a small fraction of the market to come. Beyond solar panels, wind turbines, batteries, there are more than 40 additional categories of clean energy, including clean hydrogen, carbon capture, and next-generation renewables like enhanced geothermal energy. No one has staked a dominant claim to these promising technologies yet. And, with a lift from our domestic and foreign policy, every one of them can be American-led and American-made. A Massachusetts start-up called Boston Metal shows how this can be done. The company pioneered a new process that can produce steel and other metals more efficiently and at lower costs, while also producing less pollution. Most of the U.S. steel sector already uses clean technologies, but the company’s CEO, a Brazilian immigrant, saw an untapped market in countries like Brazil, where Boston Metal is partnering with industry to replace older, dirtier ways of making steel. This company is creating good-paying, quality jobs in the United States. Steel is a $2.5 trillion global industry, and many of the world’s producers will need to make a similar leap. America can help them do it. Sixth, our diplomats will challenge the practices of countries whose action – or inaction – is setting the world back. When countries continue to rely on coal for a significant amount of their energy, or invest in new coal factories, or allow for massive deforestation, they will hear from the United States and our partners about how harmful these actions are. And finally, we’ll seize every chance we get to raise these issues with our allies and partners, and through multilateral institutions. At NATO, for example, there is consensus that we need to adapt our military readiness for the inevitability of climate change and reduce the reliance of the Allies’ forces on fossil fuels, which is both a vulnerability and a major source of pollution. I know that Secretary General Stoltenberg, who has called climate a “threat multiplier,” is as serious about addressing climate change as we are. We will convey a strong message to the meeting of the G7 next month, whose members produce a quarter of the world’s emissions. And I’ll also represent the United States at next month’s ministerial meeting of the Arctic Council, where I’ll reaffirm America’s commitment to meeting our climate goals and encourage other Arctic nations to do the same. All of these efforts, at home and abroad, will allow us to lead from a position of strength when the world comes together in November for the United Nations Climate Conference in Glasgow. I spend a great deal of my time focused on threats to America’s security and interests – aggressive actions by Russia or China, the spread of COVID-19, the challenges facing democracies. But an equally grave threat to the American people – and an existential one over the long term – can be seen right here, on the Chesapeake Bay, where the costs of climate change are already manifesting themselves. Yet from this very same place, we can also see examples of American innovation and leadership that – if taken to scale – can prevent a climate catastrophe and benefit American workers and communities. Maryland has committed to cutting the state’s emissions by at least 40 percent by 2030, and to 100 percent clean energy by 2040. Maryland also offers farmers strong incentives to plant cover crops, which help trap carbon dioxide. More than 40 percent of the state’s farmers are now using these crops. And countless others are doing their part to prevent climate change on the Bay – and often benefiting American jobs in the process. Just consider the Merrill Center building right here, from which I speak. When it opened 20 years ago, it was the first LEED Platinum Building in the entire world, a U.S. standard for energy efficiency that has since become the gold standard globally. Around a third of its energy comes from solar power. It uses 80 percent less water than most buildings its size. Nearly half of the building – the building materials, excuse me, came from within 300 miles. Its design saves $50,000 a year in energy costs alone. A newer facility the Chesapeake Bay Foundation built in 2014 is even more efficient, reflecting advances in American design and manufacturing. It produces more energy than it consumes, and all the water it uses is captured rainwater. Its solar panels come from Oregon, its wind turbines from Oklahoma. These solar panels and wind turbines are American-designed, American-owned, American-built. And people from around the world have come to study these buildings. It’s changes like these that will help preserve the Bay as we know it, and all of the communities and livelihoods that it sustains. This is the blueprint for American leadership on climate. Bringing together innovation from government and the private sector, communities and organizations. Not just meeting targets for controlling climate change, but doing it in a way that’s open, that’s a good investment, that creates opportunities for American workers. The climate crisis we face is profound. The consequences of not meeting it would be cataclysmic. But if we lead by the power of our example – if we use our foreign policy not only to get other countries to commit to the changes necessary, but to make America their partner in implementing those changes – we can turn the greatest challenge in generations into the greatest opportunity for generations to come. Thanks for listening.

### 1NC OFF

Next off is T

#### Expansions to ‘core antitrust laws’ must apply economy wide---they don’t.

Gerber ’20 [David; October; Distinguished Professor of Law at Chicago-Kent College of Law, Illinois Institute of Technology; Oxford Scholarship Online, Competition Law and Antitrust, “What is It? Competition Law’s Veiled Identity,” Ch. 1, p. 14-15]

C. A Core Definition

The Guide uses the terms “competition law” and “antitrust law” to refer to a general domain of law whose object is to deter private restraints on competitive conduct. We look more closely at the terms:

1. “General”—The laws included are those that are applicable throughout an economy and thereby provide a framework for all market operations (there are always some exempted sectors). Laws dealing only with specific markets (e.g., telecommunication) do not play that role.

2. “Domain of Law” here refers to a politically authorized set of norms and the institutional arrangements used to enforce them.

Is it law—or is it policy? The relationship between “competition law” and “competition policy” is not always clear. Often the terms are used interchangeably, but there can be important differences between them. Both can refer to norms used to combat restraints on competition, but they represent two different ways of looking at the relevant laws, and the differences can influence how norms are interpreted and applied. “Law” implies that established methods of interpretation are used to interpret and apply the norms and that established procedures are the sole or primary means of enforcing and changing the norms. In this view, the norms are a relatively stable component of a legal system. Thinking of those same norms as “policy,” on the other hand, implies that they are a tool of whatever government is in power and that it can use and modify them as it wishes.

3. “Restraint” refers to any limitation imposed by one or more private actors that reduces the intensity of competition in a market.

4. “Competition” refers to a process by which firms in a market seek to maximize their profits by exploiting market opportunities more effectively than other firms in the market.

#### Vote neg for limits—endless number of sectors make case negs impossible.

### 1NC OFF

Next off is ConCon:

#### The United States, through a limited constitutional convention called for by at least thirty-four of the States and ratified by at least thirty-eight of the States, should increase prohibitions on anticompetitive business practices conducted against wholly owned foreign subsidiaries of United States based parent companies.

#### It solves, causes follow on, and avoids politics.

Cooper ’21 [Charlie; 2021; President of Get Money Out Maryland and Retired Human Services Administrator; Get Money Out Maryland, “A Convention of States is Wise and Safe,” <https://www.getmoneyoutmd.org/peoples_convention>]

When Congress fails to represent the people who elected them, the U.S. Constitution provides a path for the people to propose a Constitutional amendment through the states. Article V lays out two equal alternatives:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States..."

Thus there are only two ways to amend the U.S. Constitution:

* A proposal passed by two-thirds of each chamber of Congress, then ratified by three-quarters of the states
* A proposal passed by a convention called by two-thirds of the states, then ratified by three-quarters of the states

As former U.S. Supreme Court Justice Antonin Scalia said about this second option: "[When] the Congress is simply unwilling to give attention to many issues which it knows the people are concerned with—and which issues involve restrictions upon the federal government’s own power—I think the founders foresaw that and they provided this method in order to enable a convention to remedy that.”

In a 2016 report, the Congressional Research Service noted that an Article V Convention “was included [in the Constitution] to provide the people, through applications by their state legislatures, with the means to call a convention having the authority to consider and propose changes to the Constitution, particularly if Congress proved incapable of, or unwilling to, initiate amendments on its own."

All 27 Amendments to the Constitution were passed using the first of the two methods: Congress proposed an amendment, then two-thirds of state legislatures ratified it. So why is a convention of states necessary to obtain a 28th Amendment? As George Mason argued when he proposed the convention language: It is necessary when Congress itself is the problem.

The 17th Amendment is the best example of a convention campaign working effectively to add an amendment to the U.S. Constitution. The 17th Amendment, which allows for the popular election of U.S. Senators, came about in reaction to Senators being appointed by state legislatures until the early 1900s. That process was widely recognized as corrupt due to the disproportionate influence of wealthy individuals and special interests. In fact, the Senate became so corrupt that individual senators took nicknames such as the "Coal Senator," the "Bank Senator," and the "Oil Senator."

Citizens responded to this overt venality by using every tool of democracy available including petitions, local legislation, ballot referendums, educational campaigns, resolutions calling on Congress to propose a Constitutional amendment, and finally, after all else failed, applying for an Article V Convention to propose an amendment.

When that movement was just one state shy of the two-thirds needed to force a convention on this topic, Congress reacted by proposing an amendment requiring the direct election of U.S. Senators for the states to ratify—resulting in the 17th Amendment to the U.S. Constitution. The Congressional Research Service has called this technique the "prodding effect." It worked then, and it could work today.

Arguments Against an Article V Convention

Both left- and right-leaning groups—Common Cause and the John Birch Society among them—have argued vehemently against the use of Article V Conventions. They say correctly that such a convention has never been used to amend the Constitution. Never having held an Article V Convention, however, is hardly a reason to avoid one, since the framers provided this Constitutional alternative in anticipation of a time when Congress fails to represent the people. Opponents also fear the prospect of a "runaway" convention, where any topic could be proposed, possibly threatening the process for ratifying amendments or the Constitution itself. See authoritative answers to these arguments below.

Experts Respond

The Constitution’s framers foresaw a time—when Congress itself is the problem—for citizens to have the Constitutional authority to pursue an amendment through the states. That time is now: Supreme Court rulings in Citizens United and other cases have created no-holds-barred politics in which Big Money steamrolls the democratic process. A Congress that is the result of this increasingly lawless system can hardly be expected to propose an amendment to dismantle that system without an extraordinary level of public pressure. A citizens’ drive toward a convention of states under Article V would apply such pressure.

Government and legal agencies have responded to critics opposing a convention of states:

* Criticism: Individual delegates could bring up matters unrelated to those the convention was originally called to address.

Response #1: For a convention to stray from its original topic, delegates would have to propose topics that were not included in the original resolution approved by their state legislatures. Nine states to date have made it a felony for any delegate to a state-called convention to call for or vote on any topic that was not part of the original convention topic.

Response #2: The Justice Department concluded in 1987 that Article V Conventions can be called "for limited purposes, and that a variety of practical means to enforce such limitations are available." In addition, "Congress may decline to designate the mode of ratification for those proposed amendments that it determines are outside the scope of the subject matter limitation and therefore beyond the authority of the convention to propose."

### 1NC OFF

Next off is Cap:

#### Antitrust is fundamentally rooted in an idealization of market ordering as neutral. The aff is entrenched in law-and-economics thinking which privileges capital over workers and guarantees environmental destruction

Britton-Purdy, 20

(Jedediah, William S. Beinecke Professor of Law at Columbia Law School, David Singh Grewal, Professor of Law at Berkeley Law School, Amy Kapczynski, Professor of Law at Yale Law School, and K. Sabeel Rahman, Associate Professor of Law at Brooklyn Law School and President, Demos, “Building a Law-and-Political-Economy Framework: Beyond the Twentieth-Century Synthesis”, *Yale Law Journal, 129*(6), 1801-1802, (2020), https://heinonline.org/HOL/Page?handle=hein.journals/ylr129&div=36&g\_sent=1&casa\_token=&collection=journals)\\JM

B. The Law of the Economy Remade The many criticisms of this way of reasoning did not halt the influence of modern law and economics in legal thought. Law and economics spanned substantive areas of law, delivering a simplicity and method that any first-year student could learn and that a wave of dedicated scholarship on alternative fieldspecific idioms did little to displace. The result was far from a comprehensive defense of market ordering, much less one that overcame the many telling criticisms of the normative case for law and economics that issued in the 198os.59 Nonetheless, adherents of law and economics reorganized an array of legal fields. They did so using a variety of argument types, sometimes shifting among them. Arguments that idealize a version of market ordering as neutral and "good for us all," which would characterize the elevation of consumer welfare in antitrust law or efficiency reasoning in intellectual property, are market fundamentalist. Arguments to the effect that the state simply cannot be trusted to make substantive judgments about value and distribution on account of the dynamics revealed by public-choice theory take the form of market tragedy. Here, market-modeled insight reveals that the market is the best we can do, perhaps regrettably but ineluctably nonetheless. This style of argument persistently accompanied the more optimistic market-fundamentalist moves, enabling scholars and advocates to insist without fear of contradiction that economic policy deviating from market models would invite rent seeking. The combination of the first two supported a third, subtler style of argument: market hegemony simply assumed that "serious" law and policy thinking would adhere to market models, as in environmental law's focus on cost engineering to the exclusion of infrastructure investment and political engagement. The latter kinds of proposals simply have no place at the table, and raising them suggests the discrediting failure to understand that market reasoning provides the authoritative and exclusive way of engaging urgent questions. Antitrust law, our first example, was remade to address a drastically narrowed conception of the problem of monopoly.60 Market power was to be disciplined only when it interfered with consumer welfare, and sometimes, still more narrowly, only when it increased prices. 61 Historically, antitrust law and scholarship took a broader view: it emerged from a concern about the power of large corporate entities to influence politics and not just prices, and imposed structural limits and bright-line rules to guard against an array of possible political-economic implications of firm dominance.6 2 Replacing this political-economic version of antitrust, the field came to target a much narrower conception of market collusion. The result is a regime that privileges firms as favored instances of (vertical) coordination but repudiates certain forms of (horizontal) coordination among market participants and certain workers (such as independent contractors).63 In the name of supposed efficiency, antitrust now blesses mergers and big firms but restrains cooperation among Uber drivers and church organists. 64 This remade antitrust law has in turn helped to remake the corporate world, facilitating the substantial new forms of market concentration and priority for capital over labor that we previewed above. Intellectual-property law is another field that was remade -indeed, made by law-and-economics thinking. The term "intellectual property" itself was hardly used before the 196os, and its use exploded only in the 198os and 1990s.65 "Intellectual property" gathers together distinct legal regimes under the banner of information production. These regimes were once thought to be about scientific and technical advancement (patent), the cultivation of learning and culture (copyright), and the enforcement of standards of commercial morality (trademark and trade secrets). Each of these fields responded to a set of distinctive institutional contexts and sought to promote forms of flourishing that were measured against distinctive political values. But economic thinking - the notion that information has "public goods" qualities of nonrivalry and nonexcludability-joined these radically different legal regimes together into one subject and rendered the pursuit of efficiency their aim. It inaugurated a new language for debating the contours of these laws and redescribing some of their features in a manner that empowered rightsholders. Leading law-and-economics scholars tended-especially early on-to presume that stronger rights were good, applying a simplistic version of the command to internalize externalities, rather than any sophisticated analysis of information economics. 66 Critics concerned with overpropertization came to argue against these claims in the same efficiency-oriented register, in ways that subtly but consequentially shaped the debate and the law. The most powerful argument for "fair use," for example -the doctrine in copyright law that permits copying for criticism, commentary, and educational uses - became the argument that it resolved "market failures."6 7 Transaction costs were assumed to be the measure of the reach of this critical public safeguard, and a statute that marked out a set of uses that had much more to do with democratic citizenship and distribution was slowly (and, we might say, undemocratically) rendered responsive to arguments from efficiency.68 In a host of other domains, too, the law of intellectual property was subtly revised under the sign of a set of claims about efficiency, in ways that empowered corporate owners of intellectual property over workers and consumers and set the stage for today's extraordinary forms of platform power.69 Environmental law was also transformed, with enormous and perhaps irreparable consequences for the planet. The field emerged from a long history of legislation over public lands and natural resources that had always been closely engaged in questions of public value and collective identity: it was generally understood that making a landscape was part of making a nation. 7 Modern environmental law, constructed in a wave of legislation between 1970 and 1977, began amid legislative and popular debate over fundamental questions of political economy: what kind of human flourishing could be compatible with the flourishing of the larger living world?" By the 198os, however, both scholarship and policy were increasingly bound to public-choice models of legislation and cost-benefit assessment of policy.72 In recent decades, the looming climate crisis has met with scholarship and political initiatives shaped by the dominance of economic method: meditations on the public-choice challenges to climate action, or - at the outer limits of what we could be supposed to achieve -proposals to change the cost structure of the economy through a carbon tax or cap-and-trade initiative." Such scholarship is admirable in its constructive aim to guide a basic reorientation of the economy. But, it has steadily avoided the demand for massive public investment and reconstruction of infrastructure that characterized earlier interventions as fundamental as this one and that have emerged as necessary to any rapid transition to a sustainable economy.74 It has also avoided engagement with the fundamental questions of value that are necessarily implied in political judgments about what should count as "costs" and "benefits" in a reconstruction of the economy that is, by virtue of climate dynamics, also a global reconstruction of the natural world.71 Most fundamentally, it has also obscured from view the kinds of political mobilization that are essential for engaging these fundamental questions. In a host of other fields, similar moves have been made with varying degrees of success. In civil procedure, law and economics led to reforms, often at the state level, that reined in the plaintiffs' bar, limited class-action lawsuits, and empowered judicial "managerialism" 76 and, more recently, arbitration.7 7 In corporate law, the shift to an ideal of shareholder-value maximization, while not legally required, became hegemonic. 78 In international economic law, a neoliberal conception of cross-border activity gradually became dominant, institutionalized in the immediate post-Cold War context in new trade and investment treaties that served to limit the possibility of political interference with cross-border economic activity.79 In fields where law and economics came to dominate, it helped to turn legal scholars' attention persistently to certain questions. Law and economics centered the identification and elimination of transaction costs, channeling the Paretian utopia of Ronald Coase's famous frictionless plane of exchange-a kind of heaven, not of legal concepts (as Felix Cohen had wryly described classical legal liberalism) but of general equilibrium. The emphasis on externalities reframed the conflict among competing interests that had properly struck realists as central to law's concerns as a failure of accounting or pricing, a failure in properly rendering the boundaries of a potential transaction. Coase's point that a householder can harm a factory by reducing its profits just as a polluting factory can harm a downwind householder was familiar, of course, from Hale's description of all exchange as mutual coercion. The difference was that law and economics recast this relativizing not as the starting point for a judgment about power and legitimacy but as a nonproblem. We lost the ability to see certain commitments in our law-whether educational exceptions to copyright law, or commitments to clean air - as either reflecting or calling forth certain kinds of political values, or as taking a side in disputes that were inevitably struggles for power. That move, of course, was not neutral. It expressed a particular view of power and legitimacy, one that viewed market ordering as tending to diffuse and neutralize power and as earning legitimacy by producing both a wealthy society and an appropriately constrained state.

#### Capitalism is unsustainable, collapsing, and guarantees environmental extinction—resource depletion and pollution surpass tech advancements

Smith, 21

(Tony, Professor emeritus of Philosophy at Iowa State University, "The Deadly Metabolic Rift", Against the Current No. 211, March/April 2021, https://againstthecurrent.org/atc211/the-deadly-metabolic-rift/)

Monthly Review editor and University of Oregon professor of sociology John Bellamy Foster has written several books and numerous articles, beginning with Marx’s Ecology: Materialism and Nature (2000), exploring the relevance of classical Marxist thought to grasping today’s existential environmental crises. Co-author Brett Clark is professor of sociology and sustainability studies at the University of Utah. A small subset of the authors’ main claims will be highlighted here. (1) There is indeed “an existential crisis in the human relation to the earth.” (1) Over the last 10,000 years planetary conditions fluctuated within relatively narrow and stable boundaries. The entire history of settled human civilizations has unfolded in this “Holocene” period of our planet’s life. This period has now concluded. In a number of areas crucially important to humanity, these boundaries have been (or are about to be) transgressed: climate change, ocean acidification, stratospheric ozone depletion, nitrogen and phosphorus cycles, global freshwater use, changes in land use, biodiversity loss, atmospheric aerosol loading, and chemical pollution. (244) Human activity is the main causal factor explaining this development, leading earth scientists to refer to the new period as the “Anthropocene.” The authors of an important study cited by Foster and Clark warn that if the upper-range of projections of global warming were to occur it “would severely challenge the viability of contemporary human societies.”(1) When we recall how little has been done to prevent increased global warming, and how y-it is only one of the numerous planetary transformations imposing comparable risks on human societies, talk of an “existential threat” is fully warranted. (2) There is no “technological fix” for this existential crisis. The more intelligent representatives of capital do not deny that serious environmental challenges must be faced. For them, however, this is best done by working with capitalist markets and not against them. A carbon tax on polluting firms would give companies a strong market incentive to lower their costs by using technologies requiring fewer carbon emissions. Having to purchase rights to release carbon into the atmosphere in carbon markets would supposedly have the same effect, in their view. There are also calls for the state to support firms undertaking massive geoengineering projects, such as sending aerosols into the upper atmosphere to reflect away the sun’s rays before they increase the planet’s surface temperature. Another proposal is to install technologies capable of extracting and sequestering significant amounts of carbon from the atmosphere. As Foster and Clark remind us, technological change in capitalism tends to develop “greener” technologies without any special spur. Over the course of the industrial revolution, for example, each succeeding generation of steam engines became “greener” over time, burning less coal per unit of output than the one before. The total amount of coal burned in England increased nonetheless. (245) This “Jevons paradox” (named after the British political economist who first brought it to attention) is easily explained: the increase in the number of units produced overwhelmed the reduction of coal use per unit, leading to more coal being burned overall. Is there any reason to think that introducing technologies “greener” than those employed today won’t have a similarly paradoxical result? Investors in the stock market, whose pricing of oil companies’ stocks assumes that the last drop of oil in the ground will be profitably extracted, do not seem to think so. (243-4) Engineering Disaster Regarding geoengineering projects, Foster and Clark repeat the warning of many scientists that such unprecedented technological experiments would almost surely have pernicious consequences as harmful as the harms they are supposed to alleviate. (278) Further, their massive scale would leave few resources for other social needs. An infrastructure capable of handling annual throughput 70 percent larger than that handled currently by the global crude oil industry would be required, along with ridiculous quantities of water — 130 billion tons annually just to capture and store U.S. emissions. (280) Far from being a step towards socialism (as some techno-utopians of the left hold), government funded geoengineering would simply solidify an environmental industrial complex alongside the military industrial complex, the pharmaceutical industrial complex, and other complexes of big capital. (281-2) Finally, once again, climate change is only one way in which present environmental trends will soon “severely challenge the viability of contemporary human societies.” In all the other cases too the sorts of technologies that have been developed, and the ways they have been used, have been part of the story of how we got to the present “existential crisis.” Unless we figure out why that has been the case and eliminate that reason, to think we will be saved by technologies is to indulge in fantasy. (3) Capitalism is the fundamental cause of the existential crisis in the relation between humans and the earth. All living beings appropriate resources from their environment and all generate wastes back into their surroundings. For a species to successfully occupy an environmental niche, the rate at which it depletes resources from its ecosystem must correspond to the rate they are replenished, and the rate it generates wastes must be aligned with the rate wastes can be processed. When the social forms of capitalism are in place, neither condition is met, creating the metabolic rift between human society and its environment. Capitalist market societies are distinguished from other societies in that products generally take the form of commodities sold for a profit. Any capitalist producers who do not attempt to make as much profit as possible, as fast as possible, will find themselves losing market share to those who do, if not forced out of existence altogether. Making as much profit as possible, as fast as possible, generally means producing and selling as many commodities as possible, as fast as possible. This accelerated temporality is in tension with the temporality of our environment; resources tend to be depleted at a faster rate than they can be replenished, and wastes generated at a faster rate than they can be processed. From this standpoint the “Jevons Para­dox” is less a paradox than a general description of how capitalism works. Any environmental benefits from technologies using fewer natural resources or generating fewer wastes per unit of production necessarily tends to be overwhelmed by the increase in the number of commodities produced in response to the “Grow or die!” imperative so ruthlessly imposed by the demands of capital accumulation. From Local to Global Destruction In the early phases of capitalist development, environmental destruction was relatively localized. After a handful of centuries of global expansion, it has sucked in re­sources from the natural world and spewed out wastes on a global scale, creating a fundamental rift in the metabolic relationship between human beings and the earth that is our home.

#### Vote neg to endorse the commons – collective solidarity works and the only way to avoid extinction

Rose, 21

(Nick, Executive Director of Sustain: The Australian Food Network, PhD in Political Ecology from RMIT University, “From the Cancer Stage of Capitalism to the Political Principle of the Common: The Social Immune Response of “Food as Commons”.", *International Journal of Health Policy and Management* (2021), doi:10.34172/ijhpm.2021.20)

Mainstream policy proposals for a ‘Green New Deal’ have been premised on the basis that a ‘decoupling’ of material resource use, and associated pollution, from continued economic growth, is possible.54,55 This premise has in turn come under sustained attack in recent years, as efforts to articulate a ‘fair low-carbon transition’ have gathered pace.56- 58 Increasingly, the very notion of ‘growth’ itself has become problematised as being at the root of the crises we face. As John Barry puts it: “The green critique of orthodox economics must become a clearer critique of capitalism itself…Any planned economic contraction (in the developed world) as a response to climate change…must therefore be viewed for what this is and means: a transition away from capitalism since a non-growth/ degrowth capitalism is impossible as well as undesirable. Carbon-fuelled capitalism is destroying the planet’s lifesupport systems and is systematically liquidating them and calling it ‘economic growth’…A post-growth critique must necessarily lead to a post-capitalist alternative and related political and ideological struggle.”59 In the context of discursive and political struggles over endless and thus exponential economic growth, McMurty’s framing of ‘the cancer stage of capitalism’ has both explanatory and discursive power. McMurty insists that his framing is not a provocative metaphor or a rhetorical flourish. Rather, he argues that the ‘seven defining properties of a cancer invasion’ at the cellular level in an individual human being can also ‘be recognised at the level of global life-organisation [and that] this is the pathological core of our current disease condition [as a species].’9,60,61 The central proposition is that the exponential and metastisizing growth of capitalism, which takes place on the basis of relentless exploitation of human populations and ecosystems, mirrors in all essential respects the behaviour of cancer cells within an individual human body.61 An essential point for McMurtry is the inability of the host’s immune system to recognise the disease and respond effectively to it. This becomes the core of his argument that the ‘social immune system of the civil commons’ is perhaps the only mechanism available to humanity to save ourselves – and indeed the living planet – from the metastasizing political economy of contemporary capitalism.61 Capitalism as a form of social cancer afflicting humanity, yet which at the same time is internalised and naturalised as ‘normal’ even as its predations move us closer to ecosystem and thus social collapse, captures much that it is important about the contemporary situation. What is fails to identify is the ‘space-time compression’ of late capitalism described by David Harvey and Frederick Jameson, and the cultural and ideological consequences of the accelerated and distorted temporalities which thus characterise contemporary life.62,63 In the following passage, Joel Kovel succinctly explains the interplay between the dynamics of acceleration and commodification, and the cultural effects this produces: “The culture of advanced capital aims to turn society into addicts of commodity consumption, a condition ‘good for business’ and correspondingly bad for ecosystems. The evil is twofold, with reckless consumption leading to pollution and waste, while the addiction to commodities builds a society unable to comprehend, much less resist, the ecological crisis. Once time is bound in capitalist production, the subtle attunement to natural rhythms necessary for an ecocentric sensibility becomes thwarted. This allows the suicidal insanity of ever-expanding accumulation to appear as natural. People with mentalities warped by the casino complex are simply not going to think in terms of limits and balances, or of the mutual recognition of all beings. This helps account for the chorus of hosannas from presumably intelligent authorities at the nightmarish prospect of a doubling of economic product in the next twenty years.”29 If the accelerating biophysical and social contradictions of the capitalist food system were substantively manifesting a decade ago, the advent of the COVID-19 pandemic has brought them into sharp relief.64 Where-ever one turns, the pandemic and the responses to it reveal a fragile food system enmeshed in crisis. From extraordinary levels of food waste caused by supply chain disruptions, to sharply rising levels of food insecurity, to widespread injury and death resulting from exposure to the pandemic amongst highly exploited food system workers, to the origins of the virus itself linked in part to the global grain-livestock and factory farming complex, COVID-19 is a ‘wake-up call for the food system.’65-75 More broadly, the negligence with which governments in Europe, Britain and the United States handled the pandemic, leading to high rates of infection and death that would have been preventable had public health, rather than economic activity, been prioritised, led the British Medical Journal to accuse those in charge of ‘social murder.’76 It is important to note that while the burden of suffering in 2020 fell disproportionately on low-income sectors and people of colour, with as many as 500 million more people falling into poverty, the world’s billionaires experienced a bonanza year, with their collective wealth increasing by nearly $4 trillion.77 Having laid bare the cause of our social and ecological malady – capitalism in its cancer stage - the question becomes: what is to be done? Part 3: The Political Principle of the Common Proceeding from diagnosis to possible cure, McMurty sees cause for hope in what he calls the ‘social immune system of a consciously constructed [civil] commons of social life organisation and universal goods upon which the deeper and long-term development of humanity [has] always depended.’9 This ‘social immune system’ embraces the institutions and traditions that made life bearable and satisfying for growing numbers of working people emerging from the barbarity of early industrial capitalism. However, it is precisely these institutions and traditions that have been under sustained attack in recent decades.17 The reappearance of the commons can also be understood as a latter-day manifestation of Polanyi’s ‘double movement:’ the reassertion of ‘movements for social protection generated by the failure of the self-regulated market.’79 The last twenty years have seen a proliferation of literature valorising the return of the commons as a practice of creative resistance in the face of modern-day enclosures, such as privatisations and austerity budgets. 80-82 One of the leading commons theorists and advocates, David Bollier, describes the commons as ‘a wide variety of self-organised social practices that enable communities to manage resources for collective benefit in sustainable ways… As a system of [basic needs] provisioning and governance, commons give participating members a significant degree of sovereignty and control over important elements of their everyday lives.’83 Bollier thus argues that ‘these more equitable, ecologically responsible and decentralised ways of meeting basic needs represent a promising new paradigm for escaping the pathologies of the Market / State order and constructing an ecologically sustainable order.’83 Bollier, his co-theorist Silke Helfrich and others, build on the legacy of Elinor Ostrom in conceptualising and analysizing the ‘commons’ as a set of goods or common-pool resources such as ‘the commons’ in the form of land, or a digital commons in the form of opensource software.84,85 Bollier and others look to these emerging diverse practices and see in them to potential to transition to a ‘market/state/commons triarchy,’ in which the market persists but the state becomes a ‘partner state’ ‘assisting not just the market sector but also the commons sector, working to ensure its health and well-being.’84 While Bollier argues for the transformative potential of the commons as an ongoing process that may at some point displace the market as the dominant mode of economic exchange and interaction, this perspective assumes the persistence of the ‘market/state order’ for an indeterminate time. Further, while Bollier acknowledges the current close affinity between the market and the state, and that therefore the state will likely be unwilling to embrace its new role as a ‘Partner State,’ there is no adequate theorisation, based on an analysis of class forces, configurations of power relations, and the dynamics of contemporary capitalism and crisis, to explain how such a transition would actually occur. Such a theorisation, combined with a strategy is offered by Erik Olin Wright.86,87 Similar to the anti-totalizing Community Economies Collective forming in the wake of JK GibsonGraham’s scholarship,88 Wright posits that at any particular point in time, in any given society, there is not a singular totality of ‘capitalism,’ but rather a combination of capitalism (private ownership of the means of production and market allocation of resources), statism (state ownership of the means of production and state allocation of resources) and socialism (social ownership of the means of production and sociallycontrolled allocation of resources).87 While capitalism has been the dominant form in most places, certainly over the past 40 years, socialist economic and social practices are observable in forms such as worker-owned cooperatives, community land trusts, community supported agriculture and community gardens. These are embryonic expressions of post-capitalist or proto-socialist economic and social forms which, given the inherent contradictions and tensions within capitalist social relations and a broader conjuncture characterised by the need to take large-scale coordinated action to deal with climate change, as well as manage social tensions and conflicts arising from mass unemployment due to technological change, may over time have the systemic effect of not only ‘taming’ capitalism but also ‘eroding’ it and thus bringing about its transformation.87 Conversely, Wright explicitly rejects the feasibility or desirability of ‘smashing’ capitalism through a revolutionary rupture, arguing by reference to history that such ruptures have resulted in authoritarian states that in practice have been the antithesis of socialism defined as ‘pervasive economic democracy.’87 Silvia Federici provides a longer historical perspective, noting that ‘commoning is the principle by which human beings have organised their existence for thousands of years;’ and that to ‘speak of the principle of the common’ is to speak ‘not only of small-scale experiments [but] of large-scale social formations that in the past were continent-wide.’87 Hence a commons-based society is neither a utopia or reducible to fringe projects, and the commons have persisted despite the many and continuing enclosures, ‘feeding the radical imagination as well as the bodies of many commoners.’87 Federici acknowledges that commons and practices of commoning are diverse, that many are susceptible to cooptation and many are consistent with the persistence of capitalism; indeed some, such as charities providing social services (including foodbanks) during the years of austerity budgets in the United Kingdom (2010-2015), reinforce and stabilise capitalism.87 What matters to Federici is the character and intentionality of the commons as anti-capitalist, as ‘a means to the creation of an egalitarian and cooperative society…no longer built on a competitive principle, but on the principle of collective solidarity [and commitments] to the creation of collective subjects [and] fostering common interests in every aspect of our lives.’87 Federici’s analysis resonates with the political thought and proposals developed by Dardot and Laval in their 2018 work, ‘On Common: Revolution in the 21st century.’11 For Dardot and Laval, the common is likewise understood as a principle of political struggle, a demand for ‘real democracy’ and a major driving force behind the emerging articulation of a political vision and programme that transcends and overcomes the straitjacket logic of neoliberal ideological hegemony and its ‘policy grammar’ which appears to foreclose all alternatives and lock us forever into a capitalist realism in which ‘it is easier to imagine the end of the world than it is to imagine the end of capitalism.’89 Eschewing Bollier’s ‘triarchy’ of a market/state/ commons coexistence, Dardot and Laval argue for a politics of the common based on an engaged citizenry that directly participates and deliberates in all decisions which impact it, and in the process not merely transforms the institutions responsible for the management of services and allocation of resources, but creates new institutions and new ways of being in the world.11 Dardot and Laval describe this form of politics as ‘instituent praxis’: the common, they argue, is ‘not produced but instituted.’11 This acknowledges the conventional understanding of Ostrom, Bollier and others of ‘the commons’ as residing in the rules – the laws – that a community establishes for the collective management and use of shared resources, but extends it much further and in a more radical direction. The essence of the commons, they argue, is not in the goods per se such as land or a forest or a seed bank ‘held in common,’ but rather in the process of their establishment as well as the ongoing negotiation that will surround their use and governance. Hence, Dardot and Laval distinguish the commons from the ‘rights’ tradition of property, arguing that ‘the commons are above all else matters of institution and government…the use of the commons is inseparable from the right of deciding and governing. The practice that institutes the commons is the practice that maintains them and keeps them alive and takes full responsibility for their conflictuality through the coproduction of rules.’90 To ‘institute’ in this context should not be misunderstood as ‘to institutionalise [or] render official;’ rather it is ‘to recreate with, or on the basis of, what already exists.’ 90 This messy, conflictual and evolving process is what Dardot and Laval insist will ultimately bring about a revolution, not in the form of a violent uprising or insurrection, but rather through the ‘reinstitution of society’ via the transformation of politics and economy from its current state of ‘representative oligarchy’ to full participatory and deliberative democracy.11 Such a vision is premised on a mass politicisation of society; in effect a return of mass popular political contestation and a turn away from the postpolitical era of the neoliberal consumer.91-92 How do such theorisations translate to the food system, and its prospects for transformation? Some examples of food system initiatives potentially aligned with an anti- and post-capitalist trajectory, and as embodying dimensions of the commons to a greater or less extent, have been noted earlier. Silvia Federici, for example, identified ‘urban community gardens in particular as promising projects because [in some instances] they merge women’s emancipation, land redistribution and revolts against neoliberal capitalism.’93 In 2018, the Routledge Handbook of Food as a Commons was published as ‘the first comprehensive review and synthesis of knowledge and new thinking on how food and food systems can be thought, interpreted and practice around the old/ new paradigms of commons and commoning.’10 The editors and their contributing authors agree that the re-emergence of discourses and practices of reclaiming ‘the commons’ (notably as indigenous-led resistance to egregious processes of neoliberal privatisations such as the ‘water wars’ of Cochabamba, Bolivia in 1999-2000) has occurred in reaction to the increasing commodification of food and food systems, and the negative consequences of such commodification. The editors and contributors also share an overarching premise, namely the need to transcend the treatment of food ‘as a mere commodity’10 because inter alia such reductive economistic logic ~~is both blind and deaf to~~ ignores social injustice and inequality, as well as ecological devastation; and because the commodification of food – and food systems – forecloses any recognition of the non-monetised, or caring, elements of food (Chapters 2, 3 and 4).10 In their introductory chapter, the four editors define ‘commoning’ as a form of governance that: “differs from the market allocation mechanism based on individual profit maximization and state governance based on command and control. It demands new institutions, goal setting and forms of interaction, thereby forming the bedrock to support a new moral narrative, a new transition pathway, a new economic model and a new relationship with nature and the planet Earth…Commons are not about maximizing individual utilities, selfish individualism or legitimizing the use of force but rather collective decisions, institutions, property and shared goals to maximize everybody’s wellbeing” (emphasis added).10 There is a strong affinity between this articulation and Dardot’s and Lavel’s theorisation of the politics of the common as ‘instituent praxis,’ as outlined above. Vivero-Pol and his coeditors return to this reasoning in the conclusion, where they argue that the institution of a new governing paradigm – Food as a Commons – is not only desirable but essential, due to the manifest failures of both the commodified capitalist food system and the statist bureaucracy that enables it, to fulfil the basic task of feeding humanity on an equitable or sustainable basis.10 They go further, to argue that the commons should not be conceived of as merely a third civil society sector coexisting alongside the capitalist market and the state, but rather should be theorised and enacted according to a much more ambitious and transformative political-economic and cultural vision.

### 1NC OFF

Next off is clog:

#### Antitrust litigation is complex and resource intensive—trades off with other judicial commitments

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

A. Summary Judgment Can Cut Short Extreme Costs Antitrust litigation can involve enormous discovery costs, particularly when antitrust litigation overlaps with class action litigation. Due to the wide scope of many antitrust claims, discovery can implicate a broad range of documents, records, interrogatories, and depositions. In fact, "[s]trategically minded" plaintiffs can take advantage of antitrust law's "onerous discovery costs" by requiring the defendant "to respond to wide-ranging interrogatories, produce documents, and prepare for and defend depositions" with only a "facially plausible allegation" of an antitrust violation. These costs can take a very large toll on both large and small businesses. The legal hours necessary to answer and address discovery challenges can also impose extreme costs. Plaintiffs can often use discovery costs as a weapona against defendants in antitrust litigation. The Seventh Circuit Court of Appeals stated that "antitrust trials often encompass a great deal of expensive and time consuming discovery and trial work" in explaining that the "very nature" of antitrust litigation should encourage summary judgment. The court's language here supports the idea that in antitrust litigation, summary judgment has a special value, greater even than its normal use in other areas of the law. Summary judgment can be used to cut short lengthy litigation where parties have already accrued extreme costs from discovery and one party still cannot produce a genuine issue of material fact. In antitrust litigation, the value of summary judgment to mitigate discovery costs through shortening litigation is elevated to a special importance even greater than normal for three reasons. First, antitrust litigation normally involves large organizations, which magnifies the costs of those firms going through the discovery process. Large firms have a great number of involved employees and departments, all of which would likely be subject to the broad discovery that is characteristic of antitrust litigation. Summary judgment, though normally considered after discovery, is a procedural weapon available at nearly any point in this process, as "a party may file a motion for summary judgment at any time until 30 days after the close of all discovery." The existence of a stay for extension of discovery shows that summary judgment need not automatically wait for discovery's completion, and thus can be an invaluable safeguard against otherwise incredibly costly discovery. This safeguard allows summary judgment to be a powerful tool to radically lower discovery time and costs without "railroad[ing]" the other party. Second, antitrust litigation is normally a slow process that takes a great deal of time. The amount of time necessary to process and review evidence produced by discovery leads to incredible legal costs, often disproportionately placed on the defendant firm. The plaintiff has the advantage over the defendant in deciding the scope of discovery costs, and may often tailor its claim in such a way as to avoid the discovery costs that a defendant's counterclaim may reflect back on the plaintiff. These lengthy trials can be effectively truncated by summary judgment, and thus summary judgment's normal value is even greater in the world of antitrust litigation where protracted trials are the norm. Finally, the vast amount of evidence necessary to prove the elements of an antitrust claim contribute to the large discovery costs tied to antitrust litigation by overwhelming judges' ability to reign in discovery costs. Currently, we rely on judges to limit the range of discovery requested, but in the context of antitrust litigation, judges have difficulty dealing with the broad variety of evidence that may be called for. One analysis of the power of discovery described it as a costly and potentially abusive force, and determined judges' abilities to limit discovery costs on their own as "hollow" at best: A magistrate supervising discovery does not--cannot--know the expected productivity of a given request, because the nature of the requester's claim and the contents of the files (or head) of the adverse party are unknown. Judicial officers cannot measure the costs and benefits to the requester and so cannot isolate impositional requests. Requesters have no reason to disclose their own estimates because they gain from imposing costs on rivals (and may lose from an improvement in accuracy). The portions of the Rules of Civil Procedure calling on judges to trim back excessive demands, therefore, have been, and are doomed to be, hollow. We cannot prevent what we cannot detect; we cannot detect what we cannot define; we cannot define "abusive" discovery except in theory, because in practice we lack essential information. Even in retrospect it is hard to label requests as abusive. How can a judge distinguish a dry hole (common in litigation as well as in the oil business) from a request that was not justified at the time? Summary judgment can also reduce costs to both parties by reducing time and discovery costs to the parties, and to the judicial system itself, by cutting short lengthy litigation. Both sides often incur costs from employing experts in various areas, researching and producing evidence necessary to prove or disprove elements of antitrust actions, and in the great many legal hours necessary for both plaintiffs and defendants--not to mention costs to the state--during lengthy litigation that is often fruitless due to an "incentive to file potentially equivocal claims." Antitrust law is structured in such a way as to have a "special temptation" for what would otherwise be frivolous litigation. As antitrust law is, by its very nature, between competitors, there is significant motivation to force costs on to other firms, perhaps even through frivolous legal claims or intentionally imposing other large legal costs. Costs can also multiply in antitrust litigation because antitrust actions are often combined with other particularly complex areas of law, such as patent law or class actions. Class actions particularly in the antitrust context can make trials "unmanageable." Combining two already complex areas of law is a recipe for large legal costs and prolonged litigation. The value of cutting costs short cannot be overstated, as antitrust litigation takes place in the arena of business competition. This means that firms are already engaged in close competition for antitrust cases to be relevant, and thus unnecessary costs can further distort the market.

#### Docket overload prevents efficient resolution of water disputes---that escalates conflict over climate-related shortages.

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

I. Introduction

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

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

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

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

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

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

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

II. Specialized Tribunals

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

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

### 1NC OFF

Next off is China

#### Antitrust ruins tech leadership vis-à-vis China

Lee, 19

(David S., senior lecturer at the University of Hong Kong Faculty of Business and Economics, “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.

#### Extinction

Kroenig, 18

(Matthew Kroenig and Bharath Gopalaswamy, Associate Professor of Government and Foreign Service at Georgetown University and Deputy Director for Strategy in the Scowcroft Center for Strategy and Security at the Atlantic Council; Director of the South Asia Center at the Atlantic Council "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 OFF

Next off is States:

#### The 50 states and all relevant sub-federal territories should increase prohibitions on anticompetitive business practices conducted against wholly owned foreign subsidiaries of United States based parent companies.

#### Solves the entire aff—Congress has devolved antitrust authority to the states

Harvard Law, 20

(Harvard Law Review, “Antitrust Federalism, Preemption, and Judge-Made Law,” JUN 10, 2020 133 Harv. L. Rev. 2557 NL)

Both the United States government and the governments of the fifty states use antitrust principles to regulate firms. A collection of federal statutes, first and foremost the Sherman Act,1 outlaws anticompetitive behavior under federal law. The federal executive branch, through the Federal Trade Commission (FTC) and the Department of Justice's Antitrust Division (DOJ), enforces the federal statutes.2 Meanwhile, each state has its own antitrust statutes outlawing anticompetitive behavior.3 The states' agencies enforce their own antitrust laws, and they can enforce federal antitrust law as parens patriae 4 for full treble damages thanks to the Hart-Scott-Rodino Antitrust Improvements Act of 1976 5 (Hart-Scott-Rodino). However, when state legislation itself produces anticompetitive effects that seem to violate federal antitrust principles, the state gets a free pass: "[A]nticompetitive restraints are immune from antitrust scrutiny if they are attributable to an act of 'the State as sovereign.' 6 Wherever the federal and state governments share regulatory authority, federalism concerns naturally follow. Federalism refers to the division, overlap, and balance of power between the federal and state governments in our federal system.7 The emergence of a strong national government since the New Deal has turned federalism into a statecentric concept about protecting the states' role in that balance.8 This state-centric federalism is partially baked into the Constitution: for example, the Tenth Amendment confirms that the Constitution reserves powers not delegated to the United States for the fifty states, 9 and some scholars have attributed a state-centric view of federalism to the Guarantee Clause.10 However, when, as with antitrust, the federal and state governments share concurrent regulatory authority, the Constitution alone cannot resolve the federalism-nationalism balancing act. Even when it is not a constitutional hurdle, federalism is still a relevant constitutional value. The Framers embraced federalism for its policy virtues,11 and contemporary judges and scholars laud federalism for its modern-day policy perks. 1 2 The Supreme Court often invokes federalism in the form of a presumption that Congress does not lightly intrude on state sovereignty.13 One example is the Court's presumption against preemption: a party alleging federal preemption of state law faces a judicial presumption that Congress did not intend to make that choice.14 That presumption is validated by Congress's choice to refrain from preempting state law in the antitrust arena: state and federal antitrust laws have coexisted since the federal government's first steps into the arena in 1890.15 This congressional restraint is controversial, and likely to grow more so. Some scholars have argued powerfully that Congress should preempt state antitrust laws. 16 These arguments may gain renewed prominence, as antitrust as a whole has recently achieved greater political salience than it has enjoyed in a century.1 7 In the state context, attorneys general have increasingly taken antitrust action in high-profile matters the federal government has declined to pursue. In 2019, states opposed the merger between Sprint and T-Mobile,18 and many began to investigate potential antitrust violations in Big Tech. 19 While some recent, high profile state antitrust actions have been brought under federal antitrust laws, 20 others have been brought under state law.21 Moreover, a number of the current state antitrust actions are at the investigatory stage22 \_ states could potentially bring federal claims, state claims, or both. Newsworthy state involvement in antitrust policing is bringing attention to the states' antitrust role more generally, and that attention will likely bring scrutiny to the oddity of America's competing antitrust systems. This Note argues that, in considering its position within this debate, Congress should grapple with federal antitrust law's peculiar status as a largely judicially created regulatory regime. Congress should be wary of allowing federal judge-made law to preempt state legislative power. Even when the federal government preempts state legislation, the federalism balance is partially preserved by democratic checks on federal power. Yet, when a nondemocratic branch is making the law, those checks disappear. Moreover, the federal judiciary is a uniquely poor policymaking body; its lack of policymaking chops does not support overriding states' policy choices. These factors highlight the need for Congress to account for the degree to which current antitrust law is largely judge made. Part I outlines the general landscape of antitrust federalism. It first describes antitrust federalism's three components and then surveys arguments for and against maintaining one of those components: the coexistence of state and federal antitrust laws. Following this survey, Part II offers a new defense of the current system: federal antitrust law's judge-made status makes it particularly unsuitable to preemption. Finally, Part III compares antitrust's judge-made law to other preemptive federal common law, concluding that federal antitrust preemption would be uniquely susceptible to Part II's criticism. 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. 23 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. 24 On the judicial front, the Supreme Court acknowledged state immunity from federal antitrust actions - the shield - in Parker v. Brown,25 noting that the Sherman Act did not explicitly mention its application to state action. 26 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.,2 7 it considered the same Sherman Act silence. 28 This is all to say that antitrust's federalism tools are congressionally, not constitutionally, given rights and are therefore congressionally rescindable. Congress could amend Hart-Scott-Rodino or make explicit that the Sherman Act applies to state action. 29 And, crucially for this Note's discussion, although state antitrust law is not judicially preempted, Congress could choose to expressly preempt it in the future.30 There are strong policy arguments for express congressional preemption of state antitrust law. The remainder of this Part attempts to outline the general pros and cons of congressional antitrust preemption but is not meant to be exhaustive or to cover new ground. The intent is to situate Part II's argument about federalism and preemption by judgemade law within the broader policy landscape. A. The Patchwork Regime Problem First, critics of the status quo argue that a patchwork regime of state antitrust laws can make it expensive for companies that operate across state borders to comply. State and federal regimes share similar philosophies regarding most of antitrust law.31 But state antitrust laws do not perfectly mirror their federal counterparts - and the antitrust laws of the different states are heterogeneous themselves. 32 Disputes are concentrated in a few areas of the doctrine, like vertical restraints and mergers. 33 For example, states often focus on damage to intrabrand competition when enforcing limits on vertical restraints, whereas federal antitrust law focuses primarily on interbrand competition.34 Additionally, state merger guidelines often materially differ from federal guidelines, 35 and states are likelier to define markets "more narrowly," "refus[e] to consider efficiencies" favored by federal agencies, and show a concern for local jobs and competitors that does not "enter . . . the [federal] calculus."3 6 An inconsistent antitrust regime that may conflict between states could cause economic inefficiency, for example by discouraging companies from undertaking what might otherwise be an economically efficient merger.37 This critique relies in part on the federal government having a better approach to vertical restraints and mergers, and that is anything but clear. The classic federalism argument that states function as laboratories of democracy 38 applies here: antitrust law is far from settled, and having multiple regimes allows for testing different theories. For example, some scholars argue that the states are correct to consider intrabrand competition's effects on price, especially in certain markets.39 Similarly, in the merger context, there is support for both the states' refusal to consider only economic efficiency40 and their push for heightened antimerger enforcement. 41 Of course, the laboratories of democracy might not work so well in the antitrust context: because of the interwoven economic effects of federal and state antitrust laws and enforcement in an interconnected national economy, determining the effects of one state's slightly different antitrust regime would be difficult.4 2 But federalism can still offer benefits by breaking the antitrust orthodoxy: by putting different policies on the table, a multilevel regime reminds us both that there are different possible "best" antitrust policies and that antitrust law has a variety of potential goals.43 B. The One-State Dominator Problem Closely related to the patchwork regime problem is the one-state dominator problem: because national firms may not always be able to maintain different business practices in each state, firms could be forced to follow the law of whichever state has the strictest antitrust policy nationwide. For example, a single state could use its own antitrust laws to "challenge the largest nationwide transactions so long as it can show that the state itself, its citizens, or its economy is affected in a way that provides standing." 4 4 If a nationwide merger is illegal under one state's laws, it may not be worth it for the firm to restructure the transaction in order to merge in all but one jurisdiction. This reality could allow for the state with the strictest antitrust policy to dominate the policy decisions of every other state and of the federal government.45 The one-state dominator problem is exacerbated by unrecognized interstate externalities: in making its antitrust laws, a state is not forced to consider the harm or benefit to businesses based outside of its borders. 46 These uninternalized externalities make it more likely that a state will overregulate. The laboratory-of-democracy defenses to the patchwork regime problem, with their variety-is-the-spice-of-life flair, fail to explain why an individual state's antitrust regime should be allowed to dominate the policy of the entire nation. Consider a recently passed Maryland law regulating wholesale pharmaceutical prices. The law prohibited manufacturers or wholesalers from "price gouging," defined as "an unconscionable increase in the price of" certain drugs.47 Federal antitrust law does not prevent monopolists from receiving the reward of monopoly prices, under the theory that potential future monopoly profits encourage present investment.4 8 The Maryland law can be viewed as a limit on this monopolist tolerance in the pharmaceutical space, preventing pharmaceutical companies from taking advantage of their dominant market position in the treatment of certain diseases. Not all states had decided to regulate drug prices, with most hewing more closely to the general rule of monopoly tolerance.49 Based on its drafting, however, Maryland's law could have had significant implications nationwide: even assuming the law required some sort of connection to an eventual consumer sale in Maryland,5 0 the law regulated a wholesaler's initial sale, whether or not that sale occurred in Maryland, so long as the drug was eventually resold in Maryland.5 1 As such, any manufacturer who sold drugs to a Maryland retailer would have to set their initial prices in consideration of Maryland's law. Pricing is a core antitrust issue; why should Maryland be able to set the nation's pricing policy? Or consider the ability of indirect purchasers to sue under antitrust laws. In Illinois Brick Co. v. Illinois,52 the Supreme Court held that only direct purchasers of a price-fixed good or service, not subsequent indirect purchasers, could sue for treble damages under the Clayton Act.5 3 In response, twenty-six states passed "'Illinois Brick-repealer laws' authorizing indirect purchasers to bring damages suits under state antitrust law."5 4 But these twenty-six states have an impact even on the residents of nonrepealer states. In a class action currently on appeal in the Ninth Circuit, a district court applied California antitrust law – including California's repealer law - to a nationwide class that included class members from nonrepealer states.55 The defendant-appellant has argued that this application undermines the nonrepealer states' interest in choosing their own consumer-business balance.5 6 The Maryland and Ninth Circuit examples may be more bogeymen than real threats to federalism. First, alternate doctrines aside from antitrust preemption work to keep individual state interests in check. For example, the Fourth Circuit enjoined enforcement of the Maryland law on dormant commerce clause grounds.5 7 Where one state intrudes too much on other states' ability to regulate antitrust - where "[t]he potential for 'the kind of competing and interlocking local economic regulation that the Commerce Clause was meant to preclude' is ... both real and significant" 58 - the Constitution, rather than Congress, can prevent the onestate dominator problem's greatest harms. Dormant commerce clause challenges are not limited to the Maryland case's facts. In fact, the Fourth Circuit dissent complained that the majority's logic would invalidate other state antitrust laws, including Illinois Brick-repealer laws.5 9 Second, the trouncing of federalism in cases like these is often overstated. Take the defendant-appellant's depiction of the interests in the Ninth Circuit case as an example of exaggerated federalism costs. The district court found that the nonrepealer states had no interest in having their laws applied because the defendant-appellant was a California company; California's more consumer-friendly law would only help nonrepealer-state residents, not hurt nonrepealer-state businesses.6 0 If the nonrepealer states have an interest in denying their own consumers access to relief when there is no benefit to their own businesses, it seems tangential to an interest in striking their own consumer-business balances. Instead, a choice to prioritize foreign defendants over in-state consumers appears more like an attempt to govern the national consumer-business balance, a choice imbued with far less federalism oomph than the defendant-appellant portrayed. Whether exaggerated or not, a worry that antitrust federalism allows one state to dominate national antitrust policy weighs in favor of congressional antitrust preemption. This problem, however, is not unique to antitrust. Any area of law in which states fail to internalize the harms of overregulation, meaning any law that regulates businesses with a national footprint, could be dominated by one state. 61 If Congress were to take the one-state dominator problem too seriously, it would swallow up huge swaths of state regulation, excluding states from their traditional role in consumer protection, at least where the largest (and potentially most worrisome) industries are implicated. C. The Overdeterrence Problem Third, critics argue that a multilevel antitrust regime threatens to overdeter procompetitive conduct. The policy behind much of preemption is to prevent state law from interfering with detailed, well-balanced federal regulation: obstacle preemption exists to prevent states from "stand[ing] as ... obstacle[s] to the accomplishment and execution of the full purposes and objectives of Congress,"6 2 and field preemption exists to prevent state interference where Congress "left no room for lower-level regulation."6 3 Although it is not field or obstacle preempted, 64 antitrust law exhibits the type of detailed regulatory balance that the preemption doctrines attempt to prevent states from damaging. Much of antitrust law is built on finding the perfect balance of standards and remedies: the law must properly deter anticompetitive acts without deterring healthy competition. 65 A state law that shifts remedies or standards can upset this careful balancing, thus overdeterring desirable private action. Critics can point directly to ARC America as evidence of this overdeterrence threat. The Court's decision in Illinois Brick, which limited suits by indirect purchasers, relied in large part on a belief that concentrating suits in direct purchasers would avoid overdeterrence. 66 By allowing for additional suits, ARC America created extra deterrence not envisioned by the federal antitrust scheme. 67 Like the patchwork regime critique, the overdeterrence critique is weakened if the federal regime has failed to achieve proper balancing. Many antitrust regimes around the globe adopt different balances than the United States does. The European Union, for example, differs from the United States on remedial structure, the standard for illegal unilateral conduct, and market definition, among other issues. 68 Moreover, many scholars argue that the U.S. antitrust balance is off and that more enforcement is needed.6 9 Even if U.S. antitrust policies are getting the balance generally right, it is unlikely that the federal regime is so finely tuned that any added deterrence will destroy the balance. D. The Misaligned Incentives Problem7 Fourth, in the misaligned incentives problem, critics argue that states do not have proper incentives when they enforce state antitrust laws. Although state antitrust laws are supposed to mainly target intrastate antitrust violations, courts have refused to police that limit too strictly. 7 1 In an interconnected economy where seemingly hyperlocal activity can have national implications, 72 courts have admitted that limiting state antitrust laws to cases that do not touch the national economy would "fence[] off" "a very large area .. . in which the States w[ould] be practically helpless to protect their citizens."7 But, even though suits under state laws may have nationwide consequences, state attorneys general lack nationwide incentives. Critics of the status quo worry that elected attorneys general are more susceptible to lobbying by state interests than are appointed federal enforcers and that a cost-benefit analysis is flawed where a state can attack a company headquartered out of state in order to protect one headquartered in state.74 These fears seem mostly imagined. The idea that elected attorneys general are bringing antitrust suits to hurt competitors of state businesses "appears to [have] little empirical support[,] ... and none has been provided by the advocates of this position."7 5 Past state antitrust enforcers have stated that, while they considered state-specific factors when deciding where to spend their limited resources, those factors would be used only to choose "from among those cases that also made sense on traditional economic grounds."7 6 And there is reason to believe that these enforcers are telling the truth. For one thing, states often make antitrust decisions that seem to go against the interests of major state employers. For example, New York antitrust enforcers have taken antitrust positions adverse to both Verizon and IBM, top New York employers.7 7 For another, a state that is only minutely affected by an antitrust action is unlikely to bring that action alone. If a state is only trivially affected by allegedly anticompetitive conduct, "that state is very unlikely as a practical and political matter to spend the enormous sums of money required to sustain a challenge." 78 If a state is majorly affected but is the only state affected, then the misaligned incentives critique does not apply because there is no competing set of national incentives. And in a case that actually has major impacts in multiple states, it is unlikely that one state could act without other states wanting to join in on the enforcement.79 When states work together on antitrust enforcement, they tend to cooperate closely with one another, especially through the National Association of Attorneys General's (NAAG) antitrust group.o Even if an individual state might be swayed by state-specific concerns, it is unlikely that it could convince a multistate coalition to act on those concerns - the group would be forced to evaluate the action on its more national merits.81 E. The Incompetent States Problem Finally, critics argue that state enforcers will make error-ridden antitrust choices due to a lack of resources, experience, and expertise. Whereas federal enforcers have significant budgets for antitrust enforcement, the percentage of funding set aside for antitrust enforcement by state attorneys general is minute. 2 Because of this lack of resources, state enforcers have been accused of staffing antitrust cases with senior attorneys who, while experienced in civil litigation generally, are antitrust novices.83 These factors have led critics to argue that state attorneys general handle antitrust suits poorly, clogging the judicial pipeline with questionable suits. 84 State attorneys general are accused of acting as free riders on federal actions and of making settlements more difficult rather than undertaking useful enforcement.1 5 But there is reason to dispute critics' claims. The critique of individual attorneys general ignores the states' ability to work in unison. Cooperating through NAAG, states are able to build on each other's experiences in antitrust enforcement.1 6 Thus, worries about inexperienced antitrust divisions working alone may be overstated. Although interstate coordination may weaken their point, critics can retort that most state actions are not coordinated: according to NAAG's State Antitrust Litigation Database, only nineteen of the fifty-six civil antitrust actions brought by states between 2014 and 2019 were brought by multiple states working together,8 7 although many of the noncooperative suits regarded intrastate anticompetitive conduct. 8 This same dataset, however, also undermines the critics' argument that states act only as free riders: only nineteen of the fiftysix suits included federal participation.8 9 Finally, much of the criticism leveled at state attorneys general occurred before a renaissance in state law enforcement. Since Judge Posner derided the skill of state attorneys general in 2001,90 lawyers and judges, including Chief Justice Roberts, have recognized a marked improvement in state attorney offices' advocacy.9 1 Whether or not Judge Posner's critiques were valid at the turn of the century, it is unclear that the landscape remains the same today. Finally, this critique undermines the arguments, noted earlier, that state law enforcement is overdeterring competition or creating a patchwork of antitrust law. If states are nothing but free riders, then we need not worry about overdeterrence.

### GSC

#### No Korea war

Post, 21

(Daniel; 1/29/21; PhD Candidate in IR @ Brown University; “Deterring North Korea,” <https://warontherocks.com/2021/01/deterring-north-korea/>)

With these principles in mind, can deterrence continue to work vis-a-vis North Korea? In short, yes. Throughout the evolution of the U.S-North Korean deterrence relationship, vulnerability has played an important role in the nuclear strategies and policies of both sides. The vulnerability of U.S. allies and assets in the region to North Korea’s intermediate-range missile and artillery barrages has almost certainly been a check on a more aggressive U.S. strategy, whether geared toward nonproliferation or regime change. It is certainly plausible that in the absence of this vulnerability the chances of the U.S. preventively attacking North during the Trump administration would have been higher, especially considering the extremely hawkish views of his national security adviser in 2017. As a result of this vulnerability, the U.S. routinely demonstrates its dedication to security agreements with allies in word and deed. Strategic bomber flights and military exercises, for example, demonstrate to North Korea their own vulnerability to U.S. and allied power in the region. Conversely, although the Kim regime would like nothing more than to unify the Korean Peninsula under North Korean leadership (dubbed the “holy grail of North Korean statecraft” in a recent report), it has refrained from overt and aggressive military action in pursuit of this goal. There is no doubt that Kim, like his predecessors, is wary of such behavior in the face of U.S. and allied military capabilities. Today, North Korea remains vulnerable to U.S. nuclear attacks, while the United States and its regional partners remain vulnerable to nuclear attack or retaliation from North Korea. This mutual vulnerability necessitates caution on both sides. Recent progress in North Korean missile technology have made portions of the U.S. mainland vulnerable, giving the U.S. further reason to avoid unnecessary provocation. In 2017, North Korea conducted several tests of intercontinental ballistic missiles, two of which demonstrated the capability to potentially reach the continental United States. More recently, North Korea has successfully tested a submarine-launched ballistic missile and has showcased a new and larger submarine-launched ballistic missile at a recent parade. As a result, the United States continues to invest significantly in homeland missile defense, as well as to deploy missile defenses to defend allies and assets in the region. Missile defenses likely contribute to increased feelings of vulnerability among Kim’s regime, which may see the build-up as a prelude to a military offensive. Though imperfect, these attempts to reduce vulnerability enhance deterrence by potentially denying North Korea the expected military gains from a limited missile attack, even as fully effective missile defenses might contribute to strategic instability. Regardless of their effectiveness, Kim will have to factor in these defensive capabilities when assessing the success of engaging in conflict and will question the ability to achieve even limited goals through limited means. For example, in order to ensure the success of a missile attack, Kim would have to increase the size of the salvo in order to compensate for missiles likely to be shot down by U.S. and allied defenses. But knowing that a larger initial attack would be perceived as particularly aggressive and would likely invite a larger counter-attack, he might be deterred from pursuing whatever limited gains a smaller attack might have achieved. From Kim’s perspective, U.S. military capabilities are more than sufficient to make military success for North Korea in any conflict appear difficult and costly. Vulnerability to severe retaliation and punishment from U.S. strategic forces is also currently unavoidable for Kim. In fact, this very vulnerability has driven the North Korean nuclear program toward a capability to directly threaten the U.S., thereby demonstrating its own acknowledgement of vulnerability. In sum, both sides are vulnerable to each other. Most importantly for U.S. decision-makers, there is no likely development in the near to medium term that might remove this sense of vulnerability from Kim’s mind. There is also great uncertainty in the nuclear capabilities and red lines of each side, in particular concerns about what might cause Kim to feel existentially threatened, and concerns over what might trigger the United States to exercise nuclear defense on behalf of its allies in the region. Kim consistently expresses concerns about regime survival and fear of a U.S. attack, and recent U.S. regime change operations in other states only strengthen this fear. While the United States should be careful not to inadvertently increase this threat level to a point where Kim believes he must start a major war, the threat of nuclear retaliation should be maintained. Such a scenario is far from implausible (nuclear scholar Jeffrey Lewis sketches out a hypothetical nuclear war between North Korea and the United States in a recent novel). Missile defenses also add an important element of uncertainty to the relationship. Uncertainty about the effectiveness of these systems should induce caution on both sides because neither can be completely sure about how effective the systems will be (though these systems may also strengthen resolve on the part of the U.S. if deemed very effective, as Robert Powell suggests). Although the United States has been clear in its statements regarding North Korean nuclear use, for example stating in the 2018 Nuclear Posture Review that “there is no scenario in which the Kim regime could employ nuclear weapons and survive,” uncertainty remains about which actions beneath the nuclear threshold might trigger a larger response. This uncertainty will undoubtedly induce caution in even lower-level conflict behavior. The U.S. explicitly includes some level of ambiguity and uncertainty in its declaratory statements, such as when describing possible conditions for nuclear use, saying, “Significant non-nuclear strategic attacks include, but are not limited to, attacks on the U.S., allied, or partner civilian population or infrastructure, and attacks on U.S. or allied nuclear forces, their command and control, or warning and attack assessment capabilities.” This type of statement leaves plenty of room for adversaries to question what might trigger a response and makes any aggression against the U.S. or its allies a risky proposition. Last, both Kim and leaders in the United States and its allies appear to remain rational actors despite recent bombastic behavior and inflammatory rhetoric (which may be plausibly attributed to clumsy signaling attempts). Kim may be a cold and brutal oppressor, but his behavior should be seen as quite rational if you make the very supportable assumption that, like most political leaders, his primary goal is keeping his regime alive and keeping himself in power. As others have noted, “Kim is a tyrant, but I don’t think he is suicidal.” Kim continues to build and enhance his nuclear weapons capability in reaction to real and proximate threats to his very survival. The United States frequently conducts exercises with South Korea and Japan, and North Korea frequently decries these exercises as hostile and reckless. Kim sees these exercises as practice events for an eventual attack on North Korea. The United States has also stationed missile defense capabilities in South Korea and Japan, as well as on ships in the region. Kim’s continued pursuit of enhanced nuclear capabilities in response is as rational as it is for the U.S. to want to mitigate its own vulnerability. Frequent military deployments to the region, and overflights of U.S. strategic (nuclear capable) bombers also serve to enhance the perception of threat on behalf of Kim. These security dilemma dynamics have certainly contributed to Kim’s rational pursuit of an enhanced nuclear weapons capability. On top of these very visible military measures, recent dramatic increases in hostile rhetoric from former President Donald Trump, such as his “fire and fury” remarks, have only served to solidify Kim’s perceived need for a nuclear deterrent to potential U.S.-backed regime change. Of course, deterrence requires clear communication and credibility, which includes demonstrating capability. Kim is well aware that if he were to engage in any sort of large scale aggressive military behavior against his neighbors, this could spell the end of his regime. He also has no reason to doubt the U.S. capability and opportunity to respond to threats from North Korea. Assuming, as I do above, that Kim desires to remain the leader of his country and to preserve his regime, he has little incentive to test the U.S. nuclear deterrent. Whether his eccentric and brutal behavior leads to some other inadvertent escalation is a different question. As far as U.S. leaders are concerned, assuming Kim is rational enough to know what he wants and to recognize how he can lose it seems to be a safe bet.

#### No hypersonics impact

Raitasalo, 19

(Lt. Col. Jyri Raitasalo, military professor of war studies at the Finnish National Defence University. [Hypersonic Weapons are No Game-Changer, 1-5-2019, https://nationalinterest.org/blog/buzz/hypersonic-weapons-are-no-game-changer-40632)

The ongoing Western “hypersonic hype” is a very familiar phenomenon. The profession of security and defense analysis is flooded with buzzwords, high-tech silver bullets and slogans. Can you remember the Revolution in Military Affairs (RMA)? It was supposed to remove friction and the fog of war from the battlefield. This never materialized, although the United States and many European countries did try to ride the revolutionary wave during the late 1990s and the following decade—pouring in hundreds of billions of dollars to maintain military “edge” against all potential adversaries. Similarly, Cyberwar has supposedly been coming ever since 1993—although we have not seen one instance of cyberwar, yet. Nor do we have any solid indication that future cyberwars—if they actually will be waged—will radically alter the character of war, or how wars are waged. All defense-related buzzwords hinder—rather than help us—to understand the complex security environment and the associated military threats that already exist or those that will exist in the future. In sum, hypersonic weapons will be fielded in the near future, but there is no evidence that would suggest that the basic logic related to defence and strategy was going to change radically because of these new weapon systems. More likely, new technologies and weapon systems continue to develop and spread around the globe—and with them a new buzzword will replace hypersonic weapons—or Artificial Intelligence (AI), which is another hype of the day—within a few years. There are many reasons why hypersonic weapons will not revolutionize strategy or warfare in the future. Not at least for the United States, which is the hub of hypersonic frenzy these days. Firstly, the military power of the United States will remain second to none for years—and more likely for decades to come. Hypersonic threats do not require hypersonic responses. The United States has a broad repertoire of effective military responses to potential hypersonic threats even if it lagged a few months or years behind Russia and China in hypersonic missiles. In addition, to think that any potential weapon system that has no known defenses is an existential threat to the United States is based on unrealistic thinking. Even if for a very brief period after the end of the Cold War this kind of thinking made some sense, it would be hubristic to assume that the United States could be a world leader in all fields of technologies at all times. In short, if one’s strategy is based on striving for total invulnerability vis-à-vis one’s adversaries, it will inevitably end up being a failure. As John Lewis Gaddis has so eloquently noted, strategy requires balancing almost infinite aspirations (goals) with the limited means available to the actor. Striving for primacy in all possible weapons technologies is a way for disaster. The sooner the military planners and political decision-makers realize this, the better. Understanding the limits of strategy will make them think more, instead of trying to achieve the unachievable: total invulnerability vis-à-vis a very broad hodgepodge of adversaries—varying from “rogue regimes” near-peer adversaries. The second aspect that will mitigate the threat posed by hypersonic weapons is related to the fact that in many future scenarios, the projections of adversaries’ possibilities to develop and field hypersonic weapons ignore or downplay one’s own efforts to do the same. The development of military capability is a long-term effort. Today’s wars are fought with weapon systems that have been developed and procured during the last fifty years. Some have an even longer pedigree—like the B-52 Stratofortress. Russia and China cannot escape this long-term character of defense planning and military capability development. Even if Russia or China have made some strides in developing hypersonic missiles lately, this will not turn automatically into usable military capabilities en masse. A state—any state—can regenerate approximately 2-3 percent of its total military capability during the period of one year. The long shadow of history or the long “tail” of military capability development is a fact of life in the field of defense. There just are no U-turns or quick transformations within the sphere of defense—even if some advocates of these revolutions think and speak otherwise. Finally, the strategy of deterrence—based on real warfighting capabilities—should not be underestimated when trying to prevent adversaries from using their “hypersonic edge” against the United States. It is really a stretch to try to imagine any regime in the world that would be so suicidal that it would even think threatening to use—not to mention to actually use—hypersonic weapons against the United States or its troops deployed almost globally would end well. Hypersonic weapon systems are coming. That is a fact. But these new weapons will not change the fundamentals of strategy, the long-term logic of defense planning or military capability development. Hypersonic missiles will not become a panacea or a silver bullet, which could give Russia or China an edge against the United States on the battlefield. Nor will hypersonic weapons derail the United States from the top position of the global military power pecking order.

#### Blackouts inevitable and don’t escalate

Kemp, 9/4

(John Kemp via ZeroHedge, the leading economics blog online covering financial issues, geopolitics and trading; “The U.S. Power Grid is at Risk of Catastrophic Failure,” Oil Price.com, September 4, 2021; <https://oilprice.com/Energy/Energy-General/The-US-Power-Grid-Is-At-Risk-Of-Catastrophic-Failure.html>)

Grid Investment Reliability and resilience are not the same, though they are often closely associated, and the National Academies’ study emphasized the need for more focus on resilience issues in utility planning. Blackouts during the big freeze in Texas in February 2021 and the Northeast United States in August 2003 were primarily reliability failures, caused by the failure to manage generation properly. But the prolonged power outage expected in Louisiana and the ice storm in Quebec were primarily resilience failures. Reliability and resilience failures are both low-frequency, high-impact events, which require expensive investments to reduce the expected consequences, making it hard to build support. Boosting resilience often requires hardening transmission and distribution systems by undergrounding wires, replacing wooden poles with concrete ones, strengthening towers, stockpiling replacement transformers, and raising substations above potential flood levels. More generally, electricity systems need to build in sufficient spare capacity and redundancy to make them more reliable and more resilient in the event that one or more components fail. Different customers may put different values on reliability and resilience depending on their circumstances and depending on the length of the service interruption, which makes building a consensus even harder. For example, hospitals and oil refineries may put a higher value on uninterrupted winter than a residential customer with a backup generator. Short interruptions may be tolerable while long ones are unacceptable. Electricity suppliers often find it hard to convince regulators and customers of the need to increase bills – except in the immediate aftermath of a major failure when there may be a narrow window to secure funding for changes. But if more energy services are to be moved onto the grid, much more will need to be invested in modernizing it to reduce the probability of failure and ensure service can be restored rapidly.

#### No Russia war

Woolf, 20

(Amy F. Woolf 20, Specialist in Nuclear Weapons Policy in the Foreign Affairs, Defense, and Trade Division of the Congressional Research Service at the Library of Congress, received a Master’s in Public Policy from the Kennedy School of Government at Harvard University in 1983, “Russia’s Nuclear Weapons: Doctrine, Forces, and Modernization”, https://fas.org/sgp/crs/nuke/R45861.pdf)

One analyst has postulated that Russia may actually raise its nuclear threshold as it bolsters its conventional forces. According to this analyst, “It is difficult to understand why Russia would want to pursue military adventurism that would risk all-out confrontation with a technologically advanced and nuclear-armed adversary like NATO. While opportunistic, and possibly even reckless, the Putin regime does not appear to be suicidal.” 144 As a study from the RAND Corporation noted, Russia has “invested considerable sums in developing and fielding long-range conventional strike weapons since the mid-2000s to provide Russian leadership with a buffer against reaching the nuclear threshold—a set of conventional escalatory options that can achieve strategic effects without resorting to nuclear weapons.”145 Others note, however, that Russia has integrated these “conventional precision weapons and nuclear weapons into a single strategic weapon set,” lending credence to the view that Russia may be prepared to employ, or threaten to employ, nuclear weapons during a regional conflict.

#### No US-China War

Bremmer, 20

(Ian Bremmer, foreign affairs columnist and editor-at-large at TIME, 12-28-2020, "No, the U.S. and China Are Not Heading Towards a New Cold War," Time, <https://time.com/5920725/us-china-competition/>) AM\*

First, a critical point that gets overlooked in the “new Cold War” debate: The first Cold War emerged in the absence of an existing world order, following the wreckage of World War II. Unlike today, there were no **well-established multilateral institutions** (or multinational corporations as well entrenched as they are today) that could **act as brakes to escalating conflicts**. Even more importantly, the aftermath of the second World War ushered in a decolonization trend that created dozens of new nations which were suddenly up for grabs—a critical component of the old Cold War as the U.S. and U.S.S.R. competed across the world to win hearts, minds and governments to their respective sides. In 2020, countries are looking to hedge between the world’s two economic superpowers more than they are looking to throw in their lot with one or the other. Which leads to the second point—**the interdependence that exists between the U.S. and China in 2020** is vastly different than the interdependence that existed between the U.S. and the U.S.S.R. in the middle of the 20th century. For the U.S. and the U.S.S.R., the only real common interest they had was avoiding mutually assured destruction via nuclear warfare. For all the recent turmoil, China has been a tremendous economic beneficiary of the current world order even if they take issue with some aspects of it; Beijing isn’t looking to upend the global order as much as it is trying to carve out more space within it to accommodate its own primacy. Furthermore, **there are numerous areas that both China and the U.S. need to cooperate for both their sakes: nuclear proliferation, macroeconomic stability, climate change and the** current pandemic **chief among them.** That cooperation is helped along by the decades of investment and relationships that have been built-up by critical stakeholders in both countries, even if they’ve been tested mightily in recent years. Point number three: [**China’s military might**](https://www.eastasiaforum.org/2020/12/16/chinas-military-modernisation/) **is nowhere near what the U.S.’s is, and it doesn’t look to be challenging the U.S. for global military supremacy anytime soon** (though its sphere in Asia is another matter). This is a critical distinction with the old Cold War, where the U.S.S.R. was never a serious economic competitor to the U.S., even though it was a military one. That matters—in the U.S., there was a belief that the U.S.S.R. could be defeated, as it was largely a military confrontation. However misguided the reasoning behind that belief might have been at the time, it turned out to be true. No one really believes that China can be defeated in the same sense—in fact, destroying China economically would devastate the U.S. economy as well. That means the best both can hope for is uneasy peace as the U.S. and China compete in greater and lesser degrees across a wide variety of areas, and even cooperate in some. That doesn’t set the path towards a new Cold War. Finally, there are the policy limitations of both countries to consider. Given the actual goals of both countries, **entering a genuine Cold War would be a massive strategic blunder**, and something to be avoided at all costs. The U.S. is not looking to expand its international footprint, but actually to do less on the international stage; that’s the exact opposite of what waging a Cold War with China would entail. Meanwhile, **China’s economic rise has left it with some key vulnerabilities** both domestically (ex: significant amounts of corporate debt, a labor base that’s getting more expensive while also getting less productive as manufacturing becomes increasingly automated) and internationally (ex: a massive amount of investment in economically weak countries) which makes it a serious question whether China could even wage a Cold War with the U.S. even if it wanted to. That doesn’t mean there aren’t real dangers or areas of disagreement between the U.S. and China: [Hong Kong](https://time.com/5915459/joshua-wong-hong-kong/), Taiwan, the South China Sea and treatment of [Uighurs](https://www.nytimes.com/interactive/2019/11/16/world/asia/china-xinjiang-documents.html) are all likely to be flashpoints with the new Biden administration, and with administrations to come. And the fundamental technological decoupling between the two powers will continue as well, leaving even less room for cooperation. As relations between the two countries continue their rocky trajectory, there is a very real possibility that a misstep by one or the other will lead to real escalation, and even violence in some instances. But none of this points to the kind of zero-sum, Cold War we saw in the 20th-century, the kind of all-consuming ideological divide that forces the rest of the world to pick sides. There are too many structural barriers to that, and too much prosperity at stake for political leaders in Washington and Beijing to risk. There are plenty of things to be concerned about as we round into 2021—this isn’t one of them.

### Global Development

#### No African conflict and doesn’t escalate

Burbach, 16

(David T. Burbach is an Associate Professor of National Security Affairs at the Naval War College in Newport, RI, received a Ph.D in Political Science from the Massachusetts Institute of Technology, and has expertise in African security, defense planning, and U.S. foreign policy. , 9-22-2016, "The Coming Peace: Africa’s Declining Conflicts," Sustainable Security, <https://sustainablesecurity.org/2016/09/22/the-coming-peace-africas-declining-conflicts/> )

Africa is often presented as a war-ridden continent, but this depiction is becoming outdated. In the 21st century, the amount of warfare in Africa has declined dramatically, and today most Africans are more secure than ever. “Africa” and “conflict” are words all too often linked in Western minds. From Cold War proxy wars, to what Robert Kaplan saw as “the coming anarchy” in the 1990s, to Boko Haram massacres today, news from Africa may seem dominated by never-ending conflict. That image is out of date. In 2002 Tony Blair was justified in describing the state of Africa as a “scar on the conscience of humanity”, but in the years since there has been an underappreciated success story in Africa. The amount of warfare in Africa has declined dramatically, and today most Africans are more secure than ever. Troubled areas remain, unfortunately, but the larger picture of receding conflict has implications for how we think about African security needs. Outside actors can help reinforce positive external and internal trends that mitigate conflict, can avoid creating new conflict zones like Libya or South Sudan, and should recognize emerging human security needs that are becoming relatively more important as armed conflict declines. Africa’s waning wars Quietly over the last 15 years, many African wars did end, to paraphrase Scott Strauss. Lingering Cold War struggles like the Angolan civil war burned out. West African nations including Liberia and Sierra Leone ceased being playgrounds for warlords and regained their status as functional, if weak, states. Eastern Congo is still violent, but far less so than during the 1990s “African World War”. Overall, 21st century Africa has seen more wars end or abate than ignite. The trend towards peace in Africa can be seen by using various datasets on armed conflict (for more on data sources, tabulation, and trend analysis, see Burbach and Fettweis 2014). The Center for Systemic Peace (CSP), for example, tracks conflicts from 1946 to the present, scoring each for the intensity of its societal impact. Figure 1 shows the yearly sum of conflict intensity assessed by CSP, for both Africa and the rest of the world. The end of the Cold War brought peace to much of the world, but African conflicts increased in the 1990s. States like Somalia and Sierra Leone collapsed into warlordism, for example. Central Africa was hit by the Rwanda genocide and bloody chaos in Eastern Congo, killing one to five million people. At least three-fourths of the world’s total war deaths in the late 1990s took place in Africa (Burbach and Fettweis 2014, Figure 4). After the year 2000, the tide of war receded. Africa’s total conflict intensity as measured by CSP fell by approximately half. A similar pattern is shown by the Uppsala Conflict Data Project. Using somewhat different definitions, the Uppsala data shows that the number of conflicts in Africa resulting in 1,000 or more “battle deaths” per year declined from an average of 12 in the late 1990s to an average of 3.5 from 2010-2013. Some decades-long wars ended with formal peace accords, as with Angola in 2002; elsewhere, states gradually gained the upper hand on armed disorder. Given the unfortunate rise of warfare in the Middle East, Africa is no longer the most violent region of the world. The decline of warfare in Africa is even more dramatic in terms of individual risks. Africa’s population is growing rapidly, up 150% since 1980. Declining conflict despite a much larger population means the mortality risk from war has fallen substantially. An average of 32 people per 100,000 population were killed per year in the 1980s and 45 per 100,000 in the 1990s. In 2013, though the rate was only 8 per 100,000 (Burbach & Fettweis 2014, Figure 5). World Health Organization data shows an astonishing 95% decline in African conflict deaths from 2000 to 2012. In the 1980s, warfare killed more Africans than vehicle accidents. Today, perhaps three to six times as many Africans die in road crashes than from conflict. Many more Africans are harmed by crime or domestic violence than by warfare. Africa is still afflicted by more conflict than most of the world and the suffering of those involved is very real. Nevertheless, a greater proportion of Africans live free of war today than ever in the post-independence period. Celebrating African peace may seem premature given the civil war in South Sudan or the ravages of Boko Haram. Conflict has increased since 2011, but the level of armed conflict still remains lower than any time from 1970 – 2000. The most tragic development is the civil war in South Sudan, which the U.N. estimated had killed 50,000 as of spring 2016. Fortunately, South Sudan’s case is nearly unique: a newly created nation, devoid of physical or administrative infrastructure, with ethnically divided, soon-to-be-unemployed armed factions eyeing the lucrative oil revenues awaiting whomever could seize power. As academic panelists noted in 2011 – two years before the civil war – predictors of conflict were flashing red in South Sudan. Few African countries contain such a combustible mix of problems anymore. Accounting for the decline There are several factors behind the ebbing of conflict in Africa. One important change is the geopolitical environment. During the Cold War, the U.S. and the Soviets armed and funded rival factions in civil wars, allowing bloody wars to fester for decades in countries like Angola, Mozambique, and Ethiopia. Then, 1990s Africa fell into turmoil as superpower-sponsored regimes collapsed. A disinterested world mostly left Africa to its fate, but continued trade in weapons and resources with warlords. In the last decade, however, the U.S., Europe, and China have all become more active in diplomacy, security assistance, and peacekeeping. The US and China are together pressing the South Sudanese factions to stop fighting, rather than choosing sides. The world has become somewhat less willing to sell arms or purchase minerals that directly fuel conflicts, admittedly with a long way to go. Africans themselves deserve great credit for ending the wars that plagued their continent. Economic growth, improvements in governance, and greater space for peaceful political participation have all made state failure and internal conflict less likely. As Paul Collier among others has noted, civil wars tend to create vicious cycles that spread insecurity to whole regions. Many regions of Africa have climbed out of the conflict trap; political, security, and economic improvements are reinforcing each other. The nations of Africa increasingly work together through the institutions of the African Union to head off or resolve conflict, and to deploy peacekeepers to conflict zones. Needs still outpace available resources, but that cooperation is a marked change from 20th century Africa. A peaceful future? Whether the trend towards peace continues depends foremost on Africa’s leaders, but external actors can encourage positive trends in African security. Most directly, partners can help the AU and its member nations improve peacekeeping and conflict resolution capabilities. Likewise, the world should continue arms embargoes against combatants and regulating trade in valuable resources where exploitation appears to be a key ingredient of protracted conflict. Ongoing encouragement and incentives for democratization and governmental reform are helpful. Western countries should consider, however, that broad efforts like anticorruption programs are probably more helpful than International Criminal Court indictments of individual leaders, which can generate nationalist backlash. The world should especially try not to create new ground for conflict. Libya and South Sudan are Africa’s worst conflict zones today. Both were birthed through Western action – the removal by force of the Qaddafi regime, and diplomatically sponsoring South Sudan’s independence from Khartoum. While the moral cases were sound, both countries were left with non-existent governments, antagonistic armed factions, and grossly inadequate provision for disarming, demobilizing, and re-integrating fighters. American and European governments focused more on freeing people from hated regimes than on answering – let alone resourcing – the “what next?” question. Chaos followed, just as many African governments had warned at the time. From a humanitarian perspective, advocates should consider whether other challenges in Africa deserve relatively more attention. For example, Fearon and Hoeffler suggest that domestic violence against women and children now imposes larger human costs than warfare, and also that domestic violence can be reduced more cost-effectively than armed conflict. The ballooning toll of vehicle accident deaths in Africa may represent an opportunity for international technical or educational assistance to pay off with many saved lives. Beyond road safety, Africa is rapidly urbanizing. Western visions of menacing rebels waving AK-47s in the bush privilege the exotic, but most Africans confront more prosaic threats to health and safety. The human security challenges Africans confront are increasingly those of city-dwellers: crime, sanitation and utilities, safe and reliable transport, etc. Better policing, regularized urban housing, and expansion of infrastructure in megacities like Lagos and Kinshasa ought to be top priorities. Conclusion Sixteen years ago The Economist magazine suggested Africa was a “hopeless continent”. Lately The Economist has been bullish on Africa, citing the decline in warfare as a key reason for the continent’s improving business prospects. With remarkable speed, in the 21st century African conflict declined and safety improved, a hugely positive change in the welfare of Africans. Africa’s international friends should ensure their priorities respond to contemporary human security challenges, not ghosts of the past – and certainly they should avoid making things worse. Recognition of Africa’s progress itself would be a boon: the continent’s increasingly out-of-date image as an undifferentiated war-torn anarchy retards investment and engagement from overseas. The tragedies of the moment deserve action, but we should not overlook that there is also much good news out of Africa.

#### No food wars.

Vestby, 18

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

It is perhaps surprising, then, that there is little scholarly merit in the notion that a short-term reduction in access to food increases the probability that conflict will break out. This is because to start or participate in violent conflict requires people to have both the means and the will. Most people on the brink of starvation are not in the position to resort to violence, whether against the government or other social groups. In fact, the urban middle classes tend to be the most likely to protest against rises in food prices, since they often have the best opportunities, the most energy, and the best skills to coordinate and participate in protests. Accordingly, there is a widespread misapprehension that social unrest in periods of high food prices relates primarily to food shortages. In reality, the sources of discontent are considerably more complex – linked to political structures, land ownership, corruption, the desire for democratic reforms and general economic problems – where the price of food is seen in the context of general increases in the cost of living. Research has shown that while the international media have a tendency to seek simple resource-related explanations – such as drought or famine – for conflicts in the Global South, debates in the local media are permeated by more complex political relationships.

#### No bioterror nor extinction

Revill, 17

(James Revill 17, research Fellow with the Harvard Sussex Program at SPRU. “Past as Prologue? The Risk of Adoption of Chemical and Biological Weapons by Non-State Actors in the EU, European Journal of Risk Regulation.” https://www.cambridge.org/core/services/aop-cambridge-core/content/view/6B824CDE0E25FD86AC3D0BD07822A743/S1867299X17000356a.pdf/div-class-title-past-as-prologue-the-risk-of-adoption-of-chemical-and-biological-weapons-by-non-state-actors-in-the-eu-div.pdf)

The second factor is “the perceived complexity of the innovation in terms of adoption and use”.40 This is important in the innovation literature, as Rogers remarked, “[t]he complexity of an innovation, as perceived by members of a social system, is negatively related to its rate of adoption”.41 Several scholars of terrorist innovation have also highlighted the issue of complexity;42 or, as Cragin et al have stated, “[h]ow simple or complex a technology appears affects perceptions of how risky it will be to adopt.”43 In most cases terrorist groups appear to have largely opted for the simplest pathway towards the achievement of their goals and the weapons used tend to be vernacular, functional devices drawing on local and readily-available materials, rather than sophisticated, “baroque” technologies. This is certainly the case with IEDs, the history of which is characterised largely by incremental innovations – although nevertheless frequently effective ones – with many means of delivery recycled from the past.44 Complexity can therefore be seen as important in the adoption of technology by terrorists generally, but is perhaps particularly acute in the case of CBW technology. Some CBW can be relatively simple: “chlorine-augmented, vehicle-borne IEDs,” as employed by Al-Qaeda in Iraq (AQI) from 2006 to 2007 are not sophisticated weapons.45 Attacks on chemical production facilities, an apparent tactic of Serbian forces in the early to mid-1990s,46 employed relatively simple technologies – specifically explosives – with toxicity a secondary by-product. Direct contamination of food,47 drink48 or healthcare products49 does not require particularly sophisticated technology for the purposes of delivery – although may require some considerable skill to culture and scale-up a biological agent – and has been a common approach in European CBW incidents.50 Similarly, the contamination of water systems, something familiar to Europe,51 can also be relatively easily attempted. However, in most cases such methods of dissemination have generated results that are far short of the “mass destruction” that CBW are associated with, although this does not mean such a possibility can be ignored by those working on public health preparedness. Although some relatively simple approaches could cause significant harm, mass casualty attacks still require considerable expertise, something particularly acute in the context of biological weapons.52 The most effective route to weaponising biology is arguably through the process of aerosolising agents, something recognised mid-way through the last century as opening up the theoretical possibility of using biological weapons on a gigantic scale.53 However, realising such theoretical potential is difficult and it took states decades to develop more predictable biological weapons,54 and even then such weapons were acutely vulnerable to environmental factors.55 For non-state groups such complexity has proven a significant barrier to CBW development. By means of an example, one of the best-resourced biological weapons programs, that of Aum Shinrikyo, failed variously because the group acquired the wrong strain, contaminated fermenters and were faced with insurmountable production and dissemination difficulties.56 There are of course exceptions, such as the 2001 anthrax Letter Attacks in the US. However, if one accepts the conclusions of the FBI that this sophisticated attack with aerosolised anthrax in the US postal system was perpetrated by a US biodefence researcher, Dr Bruce Ivins,57 it is an exception that proves the rule. To circumvent the difficulties with aerosolisation, arguably one could use human-to-human transmissible biological agents as part of a suicide bioterror operation. There are good reasons for concern over how crude suicide bioterrorists could employ such a tactic. However, the use of highly contagious agents is also poorly predictable and would have to deal with social factors, such as the “spatial contact process among individuals”, which can spell “out the difference between large-scale epidemics and abortive ones”.58 The counter to this argument is the growing access to data and the changing human geography of the life sciences. Some 83% of European households reportedly are online, effectively allowing access to what is a growing body of available data on CBW, including so-called bioterrorist “recipes” and “blueprints” that are available in both mainstream scientific as well as more subversive literatures online. It is also clear that there is a changing human geography in European life sciences (for peaceful purposes), with the emergence of 30 DIY-bio groups located in Europe59 and some 80 European teams in the international Genetically Engineered Machines (IGEM) competition in 2016.60 This is compounded by reports that groups such as Daesh have deliberately sought to recruit foreign fighters “including some with degrees in physics, chemistry, and computer science, who experts believe have the ability to manufacture lethal weapons from raw substances”.61 Whilst it would be unwise to ignore such developments, there is a need for caution in looking at the extent to which new technologies and geographies will facilitate the adoption of chemical and biological weapons by groups seeking to target European countries. First, data is not information, and information is not knowledge, let alone the tacit knowledge required for CBW.62 In many cases a degree of determination and dedication will be required merely to separate online fantasy from fact and identify operationally useful information (of relevance to the European context) from nonsense (or information pertinent to contexts other than Europe). Second, with new technologies there is the potential for such tools to enable some, but certainly not all, actors, and even then new technologies bring new challenges. CRISPR, gene editing technology is currently seen as a particular source of promise and peril, which purportedly enables “even largely untrained people to manipulate the very essence of life”.63 As much may be technically true, yet “untrained people” would nonetheless require some guidance in identifying suitable areas of genetic structures to manipulate. Moreover, CRISPR would only get aspiring weaponeers so far, with the process of culturing, scaling-up and weaponisation still requiring considerable attention and interdisciplinary skills, typically generated through “large interdisciplinary teams of scientists, engineers, and technicians”,64 in order to be effective. Indeed, for all the progress in science and technology, biological weapons are still not used, in part, because of the complexity of such weapons; and the chemical weapons that are used today are largely the same as the chemical weapons of 100 years ago. As Robinson noted “It remains the case today that, in the design of CBW, increasingly severe technological constraint sets in as the mass-destruction end of the spectrum is approached: the greater and more assured the area-effectiveness sought for the weapon, the greater the practical difficulties of achieving it”.65

#### No SDGs impact—they’re not adopted and this ev has zero warrants except fearmongering

# Block

## K

### O/V

#### it makes terror inev as a result of nationalism

Kelly Wilkins 8-15-19. Kelly Wilkins is interviewing Henry A. Giroux M.A. in history at Appalachian State University and a D.A. (Doctor of Arts) in history at [Carnegie-Mellon](https://en.wikipedia.org/wiki/Carnegie-Mellon). Honorary Doctorate of Humane Letters degree from [Chapman University](https://en.wikipedia.org/wiki/Chapman_University). "Henry A. Giroux: Neoliberal Capitalism Sets the Stage for Fascism," Truthout, https://truthout.org/articles/henry-a-giroux-neoliberal-capitalism-sets-the-stage-for-fascism/

**Henry A. Giroux:** What we need to understand is that neoliberalism does a couple of things that set the groundwork for a fascist politics. But behind all of that, there is a comment that Horkheimer mentioned once, and which always sticks in my mind. He said that if you can’t talk about capitalism, you can’t talk about fascism. I think that we have to keep that in the background. But what neoliberalism has done since the 1970s is it has created such economic misery, it has so accentuated levels of inequality, it has created such suffering, it has dismantled entire towns, it has concentrated wealth in the hands of the financial elite, and it has legitimated an enormous culture of cruelty. And it operates off the assumption that the market can solve all problems — not simply in the economy, but in all of social life — so it becomes a template and a model for all social relations. In doing so, it is at odds with any notion of the welfare state, any notion of labor unions, any notion of workers’ rights, and any notion of economic rights. It privatizes, deregulates, and commodifies everything. It sets up a series of competitive attitudes that degrades collaboration. It highlights self-interest at the expense of modes of solidarity. It so accentuates matters of inequitable relations in wealth and power that you have an enormous concentration of wealth and power in the hands of the financial elite, and this is enacted by all kinds of policies that undermine the foundations of a democracy — all of its basic institutions, from the press, to public goods such as schools and media, to politics itself. Money drives politics. We all know that now. But the other side of this is that it’s not just an economic system, it’s also an ideological system. As an ideological system, what it generally does is three things that are pernicious and which set the groundwork for a kind of right-wing populism and a fascist politics. First, it operates off the assumption that all social problems are individual problems. Therefore whatever problems people face, the blame for those problems rests with themselves — whether we’re talking about ecological disasters, about poverty, about homelessness, about ignorance and illiteracy, and so forth and so on. Secondly, in doing so it tends to depoliticize people, and by depoliticizing them it becomes very difficult for people — operating under that notion of self-interest, a brutal form of competition, and this heightened notion of rugged individualism — to translate private troubles into larger systemic issues. Hence they find it very hard to understand the conditions in which they find themselves. Thirdly, it creates an enormous culture of ignorance. You have these cultural apparatuses like Fox News, conservative talk radio, and digital online platforms, that constantly pump out conspiracy theories, lies, and attacks on the truth as ‘fake news’. This creates a level of ignorance in which ignorance is not innocent; ignorance actually becomes a form of depoliticization. People become very susceptible to simplistic answers, and they become very susceptible in their anger and their frustration to turning over their sense of agency to the strongman. They get wooed by appeals to ultra cultural sovereignty — shorthand for racism and nativism — and ultra cultural nationalism. They fall into the trap of believing in the friend/enemy divide. And in the United States, now under Trump and prior to Trump, with the rise of fascist politics that’s been going on for a long time, the friend/enemy divide translates into a racial divide. It’s a divide that basically supports xenophobia and a politics of racial cleansing. It says that people at the border are the enemy, it says that blacks are the enemy, it says that women cannot have certain reproductive rights. And so with the anger coupled with the misery, you have a perfect storm between that and the appropriation of what I want to call white supremacy, white nationalism, and this despicable notion of racial cleansing.

#### Capitalism is unsustainable and will cause a global civil war – manufactured tensions with Russia and China and scapegoating to distract from crises accelerates the tendency to over-accumulate, guaranteeing nuclear war, ecological collapse, deadlier pandemics, fascism, and inequality

Robinson, 21

(William I., professor of sociology and global studies @ UCSB, "What are the real reasons behind the New Cold War?", ROAR Magazine, 05/06/2021, https://roarmag.org/essays/new-cold-war-crisis-capitalism/?fbclid=IwAR2RzXn0SMlPSiLfXcXNtTcDIybQa6GxH\_eodUmyEww2i59lh5qHpZpcwhk)

The US is launching a New Cold War against Russia and China in an attempt to deflect our attention from the escalating crisis of global capitalism. The announcement on April 15 by President Biden that this administration was expelling 10 Kremlin diplomats and imposing new sanctions for alleged Russian interference in the 2020 US elections — to which Russia replied with a tit for tat — came just days after the Pentagon conducted military drills in the South China Sea. These actions were but the latest escalation of aggressive posturing as Washington ramps up its “New Cold War” against Russia and China, pushing the world dangerously towards international political and military conflagration. Most observers attribute this US-instigated war to rivalry and competition over hegemony and international economic control. These factors are important, but there is a bigger picture that has been largely overlooked of what is driving this process: the crisis of global capitalism. This crisis is economic, or structural. One of chronic stagnation in the global economy. But it is also political: a crisis of state legitimacy and capitalist hegemony. The system is moving towards what we call “a general crisis of capitalist rule” as billions of people around the world face uncertain struggles for survival and question a system they no longer see as legitimate. In the United States, the ruling groups must channel fear over tenuous survival away from the system and towards scapegoated communities, such as immigrants or Asians blamed for the pandemic, and towards external enemies such as China and Russia. At the same time, rising international tensions legitimate expanding military and security budgets and open up new opportunities for profit making through war, political conflict and repression in the face of stagnation in the civilian economy. All around the world a “people’s spring” has taken off. From Chile to Lebanon, Iraq to India, France to the United States, Haiti to Nigeria and South Africa to Colombia, waves of strikes and mass protests have proliferated and, in many instances, appear to be acquiring a radical anti-capitalist character. The ruling groups cannot but be frightened by the rumbling from below. If left unchallenged, the New Cold War will become a cornerstone in the arsenal of US rulers and transnational elites to maintain a grip on power as the crisis deepens. THE CRISIS OF GLOBAL CAPITALISM Economically, global capitalism faces what is known in technical language as “overaccumulation”: a situation in which the economy has produced — or has the capacity to produce — great quantities of wealth but the market cannot absorb this wealth because of escalating inequality.

### Framework

#### 2. Education – Neoliberalism constructs itself through by constructing implicit biases in the academy – means they can’t access case or perms until they’ve defended their justifications

Hilgers, 13

(Mathieu, Laboratory for Contemporary Anthropology, Université Libre de Bruxelles, and Centre for Urban and Community Research, Goldsmiths, University of London, “Embodying neoliberalism: thoughts and responses to critics,” *Social Anthropology*, *21*(1), February 2013, p. 75-89, https://www.researchgate.net/publication/264592430\_Embodying\_neoliberalism\_Thoughts\_and\_responses\_to\_critics)

The implementation of neoliberalism goes far beyond the mere appearance of its policies. It cannot be reduced to the application of a programme or to institutional changes. This implementation is deployed within a triangle constituted by policies, institutions and dispositions. This last component has remained at the margins of our debate. If we wish to grasp the depth of the changes that neoliberalism causes, we cannot neglect its effects on systems of dispositions. To analyse this impact, it is necessary to describe the symbolic operations that give rise to government-enabling representations as well as to categories that support neoliberalism and are propagated by it. This task requires accounting for the historicity of the spaces in which policies are put into action, the intentional constructions but also involuntary historical formations in which they become entangled, and the transactions, negotiations, associations, working misunderstandings and chains of translation that give them their flexibility and support their deployment. Neoliberalism is embodied in the agents and representations through which it is put into action. Through a historical process, the dispositions that it generates become, as Bourdieu would say, durable and transposable, as well as increasingly autonomous from their initial conditions of production. As such, when these conditions disappear or transform, or when policies are modified or abandoned, some of them spread into other social spaces and contexts and take on new meanings. Therein lies the importance of broadening the notion of ‘implementation’, so that we may appreciate the role of culture in the dynamics of neoliberal expansion. It is precisely (but not only) because of the embodiment of neoliberalism emphasized in this paper that at the moment we are nowhere near the end of the neoliberal era. Thus I arrive, by a different path, at the same observation that Kalb (2012) formulated in this debate: today it is capitalism that is in crisis, not neoliberalism. In some parts of the world, information that helps people to stabilize their perceptions, practices and activities is mainly produced within a neoliberal context, forms and procedures. The figures, statistics, norms, audits and discourses that I evoke in this paper are fashioned by a constellation of institutions; they condition, train and shape a mental and practical space. They impact the way in which one conceives and carries out research. Indeed, academia is not outside of this neoliberal world; on the contrary, it is a centre of development and support for neoliberalism. While many academics are critical of neoliberalism, this does not mean that they have a permanent deconstructionist relation to the world and to themselves. In many parts of academia, a neoliberal way of functioning has become common sense. If neoliberalism is so present in our mind and in the way in which academia is designed and works today, it appears more than necessary for researchers to consider how this shapes their relation to production of knowledge. If we wish to avoid the eviction of critical perspectives in this time of crisis, if we hope to have some chance to think within but beyond the neoliberal age, if we want to develop alternatives and different horizons, one of the first things to do is to decolonize our mind by objectifying our own neoliberal dispositions. The reflexive return to the tools of analysis is thus ‘not an epistemological scruple but an indispensable pre-condition of scientific knowledge of the object’ (Bourdieu 1984: 94), if we are to prevent the object and its definition from being dictated to the researcher by non-scientific logics, such as the necessity of being visible and marketable in the academy. To achieve a break with neoliberal common sense, anthropologists could follow Bourdieu (2003) in his will to engage in a ‘participant objectivation’.14 It is clearly this kind of objectivation even if not phrased in such terms that has led some researchers to call for a radical change in the academy, supported by new arguments and put into practice through the initiation of a ‘slow science’ movement.15 In some places, academia is still a space of critiques and alternatives.

### Perm

#### 2. Any combination poisons the alt.

Curran, 16

(William, Editor for the Antitrust Bulletin, “Commitment and Betrayal: Contradictions in American Democracy, Capitalism, and Antitrust Laws”, *Antitrust Bulletin, 61*(2): 246, 2016, https://doi.org/10.1177/0003603X16641235)

Scholars now link antitrust with distributional values. 11 Professor Anthony B. Atkinson wants antitrust to value the individual,1 12 recognizing as Hand did in Alcoa1 13 that "among the purposes of Congress in 1890 was a desire to put an end to great aggregations of capital because of the helplessness of the individual before them." 1 14 And it is the individual-rich and poor, but especially the poor-whom Atkinson wants to protect from the inequities of the marketplace.115 Atkinson sees as Senator John Sherman did in 1890 that the "problems that may disturb [the] social order ... none is more threatening than the inequality of condition of wealth, and opportunity that has grown within a single generation out of the concentration of capital into vast combinations to control production and trade to break down competition." 11 6 Sherman's and Hand's worries were certainly not Bork's. Hand said it best in Alcoa, "[W]e have been speaking only of the economic reasons which forbid monopoly ... [but] there are others, based upon the belief that great industrial consolidations are inherently undesirable, regardless of their economic results.",1 1 7 Bork-regardless of destructive results to democracy-would never find efficient economic results inherently undesirable. Bork would likely find democracy a "cornucopia of social values, all rather vague and undefined but infinitely attractive."iiS A definition that was surely meant to disparage, fails. What makes democracy attractive is its socially related values. 11 9 What makes it infinitely attractive are its regenerative capacities and potential for self-definition. 120 Bork blocked democracy's values so as not to tempt liberal judges. He worried needlessly. An antitrust solution to wealth's severe inequality is simply not plausible. 121 Antitrust has always been the heart of capitalism's ideology. 122 In truth, antitrust's distribution of wealth for the wealthy is more than ideology-it is heartless reality. So was Bork right? Are the fates of capitalism and antitrust intertwined? 123 And if antitrust were repealed? Professor Atkinson wants antitrust saved and used for citizens.124 But like Professors Stiglitz, Krugman, and Reich, he has fallen headfirst into antitrust's heartless ideological trap. And like the other three he would resurrect TR's trust-busting for the twenty-first century. Piketty avoids ideological traps. He learns the facts of history-unencumbered by ideologies like Bork's-and has an unobstructed vision 125 of the unequal and democratically destructive wealth of capitalism. Bork's antitrust is the wrong policy tool for a nation presumed to be dedicated to serving citizens equitably. 126

#### The perm waters down the alt and guarantees that elites retain ideological and material control

Bolton, 16

(Michael, Associate Professor of Political Science, Pace University, Elizabeth Minor, Visiting Research Scholar @ Jindal school of international affairs, “The Discursive Turn Arrives in Turtle Bay: The International Campaign to Abolish Nuclear Weapons’ Operationalization of Critical IR Theories,” https://onlinelibrary.wiley.com/doi/full/10.1111/1758-5899.12343)

Within the IR literature there is a perennial admonition to make theory more ‘relevant’ to policy makers, but this is usually cast in problem‐solving terms: producing knowledge that solves the problems faced by the existing political framework. (Lepgold, 1998; Eriksson and Sundelius, 2005; Walt, 2005). Many of those engaged in critical theorizing resist such demands to be ‘useful,’ suspicious of the operationalization of academic work in oppressive systems, and tend towards a position of ‘resistance’ to the system as a whole. Critical security studies scholar Anna Stavrianakis (2012, p. 233) for example, calls on disarmament activists to demand ‘transgressive change that fundamentally alters the social landscape as well as generates concrete improvements’ rather than calling for ‘incremental changes that leave the parameters of an issue untouched’. Given the centrality of discourse to critical theorizing, resistance is often framed not in terms of taking territory, mobilizing bodies, changing legislation, gaining votes or raising money. Rather it tends to focus on the critical deconstruction of oppressive discourse and disruption of existing norms (e.g. Hargreaves, 2012). As a result, many critical IR scholars see their academic work – undermining dominant discourses through their scholarship and teaching – as their primary form of resistance. (Said, 1996). An emerging generation of political actors were educated by post‐positivist and critical IR scholars and conceive of their work self‐consciously in discursive terms. That is, they frame their intervention in the political arena as a deliberate attempt to reshape the way society speaks about and gives meaning to a particular phenomenon, people, group or activity. Occupy Wall Street activists drew upon critical and discursive theories to strategize their symbolic disruption of the neo‐liberal order (Welty, 2013). LGBTQA activists and ‘third wave’ feminists are trying to change dominant discourses of gender and sexuality (e.g. St. Pierre, 2000). However, critical theory has had less impact on the realm of international military and security policy, which remains heavily influenced by realist thought (Cooper, 2006). As critical theorizing has begun to be used for solving definable political problems (e.g. Davies, 2012; Merlingen, 2013), what Brown (2013) calls ‘critical problem‐solving theory’, it has eroded Cox's (1981) boundary between ‘problem‐solving’ and critical theories. What happens when a theoretical paradigm that explicitly defines itself in critical opposition is instrumentalized and used in problem‐solving ways? This question, which we begin to explore in this article, is underexamined in the literature (see Weizman, 2012, pp. 185–220 for an important exception). According to the epistemic community literature (e.g. Haas 2004), the education of policy makers can shape their later actions (Eriksson and Sundelius, 2005). Most usefully for this article, it shows how at critical junctures policy makers will turn to experts. Policy makers tend to be less interested in meta‐theory or broad academic debates about an issue. Rather, they look for knowledge that can be used instrumentally to solve a particular policy problem (e.g. Hall, 1993). But moving theoretical ideas from academia, through the activist community, to the policy arena, dilutes the original ideas and reinterprets them in instrumental ways. To help understand this, we draw on postcolonial concepts of ‘translation’ and ‘creolization’ of different ‘knowledge systems’ pushed into contact (Shih and Lionet, 2011, p. 30). We find that some ICAN campaigners responsible for its current strategy have ‘translated’ IR discursive theory into the world of disarmament policy making. In doing so, they selected the aspects of critical security studies ‘to transpose and emphasize’ (cf. Tymoczko, 2000 p. 24) as befit their specific political goals. This creative application of critical theory in a new setting, in its translation of theory into political engagement, may necessarily involve rendering it less threatening to elite audiences, in the process of seeking policy changes (cf. Jeffrey, 2013, pp. 107–131).

#### 3. Their Cheng ev says that they increase SMEs, those maintain capitalism

Kohl, 21

(Sebastian, researcher in comparative political economy and economic sociology at the Max-Planck Institute for the Study of Societies. He studied economics, sociology, political science and philosophy at the University of Cologne and Sciences Po. He holds a joint Ph.D. degree from the Max Planck Institute for the Study of Societies and Sciences Po, Paris, and Timur Ergen, researcher at the Max Planck Institute for the Study of Societies, “Is More Mittelstand the Answer? Firm Size and the Crisis of Democratic Capitalism”, *Analyse & Kritik, 43*(1):41-70, 2021, https://doi.org/10.1515/auk-2021-0004)\\JM

The purpose of this paper has been to critically evaluate the case for deconcentration as a tool to restore the functioning of democratic capitalism with its three core elements of good and stable employment relations, relative equality and healthy democracy. We do not fundamentally doubt that monopolization and the emergence of the giant firm represent crucial challenges for 21st-century democratic capitalism. However, we assembled extensive evidence suggesting that the small capitalist firm is probably not the final solution to these challenges. Empirically, the small capitalist firm has rather been a routine inhibitor of the realization of progressive reforms and might not be the much-vaunted motor of good, stable jobs. While antitrust might be able to reduce certain inequalities of disposable incomes through consumption, SMEs might themselves be a potential contributor to wealth inequalities. Realizing equality through the consumption channel might also be less straightforward than attacking income and wealth inequality at its core. Finally, research on the ‘extremism of the center’ suggests that SMEs and allied interests might even turn into a reactionary force in modern democracy, inhibiting social reform and regulation. SMEs are among the key defenders of low inheritance and wealth taxation in the protection of their business wealth and thus rather stand in the way of Piketty’s participatory socialism and ‘progressive tax triptych.’ Reasons of space prevent us from dissecting other inconclusive empirical evidence for further claims brought forward by modern Mittelstand ideals, such as superior innovativeness and contributions to employment. As important as size can be for determining social phenomena (Simmel [1908] 1950), it might generally be too unsteady a factor to build a strong reform agenda upon. As generalizing sets of political economic assertions, Mittelstand ideologies rarely stand the test of scientific scrutiny. Yet, the debate about monopoly in present day democratic capitalism has made important and remarkable contributions to public controversies. Particularly the debate about the need for collective intervention in the conduct of Big Tech corporations has been ameliorated by the new wave of antitrust thinking (Khan 2018). We do think, however, that it has equally distracted from more straightforward questions about the malaise of democratic capitalism. In essence, Mittelstand proponents suggest the truly difficult reform path of a politically enforced change of market structure, hoping for a long series of beneficial ripple effects. Most of the targeted ripple effects, such as full employment, a purified democratic process, betterment of working conditions, and reduced inequalities, have been targeted by tried and tested policies throughout the 20th century. Campaign finance reform in the United States or lobbying regulation in the European Union seem like much clearer targets for political energy than the beneficial effects of the small capitalist firm. Regulation should be effective for firms of all sizes rather than making size itself the crucial operating parameter. Tackling inequalities through yet another bureaucratic agency without much democratic legitimacy might also not be the best way to compensate for the democratic deficit attributed to the European Union. In our view, the debate about monopoly has a similarly ambivalent character in the intellectual debate about the nature and evolution of democratic capitalism. On a high level of generality, critics of monopoly and large firms suggest that democracy and capitalism are symbiotic structures by nature, whereas the latter has been corrupted by incremental concentration. Repair through purification then seems like a straightforward reform agenda to restore symbiosis. While the case that capitalism comes in varieties, some of which may be corrupting, is a valuable contribution, the focus on firm size can overshadow more basic fault lines. Emancipatory social movements, redistributional institutions and regulatory frameworks have historically both succeeded and failed in a wide variety of corporate environments.

#### 4. Capitalism guarantees their impacts – competition produces monopolies and makes market collapse inevitable

Wolff, 19

(Richard, Professor Emeritus of Economics at University of Massachusetts, Amherst. Transcript from YouTube video: “Economic Update: Competition and Monopoly in Capitalism”, Democracy @ Work, 12-09-2019, https://www.democracyatwork.info/eu\_competition\_monopoly\_in\_capitalism)

Today I'm going to devote the program to something many of you have asked me to present, to talk about, to analyze, and that is the question of monopoly. It has to do with the assertions we hear often these days that somehow our capitalist system, here in the United States and beyond, is being negatively affected because monopolies have replaced or displaced competition. The idea here is if only we can get competition back, recreate a competitive capitalism, why then the problems we face will go away. Today's program is a design to show you how and why that is not the case, to think about these things in a different way from this nice story that capitalism is basically fine; it's just the monopoly form we have to get rid of so we get back to the competition which we're all supposed to believe is wonderful and presents us with no problems to solve. So let's go, and let's do it in a systematic way.

First, it is of course easier, faced with a declining capitalism, a capitalism that's all around us with its extreme inequalities, with its instabilities – here we are, trying to cope with the effects of the Great Crash of 2008, even while we anticipate the next downturn coming down the road soon – an economic system that has shown (that is, capitalism) that it is not respectful of the natural environment; it is not, as the words now go, sustainable in a reasonable way. Yeah, we're surrounded by problems of capitalism. So it's comforting in that situation to get the idea from somewhere that this really isn't a problem of capitalism as a system but rather the problem brought in somehow from the outside – monopoly – a situation in which competition among many companies gives way in some way we're not quite sure about to a domination by one or a small handful of companies. And so the argument goes, we don't have to be critical of capitalism; we don't have to think about an alternative system. No, no, we just have to deal with this little detail, the monopoly problem. And if we can deal with that, well, we'll get back to a competition, to a competitive capitalism that is good.

There are three big mistakes involved in this way of thinking, which is nonetheless very widespread and very popular, more so now than in quite some years. First mistake: Capitalism has been wrestling with the problem of monopoly from day one. We have had repeated periods of monopoly. They have eventually led to movements, often of many people, to destroy or remove monopoly. We used to call that in America trust-busting, or antitrust. We even have a department within the Department of Justice in Washington devoted to antitrust activities. Yeah, we've been waging battles against monopoly over and over again, and you know why? Because we keep having monopolies over and over again. Google is a monopoly. Amazon is a monopoly. They're all around us: companies that have effectively no real competition. This is a problem that capitalism has always displayed. And that ought to lead you to wonder whether thinking about it as something we can do away with isn't maybe the best possible example of wishful thinking.

The second big mistake is to imagine that competition is some unmixed blessing. It never was, and it isn't today. A competitive market is a human institution. Like every other human institution, it has strengths, and flaws, and weaknesses. To think of competition as some magical perfection is a silly abnegation of your own rational capability to evaluate something. It's sort of advertising thinking. By that, I mean the advertiser tells you what's good about the product they've been told to advertise; they don't tell you what's bad about it. If you want to evaluate it, you don't talk to an advertiser because they only give you one side. The people who promote competition use advertising logic. We're not going to do that here. Competition is no unmixed blessing.

And finally, I'm going to show you that competition is itself the major cause of monopoly. So that even if we ever got back to a competitive capitalism, all that would mean is we're back in the process that produces monopoly – as it always has.

All right, so let's begin. I'm going to start with explaining how competition has all kinds of consequences that most of you, like me, don't like, don't want. It's a discussion, if you like, of competition's other side: you know, the part that the advertiser doesn't tell you about. The used-car salesman who wants you to buy that junk doesn't tell you about what happened last week in the car crash that that was part of, etc., etc.

All right, let's begin. One of the major reasons that American corporations shut down their operations in the United States and moved them to China, among other places, is because of – you guessed it – competition. They wanted to make more money than they had been before. They were afraid of other companies beating them in the competitive game, so they said wow, let's go to China, because there you can pay workers a lot less. There you don't have the same rules to obey. There they don't care that much about pollution as they do here. So we can save on all kinds of costs, and that will allow us to undercut our competitors. Yeah, one of the consequences of competition was the exodus of American companies to other parts of the world, and the enormous unemployment that resulted from it. Yeah, that was a result, among other things, of competition.

Here's another one: Capitalists, employers, seeking to compete with one another, often engage in what we call automation. They bring in machines that are cheaper to use than human laborers, and that gets them a step ahead of their competitors. Okay, if we replace people with machines, we throw those people out of work. That has an impact on them, their self-esteem, their relationship to their spouse, their relationship to their children, their relationship to alcohol – should I continue? What are the social costs of automation? They're huge. They've been documented over and over again. Competition provokes and produces automation.

Let me give you another example: Companies are competing, say, in the food business – you know, trying to get a customer like you or me to buy this kind of cereal rather than another. So they get their labs to go to work, and they discover we can replace wheat, which we used to put in our little flakes, with – Lord help us – some chemical that is cheaper than wheat. We're not going to worry about what that chemical does to your chemistry in your body because we can now lower the price of our cereal, because we're saving on wheat, and undercut the competitor. The human beings who eat this stuff will suffer, now and in the future, but competition left our producer of cereal no choice.

And in case you think I'm making some up, let me give you some concrete ones. The Boeing Corporation, the major producer of airplanes in this country, is in a crisis as a corporation. You know why? Because the 737 Max crashed a couple of times, killing hundreds of people. And you know why? It turns out they economized on safety measures, and training measures. And you know why they did that? Because they're in a very tight competition with European and other airplane manufacturers, and that leads them – as it usually does – to look to cut corners: that race for, quote, "efficiency." Yeah, it was competition that contributed to those deaths and to that problem. That's competition too. You can't whitewash this story; they're real. One of the ways Amazon beats its competition is it speeds up the work process. It has figured out ways to make people work much more intensely, using up their brains, their muscles, their nerves, in ways that cause real long-term physical damage to working people. That, too, is a result of the competitive effort.

And you know, it wasn't so long ago that children were part of the labor force. That's right, kids as young as five and six years of age. We were told they have little fingers, you see. They can be more productive than people who are adults with big fat fingers, you know – that doesn't work. And by the way, you should be grateful because poor kids are the ones we hire, and that gives their poor families more income than they would otherwise have. We heard those arguments. Competition, the companies said, required them to use the more productive, and the lower-wage, children rather than adults. So child labor was also a result of competition. It was so ugly and so troubling to so many people that finally there were movements in the United States and many other countries simply to outlaw child labor. So it became a crime for any employer to use a worker who was under 16 or 18 years of age. That was a way in which people said we are not going to allow competition among capitalists to destroy our children. They were recognizing that competition has an awful effect in what it does to children.

Well, it has many awful effects. So let's be clear: In the history of capitalism, the monopoly problem (which we're going to get to in the second half of today's program) is no worse, it's just different, from the competition problems. Capitalism goes through phases of competition and monopoly, going from one to the other, as I will explain. But we shouldn't bemoan the one in favor of the other, any more than vice-versa. These are neither of them solutions; they are both phases of the problem. And the problem is capitalism, which does its number on us both in the period when it's competitive and in the period when it's monopoly. People who want us to engage one more time in an anti-monopoly crusade are doing something that in the end evades the problem, which is the system – capitalism – not this or that form of that system, such as competition and monopoly.

We've come to the end of the first half of today's Economic Update. This gives me an opportunity to remind you, please, to sign up if you haven't already, to subscribe to our YouTube channel. It's a way easily for you to support us, doesn't cost any money, and it is a big help to us in terms of our reputation and what we can accomplish. Likewise, please make use of our websites. They are there for your communication with us. They are there for you to be able to, with a click of a mouse, to follow us on Facebook, Twitter, and Instagram. And finally, a special thanks goes, as always, to our Patreon community for their ongoing enthusiastic support. It means the world to us. My final, very final for this first half, is about a new book that we have just produced and released. It's a follow-up to an earlier volume I have spoken to you about that was called Understanding Marxism. For the same reason, we have now produced a brand-new book, just out, called Understanding Socialism. It is a response, as this program is, to issues, questions, comments you have sent to us in large numbers. It's an attempt to give an overview of the different interpretations of what socialism means, of what happened in countries like Russia and China that tried to create this – the strengths, the weaknesses, the lessons to be learned, what to do, and what not to do. Please, if you're interested and want to follow up, check us out, check the book out: lulu.com is how you find both books. And I will be right back; stay with us.

Welcome back, friends, to the second half of today's Economic Update. This program, as I explained, is devoted to the analysis of competition and monopoly as two interactive, sequential phases of capitalism as a system. The first part of the program was devoted mostly to competition, so let's turn now to monopoly. What is the basic definition and criticism of monopoly? Strictly speaking, monopoly is defined simply as a situation in which the producers of a particular commodity – shoes, software programs, haircuts, it doesn't matter – have been reduced to only one. Literally one seller – a monopolist. But in general language, it includes also situations where many producers who once competed with one another have been reduced to only a handful. The strict term for only a handful is "oligopoly," but we don't have to split hairs about this. "Monopoly" will be the word we use for either one or a very small number.

For example, there were once dozens of automobile companies, but very quickly their competition reduced them to basically three for much of the post-World War II period, and you know their names: Ford, General Motors, and Chrysler. And likewise there were once many cigarette producers, there were once many television-set producers, and they became very few, whose names, therefore, we all know.

What's the criticism of a monopoly or oligopoly situation? Again, very simple: The idea is, if there's only one seller of something, that seller can jack up the price way above what he might have otherwise because he doesn't have any competitor. If he had a competitor, if he raised the price, the competitor would get all the business because we'd all go to the competitor who hadn't raised the price rather than buy it at a higher price from the monopolist. So we don't like monopolies, because they can jack up their prices and their profits because they don't have a competitor. And if it's a few, a handful, well then we talk about things like cartels: arrangements when a few get together over dinner, or out on the golf course, and tell us what the price is. If you ever wondered why the prices of different cars, different cigarettes, and so on, are so close to one another – mm-hmm – that's because there are few sellers, and somehow they worked it all out. But the basic criticism is that a monopoly is a situation in which the seller of something jacks the price up way beyond what they could otherwise get because there are no more competitors.

So let's talk about this monopoly problem and where the monopolies come from. Well, the first and most important lesson is this: Competition produces monopoly. It's not something external, imposed on competition. It has nothing to do with human greed or anything else. Are people greedy? You betcha – some more, some less – but that's really a separate matter. It's competition that produces monopoly, and let me show you how that works. In competition, we have, by definition, a whole bunch of producers. They all produce the same thing. They compete with one another, hoping we, the consumer, will buy from one rather than the other. They compete in the quality of what they produce and in the price of what they produce. And we are supposed, as consumers, to go look for the best quality at the lowest price, and to patronize that one who offers that to us better than the others that we could buy from but choose not to.

Okay, that's a fair definition. Now let's follow the logic. Company A produces – however it manages it – a better quality and/or a lower price than Company B. So we all go to Company A. Company B can't find any buyers because it's not competitive. Or to say the same thing in other words, Company A outcompetes Company B. Here's what happens: Company B collapses. Because it can't sell its goods, we're all going to Company A. So Company B sooner or later declares bankruptcy. It can't continue. It lays off its employees, it stops buying inputs, because it can't compete. Good. Now what happens in Company A? Company A says hey, there's a whole bunch of workers that have just lost their job at Company B; they're trained in producing what we produce; let's go hire some of them. And likewise, Company A says, they're not using their computers, or their trucks, or their other inputs. They're going to have to sell them on the secondhand market. We can get some important inputs we need at a lower price than we would have to pay if we bought them new. So what begins to happen is, where before there were two companies, A and B, there's now one larger A, and B has disappeared. Or to say the same thing in simple English, A – the winner in the competitive struggle – eats, absorbs into itself, what's left of Company B.

And this process is repeated over and over, until 30, or 300, companies have become one, or two, or three. That's the result of competition. That's how competition is supposed to work. That's how competition does work. It's important to understand: Monopoly is where competition leads. And as if that weren't enough, let me make sure you understand this from the business point of view: It is the great dream of every entrepreneur to become the last one standing in the competition, to win the competition, not just because it makes you feel good you outmaneuvered your competitors, but because if you're the last one standing, you're the monopolist. The reward for having outcompeted the others is that you're now in a position to jack up the profits, and the prices, way beyond what you could have done before.

So we have a system that produces monopoly, and all the incentives for every entrepreneur in competition to work as hard as possible to become the monopolist. So why is anyone surprised that monopolies keep happening, because they're the whole point and purpose of capitalist competition. If you ever were – and we never have, but if you ever were – able to get rid of all the monopolies and re-establish competition, all you would be doing is setting this same process in motion again for the umpteenth historical time. In other words, fighting against monopoly is pointless as long as you have capitalism, because it is the endless reproducer of this problem – as it always has been.

Now, how do monopolies maintain themselves? If you're the only one standing, you're a monopolist. Or you're an oligopoly, you're a few, and you get together and jack up your prices together. The question becomes look, a monopolist makes very high profits – much higher than a competitor can achieve – and isn't that an enormous incentive for other capitalists to get in on that business? Because look at the profits they're earning, because they're the only one. Apple, Amazon, Google – the profits are staggering. Everybody wants to get in. So the way a monopolist has to think is, I've got to create obstacles that block other people from coming in to get a piece of the enormous profits my monopoly allows me to get. We call that in economics "barriers to entry." Monopolists need to create barriers. Let me give you a couple of examples.

The major soft drink makers in the United States – basically Coca-Cola and Pepsi Cola – they produce a drink that has sugar and coloring in it, and lots and lots of water. Let me assure you, there is nothing difficult or complicated about producing a mixture of sugar, color, and water. It doesn't take a genius; it never did. Pepsi and Coca-Cola make a fortune off of their product, as we know, and they have for decades. They have a virtual monopoly. Now, lots of other people could produce water, sugar, and color close to, if not identical with, whatever they produce, but they can't break through. They can't really get to that status. And you know why? Because Coca-Cola and Pepsi erected a barrier to entry. And the way they did that was with advertising. Every billboard, every magazine cover, every doorway of every institution you've ever been to has a picture of smiling, happy people drinking one or the other. You've learned: that's the drink, that's the drink. Another company might make a perfect substitute, but they can't afford the enormous cost of advertising. The advertising costs more than the water, and the sugar, and the color. What you pay for when you buy Pepsi and Coke is the advertising that got you to buy it. You're paying for being hustled. But it works, because it means other companies know that they can't get in there by cheaply producing an alternative, because you have to produce the advertising that goes with it, or else you can't do it. And so their monopoly is maintained.

Here's another way to maintain a monopoly: Get the government to step in. Here the famous example is the milk producers. Some years ago, there was a crisis with milk. There was contamination; people were getting sick. So the clever milk monopolies came in and said, we're going to support the enormously expensive, special equipment to guarantee pasteurization, and so on, of milk. Why did they support it? Because your small farmer, your small dairy producer, can't afford it, so they go out of business. Only the big, rich few that are left can afford the enormous equipment. They used governmental rules to create a barrier to entry.

Here's another way: corrupt public officials. President Trump denounces Huawei corporation because it compromises our national security. It denounces European car producers because somehow their shipping cars here compromises our security. Who cares? As long as the president blocks other companies from getting into the business that might compete with an American, a barrier to entry exists. Monopolists have been very creative in coming up with ways to preserve their monopolies.

I don't want to lose the basic point. The basic point is: Capitalism oscillates, back and forth between competition and monopoly – first this industry, then that one. For a while, Ford, General Motors, and Chrysler were the monopolies – or the oligopoly, if you like – in automobiles. But eventually, Toyota, and Nissan, and Peugeot, and Fiat broke the monopoly. In that case, it was foreigners who did it. And then we had some competition, and that, then, is now shrinking. The French – the last two producers in France – have just agreed to merge. You get the picture. Industry by industry, first this one, then that one, go through one phase or another.

The important point is: The phases are not our problem. They merge into, and incentivize, each other. Each provokes movement in the other direction. The point to understand is that the problems of a capitalist system are not about this oscillation of phases. We're not going to solve the problem of monopoly by getting rid of them and re-establishing competition. We've been there; we've done that; it reproduces monopoly; and it doesn't change the basic inequality, unsustainability, instability of capitalism. We need to get beyond that stale, old debate – competition versus monopoly – and face the underlying reality: Capitalism is the problem, and getting beyond it is the solution.

### Unsustainable

#### Mineral scarcity also causes collapse. Tipping points happen before we know them AND goods are not substitutable.

Ahmed 20 [Nafeez. M.A. in contemporary war & peace studies and a DPhil (April 2009) in international relations from the School of Global Studies at Sussex University. Capitalism Will Ruin the Earth By 2050, Scientists Say. Vice. 10-21-2020. <https://www.vice.com/en/article/v7m48d/capitalism-will-ruin-the-earth-by-2050-scientists-say>]

Endless growth will generate minerals scarcity within decades

The EV transition is, in short, a massive industrial project. Electrification of roads and rail will require upgraded smart grids, complex routes connected to high power lines, and regular battery-swap stations. The paper explores several scenarios to explore how such a transition would take place.

In a continuing GDP growth scenario, the authors note that the economy begins to stagnate “due to peak oil limits at around 2025-2040,” but GDP is able to continue growing thanks to the EV transition. This shows that the reduction in liquid fuels in transportation can play a powerful role in avoiding “energy shortages in the economy as a whole.”

But then the economy hits the limits of mineral and material production to sustain this electric transition—in just three decades. And this is even with high levels of minerals recycling.

By 2050, in this scenario, the EV transition will “require higher amounts of copper, lithium and manganese than current reserves. For the cases of copper and manganese the depletion is mainly due to the demand from the rest of the economy,” but most lithium demand “is for EV batteries,” and this alone “depletes its estimated global reserves.”

Mineral depletion takes place even with “a very high increase in recycling rates” in a continuing GDP growth scenario.

In one such scenario, the authors apply what they consider to be realistic upper level recycling rates of 57 percent, 30 percent and 74 percent to copper, lithium and manganese respectively. These are based on extremely optimistic projections of recycling capabilities relative to their costs.

But still they find that even these high recycling rates wouldn’t prevent depletion of all current estimated reserves by 2050. The conclusion corroborates findings of other studies, estimating an expected bottleneck for lithium by 2042-2045 and for manganese by 2038-2050.

Actual bottlenecks could come even earlier because existing studies—including the MEDEAS model—don’t account for material requirements needed for internal wiring, the EV motor, EV chargers, building and maintaining the grid to connect and charge EV batteries, the catenaries to electrify the railways, as well as inherent difficulties in recycling metals.

#### Can’t transition to clean tech—carbon bubbles pop.

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

The Carbon Tracker Initiative, a London-based think tank serving the energy industry, reports that the steep decline in the price of generating solar and wind energy “will inevitably lead to trillions of dollars of stranded assets across the corporate sector and hit petro-states that fail to reinvent themselves,” while “putting trillions at risk for unsavvy investors oblivious to the speed of the unfolding energy transition.”19 “Stranded assets” are all the fossil fuels that will remain in the ground because of falling demand as well as the abandonment of pipelines, ocean platforms, storage facilities, energy generation plants, backup power plants, petrochemical processing facilities, and industries tightly coupled to the fossil fuel culture.

Behind the scenes, a seismic struggle is taking place as four of the principal sectors responsible for global warming—the Information and Communications Technology (ICT)/telecommunications sector, the power and electric utility sector, the mobility and logistics sector, and the buildings sector—are beginning to decouple from the fossil fuel industry in favor of adopting the cheaper new green energies. The result is that within the fossil fuel industry, “around $100 trillion of assets could be ‘carbon stranded.’”20

The carbon bubble is the largest economic bubble in history. And studies and reports over the past twenty-four months—from within the global financial community, the insurance sector, global trade organizations, national governments, and many of the leading consulting agencies in the energy industry, the transportation sector, and the real estate sector—suggest that the imminent collapse of the fossil fuel industrial civilization could occur sometime between 2023 and 2030, as key sectors decouple from fossil fuels and rely on ever-cheaper solar, wind, and other renewable energies and accompanying zero-carbon technologies.21 The United States, currently the leading oil-producing nation, will be caught in the crosshairs between the plummeting price of solar and wind and the fallout from peak oil demand and accumulating stranded assets in the oil industry.22

#### Their ev says tech is possible *not* that it will be adopted—financial incentives ensure it won’t and we’re past the point of tech success—offshoring also means it doesn’t solve—try or die for transition.

**Foramitti, 20** (Joël Foramitti, Joël Foramitti is an environmental activist and a PhD candidate at ICTA-UAB in Barcelona., Marula Tsagkari, a PhD candidate in Energy Policy & Economics at the University of Barcelona, and Christos Zografos, Ramón y Cajal Senior Research Fellow with the Johns Hopkins University – Pompeu Fabra University (JHU-UPF) Public Policy Centre in Barcelona, Spain,” “Why Degrowth Is the Only Responsible Way Forward,” Naked Capitalism, https://www.nakedcapitalism.com/2019/09/why-degrowth-is-the-only-responsible-way-forward.html, 8-18-2020)

Phillips acknowledges that we need to stay within planetary boundaries. But as an ecomodernist, he believes that all environmental problems can be solved by a shift in technology. All we need to do is become more efficient. This version of post-environmentalism has received a lot of support, as it aligns well with existing powerful interests in the economy. But it is problematic for many reasons. First, **there is** no ev**idence** for this claim. The potential of our current technology is limited. And the potential of future innovation is uncertain. As Phillips acknowledges himself, it will take considerable time until new technology arrives. We should not gamble **away** our future on **ideas with** such a low (if even known at all) probability of success. Let us illustrate this in relation to climate change. The latest IPCC report to limit global warming to 1.5° presents four scenarios. Three of them strongly depend on neg**ative** emission **tech**nologies, which are highly controversial as they **have** not **been proven to** work at **the** requiredscale and represent an “unjust and high-stakes gamble”. The IPCC also provides a fourth scenario that does not rely on negative emissions, but which notably requires that “global material production and consumption declines significantly”. Some demand reduction could be achieved through efficiency improvements. But these might be less effective than they appear. As long as we keep pursuing growth, such **improvements will be used for further expansion**. This can counteract possible environmental gains. Simply put, efficiency improvements make things cheaper and therefore push up consumption. Such a rebound effect has been found both in different countries and industries. What is more, technological shifts always come at an environmental cost. Every sector of our economy is still based on some form of extraction, pollution, and waste. And all of them depend on carbon. Renewable energy, in particular, requires a great amount of **rare** minerals and land-use**.** The same goes for nuclear energy, which demands considerable resources in order to mine uranium, construct power plants, and deal with its waste.Even digital technology has environmental impacts. Phillips tries to argue against this by pointing at past solutions to environmental problems, like the ozone layer or deforestation. However, he does acknowledge that those **examples do not compare** well **to a bigger challenge like climate change**. Some of those challenges were solvable because they only affected a single sector and an easy technological replacement was available. Additionally, **many past environmental challenges** have not been overcome, but have **simply** been reshaped and displaced. Philips points towards the fact that net deforestation ceases in rich countries. But this is mainly because **agricultural** production is outsourced **to poorer ones.** The study he uses to show the increase in global tree-cover also shows an alarming reduction in tropical areas. The recent Amazon fires in Brazil, for example, are connected to increased deforestation efforts for agricultural expansion in the territory of the world’s 22nd largest export economy. The total amount of environmental degradation caused by our economy remains coupled to economic activity. Finally, it is important to understand that environmental issues are all interrelated. Even the successful ozone depletion is nowadays under threat as climate change could reverse the recovery of the ozone layer. The deforestation study mentioned above shows that climate change has contributed to both increases and decreases of vegetation in different parts of the world. Mass extinction is another serious threat that our planet is experiencing at the moment, which is also connected to deforestation. And we know that most mass extinctions of the past “had something to do with rapid climate changes”. All this means that it is hard to see a way around a reduction of economic activity. Of course it is theoretically possible that we could grow and produce more within our limits if technology improves. But so far this hasn’t happened, there is little to show that it will, and as long as it doesn’t, we need a practical plan. The logic of eco-modernism – to blindly bet on future innovation – has already caused us to delay action for more than thirty years, and there is simply no time left. We need to act now, and within our current technological means.

#### The 1% prevent sustainable investment.

Marques 20 – Luiz, associate professor at the Department of History, University of Campinas (Unicamp), Brazil. “The Illusion of a Sustainable Capitalism” in “Capitalism and Environmental Collapse”, Springer, <https://link.springer.com/chapter/10.1007/978-3-030-47527-7_13>, 08-18-2020

13.5 A Super-entity. The Greatest Level of Inequality in Human History When comparing corporate vs. government revenues, it becomes very clear that corporate power is greater than that of states. According to the 2017 Fortune Global 500, revenues of the world’s 500 largest corporations amounted to US$ 28 trillion, the equivalent of 37% of the world’s GDP in 2015. As revealed by the NGO Global Justice Now (2016), “69 of the world’s top economic entities are corporations rather than countries in 2015,” and 10 of top 28 economic entities are corporations. “When looking at the top 200 economic entities, the figures are even more extreme, with 153 being corporations.”10 Nick Dearden, director of Global Justice Now, declared: “The vast wealth and power of corporations is at the heart of so many of the world’s problems – like inequality and climate change. The drive for short-term profits today seems to trump basic human rights for millions of people on the planet.”11 Even more important than the power of an isolated corporation is the obscure and highly concentrated power within the corporate network itself. This network is controlled by a caste that is barely visible and that is impervious to the pressures of governing parties and societies. Their investment decisions define the destinies of the world economy and, therefore, of humanity. This is what research on the architecture of the international ownership network, conducted by Stefania Vitali, James B. Glattfelder, and Stefano Battiston (2011) from the Eidgenössische Technische Hochschule (ETH) in Zurich, has shown. Based on a list of 43,060 transnational corporations (TNCs), taken from a sample of about 30 million economic actors in 194 countries contained in the Orbis 2007 database, the authors discovered that “nearly 4/10 of the control over the economic value of TNCs in the world is held, via a complicated web of ownership relations, by a group of 147 TNCs in the core, which has almost full control over itself.” These 147 conglomerates occupy the center of a tentacular power structure, as these authors further elaborate: We find that transnational corporations form a giant bow-tie structure and that a large portion of control flows to a small tightly-knit core of financial institutions. This core can be seen as an economic “super-entity” that raises new important issues both for researchers and policy makers. (…) About 3/4 of the ownership of firms in the core remains in the hands of firms of the core itself. In other words, this is a tightly-knit group of corporations that cumulatively hold the majority share of each other. 13.5.1 An Emerging Subspecies of Homo sapiens: The UHNWI The concentration of so much economic power in the hands of a numerically insignificant caste is unprecedented in human history. By combining data from the Crédit Suisse Global Wealth Report pyramid (already presented in the Introduction, see Fig. 1.1) with the Wealth-X and UBS World Ultra Wealth Report 2014 and the two Oxfam International reports (2014 and 2015), we can examine this trend in more detail. As seen in the Introduction, in 2017, at the top of the global wealth pyramid, 0.7% of adults, or 36 million individuals, owned 45.9% of the world’s wealth (US$ 128.7 trillion). Penetrating into the vertex of this global asset pyramid, we see that in this group of 36 million (with assets worth over US$ 1 million), there are 211,275 billionaires—the ultra-high net-worth individuals (UHNWI)—corresponding to 0.004% of adult humanity. Their assets alone total US$ 29.7 trillion, assets that, moreover, increased by 7% in 2014 compared to the previous year (64% of UHNWI are in North America and Europe, while 22% are in Asia). Now, with the aid of a magnifying lens provided by two listings (from Forbes Magazine and the Bloomberg Billionaires Index), we will move up to examine the most exclusive stratum of this UHNWI club. In 2013, Forbes Magazine listed 1426 billionaires amassing US$ 5.4 trillion, which is equivalent to the GDP of Japan (the world’s third largest GDP). Forbes Magazine 2018 lists 2208 billionaires with US$ 9.1 trillion, an 18% increase in wealth compared to the previous annual survey. The Bloomberg Billionaires Index contains an even more stratospheric list: the world’s 300 richest individuals had a wealth of US$ 3.7 trillion in December 31, 2013. These 300 people became even richer throughout 2013, adding another US$ 524 billion to their net worth. From the top of this nanopyramid, situated at the extreme end of the Crédit Suisse pyramid, Table 13.1 allows us to contemplate the general picture of human inequality in the current phase of capitalism. In 2014, Oxfam showed that the 85 richest individuals on the planet had a combined wealth of more than US$ 1.7 trillion, which is equivalent to the wealth held by 3.5 billion people, the poorest half of humanity. The concentration of these assets continues to grow at a staggering rate, as shown in the Table 13.2 which shows the declining number of individuals whose combined wealth equals that of the bottom 3.6 billion people (the poorest half of humanity which is becoming increasingly poorer). According to the Oxfam report, An Economy for the 1% (2016), The wealth of the richest 62 people has risen by 45% in the five years since 2010 – that’s an increase of more than half a trillion dollars ($542bn), to $1.76 trillion. Meanwhile, the wealth of the bottom half fell by just over a trillion dollars in the same period – a drop of 38%. Oxfam’s 2015 report stated that in 2014, the richest 1% owned 48% of global wealth, leaving just 52% to be shared between the other 99% of adults on the planet: Almost all of that 52% is owned by those included in the richest 20%, leaving just 5.5% for the remaining 80% of people in the world. If this trend continues of an increasing wealth share to the richest, the top 1% will have more wealth than the remaining 99% of people in just two years. This prognosis was confirmed in the following year. The 2016 report (An Economy for the 1%) states that “the global inequality crisis is reaching new extremes. The richest 1% now have more wealth than the rest of the world combined.” Bill Gates’s fortune, estimated at US$ 78.5 billion (Bloomberg), is greater than the GDP of 66% of the world’s countries. In present-day Russia, 110 people own 35% of the country’s wealth.12 Another way to understand this extreme concentration of wealth is to look at the large financial holding companies. Seven of the largest US financial holding companies (JPMorgan Chase, Bank of America, Citigroup, Wells Fargo, Goldman Sachs, MetLife, and Morgan Stanley) have more than US$ 10 trillion in consolidated assets, representing 70.1% of all financial assets in the country (Avraham et al. 2012).13 Also according to Oxfam, among the countries for which data is available, Brazil is the one with the greatest concentration of wealth in the hands of the richest 1%. Six billionaires in the country hold assets equivalent to that of the poorest half of the Brazilian people, who saw their share of national wealth further reduced from 2.7% to 2% (Oxfam 2017). This emerging subspecies—the 0.004% of the human species known by the acronym UHNWI—owns the planet. Their economic and political power is greater than that of those who have a popular mandate in national governments. Their domination is also ideological, since economic policies are formulated—and evaluated by most opinion leaders—to benefit the business strategies of this caste. Its power surpasses—in scale, reach, and depth and in a way that is transversal and tentacular—everything that the most powerful rulers in the history of pre-capitalist societies could ever have conceived of or had reason to desire. Additionally, the power of these corporations is infinitely disproportionate to their social function of job creation. In 2009, the 100 largest among them employed 13.5 million people, that is, only 0.4% of the world’s economically active population, estimated by the International Labour Organization at 3.210 billion potential workers. Who in such circumstances can still uphold the historical validity of the so-called Kuznets curve? As is well known, Simon Kuznets (1962) claimed, in the 1950s, that as an economy develops, market forces first increase and then decrease economic inequality. In reality, all the actions of this plutocratic super-entity are guided toward a single motto: defend and increase their wealth. Their interests are, therefore, incompatible with the conservation of the biophysical parameters that still support life on our planet.

#### CCS and geoengineering are both unsustainable and ineffective—requires more resources than the planet can sustain and an infrastructure 70% larger than the global oil industry which there’s no political will for—that’s Smith—BUT red innovation solves climate via mutual funds, dividends, public projects, larger and more creative workforce

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

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

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

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

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

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

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

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

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

#### 2.

#### COVID accelerates these crises.

David Neilson 21. Professor of Political Science and Economics, University of Waikato, New Zealand. “Reversing the catastrophe of neoliberal-led global capitalism in the time of coronavirus: Towards a democratic socialist alternative.” *Capital and Class* 2021. DOI: 10.1177/0309816821997114.

This competitive logic interacts both with the ‘third international division of labour’ and ‘relative surplus population’ driven (un)employment effects. Interconnected sets of mutually dependent firms located across geographically remote national localities produce parts of single commodities are brought together for final assembly (Taylor 2008). Global capitalist firms technologically enabled by advanced systems of information and communication command this global supply-side-chain form of production. Simpler parts of the production process are sub-contracted to firms located in the industrially developing countries where high ‘formal subordination’ of labouring populations facilitates ‘absolute surplus value’ strategies. In turn, conception and the more technically advanced parts of the production process that Marx identifies with ‘relative surplus value’ are located in industrially advanced countries. In sum, a contractual chain of global capitalist coordination connects specialised production units across nationally diverse locations that enable global corporations to optimise surplus value by combining absolute and relative surplus value accumulation. However, the terms of locational competition across unevenly developing countries are actually more complex. To begin with, the second international division of labour still exists, most extensively in the form of China’s belt and road initiative. As well, developed and developing countries move somewhat towards more hybrid two-speed national economies that include both low tech or low pay peripheral, and high tech or high pay metropolitan, sectors. In sum, neoliberal globalisation has unleashed a complex competitive advantage logic for countries that has led to their reduced self-sufficiency, and thus integrally, to their dependence on the global mode of accumulation. Second, this neoliberal-led competition-driven version of uneven development has been intensified by the zero-sum logic implied by capital scarcity caused by a growing ‘relative surplus population’ (Marx 1976; Neilson & Stubbs 2011). An increasing relative surplus population driven by redundancy of industrial production workers in the advanced capitalist countries is being intensified, not just by the transfer of material production to the recently proletarianised workers of newly industrialising capitalist countries, but also by rapid automation. Simultaneously, by extending the ‘coercive whip of competition’ to the countryside of the Global South, the first wave of the relative surplus population tendency driven by peasant dispossession has been brutally activated across previously protected peasant modes of agriculture. For newly industrialising competition states, a necessary but not sufficient source of competitive advantage has been low wages enabled by labour’s high ‘formal subordination’ driven by a growing relative surplus population. In general, growing demand to facilitate employment – but hastening ecological destruction – is prevented by the demand-depressing effects of global market competition that is intensified by labour’s increasing oversupply that inversely increases the scarcity of capital. Moreover, ‘relative surplus population’ employment logic has particular relevance to the present virus-led crisis because labour made redundant by increasing productivity in agriculture and industry spreads to the service sector (Neilson & Stubbs 2011). Although outside the core necessary economy in Marx’s sense, the service sector has become a significant source of employment and economic viability for many countries. With this neoliberal-led zero-sum terms of international competition, a significant proportion of service sector employment has become dependent on nation states’ capacity, in competition with other nation states, to attract overseas tourists. In turn, this process has unleashed a global movement of people that now spreads the virus. Especially for countries struggling to retain or achieve international competitiveness, which is central to local employment, there is entailed an international race to the bottom in wages, working conditions and, relatedly, in ecological standards (Olney 2013). In sum, the neoliberal model of development has activated a zero-sum international competition for scarce capital, including money coming in through overseas tourists. Regressive nationalism and the rise of neo-fascism Defenders of the neoliberal model of development do their best to cast the ‘regressive nationalism’ of the Alt. Right as the antithesis of its cosmopolitan project. Actually, regressive nationalism is the degenerate effect of the neoliberal project’s competition-driven globalisation logic (Neilson 2020c). However, the deep causes of regressive nationalism that lie with the effects of the neoliberal model of development are mystified both by neoliberals and Alt. Rightists (Gray 2018). The volatility of national economic competitiveness under neoliberal globalisation implies employment insecurity and uncertainty for local populations, which is heightened further by importing overseas labour. In particular, both legal and illegal low-paid workers are imported from the relative surplus populations of competitively struggling countries into more economically successful countries. Both indirectly and directly, foreign forces and peoples can thus be cast as the cause of local economic insecurity and of undermining pre-existing cultural identities. Insecure local labouring populations are invited to release their anxiety as xenophobic anger towards scapegoated immigrant labour forces. In turn, the Alt. Right argue that the solution is to expel residing immigrant populations and halt further immigration. In their aggressive pursuit of proactive regulation domestically, agents of the Alt. Right are degenerately vulgar neoliberals. However, they break more fundamentally with neoliberalism because they directly oppose both neoliberal cultural cosmopolitanism and neoliberal market globalisation. In particular, regardless of moral, legal or political implications, all strategies that may render a national advantage can be rationalised because there are no rules in their worldview of a primordial zero-sum war between warring nations fighting for survival. Therefore, they wilfully oppose and transgress the strictly prescribed and transparent rules of economic competition that define the project of the neoliberalised global market. As the world descends into recurring, escalating and viciously interacting crises, mistrust and economic competition fed by the primordial ideology and amoral practices of the agents of regressive nationalism threaten to spill over into direct forms of civil and international war. The global pandemic The global spread of COVID-19 is also related to limitations arising from the neoliberal model of development’s modes of regulation and accumulation. Its proactively capitalist mode of competitive regulation has been ideologically promoted, institutionally constructed and managed by key United Nations based regulatory agencies, and is now also embedded in the institutions and expectations of national agents. However, it is radically unsuited to the forms of international cooperation that are needed for controlling a global pandemic. Indeed, when such a global crisis occurs, the present mode of global regulation can trigger blaming, disorganisation and intensified competition. At the same time, national dependence on the global structure of the neoliberal mode of accumulation is highly destabilising. Specifically, because dependent on the global scale system of accumulation, nation states are in a weak position to be able to sustain themselves locally. This dependence manifests as a direct contradiction between maintaining national economic viability and stopping the pandemic’s spreading into a nation state from off-shore. Directly contrary to the neoliberal ideology of self-sufficiency, national economic viability under the neoliberal mode of accumulation is dependent on achieving specialised export competitiveness within complex global commodity chains that now ‘are breaking in numerous places’ (Foster & Suwandi 2020: 9; Moody 2020). This dependence on their position within a disintegrating global system is in direct tension with the need to pursue economic localisation in order to stop COVID-19 entering the nation sate. A global crisis thus becomes a local crisis, but also a local economic crisis can have ripple effects across other countries. The original breakout of a pandemic in one place is in-itself related to the destructive capitalism-led march of humanity into the wilderness (Wallace 2016; Wallace et al. 2020; WWF International 2020). The neoliberal model of development constitutes the perfect environment for the virus to spread rapidly from this particular locality to the whole of humanity because its forms of regulation and accumulation have generated unparalleled movement of people backwards and forwards across the planet. The global flow of things and people unleashed by the neoliberal model of development spreads the virus everywhere. Inversely, because of global market capitalist dependence and corresponding lack of local self-sufficiency, all nation states struggle to – but must – break from this global system if they are to avoid being overwhelmed by the contagion’s local invasion from off-shore. In sum, this viral-led crisis is centrally related to capitalism’s neoliberal-led global form. On one hand, its intensification of human movement across and within national borders that now engulfs the whole planet is also what spreads the virus everywhere. It only stops spreading when we stop moving. On the other hand, as we struggle to stop moving to halt the virus, the prevailing global form of the capitalist mode of production upon which basic human existence now depends cannot be maintained. The shocking immediate choice confronting political actors is thus between containing the virus’ spread and avoiding economic breakdown. The worst case scenario is where neither goal is achieved, that is, where the spread of the virus is reactivated every time countries are driven to return to ‘business as usual’ before it has been properly stamped out. Thus, economic breakdown follows when a country locks down, and the spreading of the virus follows when a country re-opens. The extremely unstable and inflexible nature of this form of the capitalist mode of production spreads COVID-19 to the whole world in an uneven process of refracted diffusion. This complicated transmission logic has interacting international, political and class dimensions. The movement of the virus into and within nation states initially spreads most rapidly among industrially advanced capitalist countries where the frequency and distance of human movement is highest. In contrast, spread of the virus is delayed and reduced for the shorter and less frequent moving of people and things that occurs in the non-developed countries of the Global South. With fewer economic reserves and less developed national health systems, non-developed countries have the least structural capacity to respond to this double-headed economic or health crisis. However, they do have the pre-existing advantage of more localised economies and they have time to learn from other national experiences and thereby more chance to implement successfully lockdowns and social distancing rules. Furthermore, regardless of the economic stage of capitalist industrialisation, countries with strong state capacity, decisive political leadership and a collectively responsible citizenry may be able to stop the virus by reducing citizens’ movement outside of their immediate locations while at the same time promoting ‘social distancing’.3 Despite complexly overdetermined form, a class process of diffusion overlaid by cultural inequalities is discernible. The virus is internationally carried, first, by the cosmopolitan members of the capitalist class and middle class who move freely for business and pleasure back and forth across countries. Second, it is carried by low-paid labour forces imported from poorer countries to richer countries to do informal, temporary, unskilled work in the industrial and service sectors of richer countries. Once landing in a new national territory, through cosmopolitan classes and imported labour, the virus spreads towards the local labouring population. In particular, the cosmopolitan classes who tour the world transmit the virus to low-paid service sector workers. Thus, the virus moves towards the strata of the ‘relative surplus population’, which is also overrepresented by subaltern ethnic groups. These strata are very vulnerable due to insecure, close and impoverished living conditions around working, food and housing. In the advanced capitalist countries, the virus spreads towards workers located in vulnerable parts of service and manufacturing sectors, and from there to more desperate segments of the relative surplus population including the homeless and the incarcerated. In the Global South, it spreads towards the street dwelling inhabitants of the city slums. When the economies of the countries of the Global South are closed to stop the spread of virus, there is rapid loss in the survival capacity of those in the relative surplus population with only daily stores to meet their basic material needs. In this situation, the poor and the dispossessed confront an increasingly precarious double effect. Both as breakdown of their precarious employment based material existence, because living in vulnerable material circumstances without adequate public health, and perhaps already having compromised physical constitutions, these groups become simultaneously exposed and vulnerable to the virus while lacking the means to combat it (Foster & Suwandi 2020: 12; Onyishi et al. 2020). Descent towards the terminal crisis of western capitalism In one concentrated conjuncture of viciously interacting crises, the coronavirus brings to the surface symptoms of the terminal stages of the western capitalist project. The global capitalist organisation of material existence spreads the virus while undermining viable local economic responses that can contain it. Simultaneously, closing national economies in response to the virus is bringing on the deepest and most comprehensive economic crisis in human history. These manifesting contradictions that now threaten the whole of Gaia, also bring to the surface the spectre of the original epistemological and ontological contradictions of the western capitalist project’s ‘primitive’ ascendancy that have been reproduced to this day. Especially in the United States, the present global exemplar and leader of the western capitalist project, all these viciously interacting contradictions are concentrated. The capitalist expression of Enlightenment theories that have legitimated Western capitalism’s absolute exploitation particularly through the destruction of Indigenous civilisations and the brutal industrial scale absolute exploitation of enslaved African peoples, live on to the present. Racist mentalities are reproduced across the major institutional forms centrally including labour market, education and the repressive apparatuses of the state that are also reflected in COVID-19 vulnerabilities (Pirtle 2020). Thus, there is destructive intersection of class and race oppressions (Saad-Filho 2020: 480). The present (as I write) social uprising united under the banner ‘Black Lives Matter’ may lead to a fundamental break with the institutions and mentalities of systemic racism. However, a last gasp backlash White supremacy movement, led in this case by the President, is promoting deepening social division and conflict. Even more fundamentally, the destructively expansive logic of the capitalist mode of production, legitimated by the western modernist meta-narrative that celebrates human-centred exploitation of the natural world and that has been extended and intensified under the neoliberal model of development, now expresses itself as a steady march towards ecocatastrophe. Today, dynamically expanding material capital accumulation unleashed globally by the neoliberal model of development threatens Gaia as capital scours all the world in search of dwindling raw materials, as species go extinct daily and as the manifold effects of global warming undermine the most basic conditions of life on the planet. At the same time, the human component of Gaia is suffering, more or less, as a result of this ecological destruction, and by the relative-surplus-population-led descent of human civilisation into a chaotically disorganised ‘planet of slums’ ravaged by global viruses and deep social dislocation (Davis 2006, 2020; Foster & Suwandi 2020). In sum, the present conjuncture condenses the manifold contradictions of the western capitalist project in a terminal cycle of interacting crises.

#### 3. Ag collapse – short term.

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

The Triassic-Permian ‘great dying’ was a megaphase change taking place through pulses lasting for tens of thousands of years, separated by interludes of hundreds of thousands of years, if not millions. The current mass extinction event is a megaphase change taking place in microphase time.

Mass extinction is punctuated by the production of what the environmentalist Jonathan Lymbery calls ‘dead zones’: the conversion of wild ecosystems into dead monocultures. In Sumatra, these dead zones are made by burning rainforest and, amid the stench of death, planting palm crop. The palm oil is used in foods and household items, while the nut is used in animal feed. It is secured with barbed wire, and treated with poison, to prevent the crop from being eaten. Surviving animal life, and surrounding human communities, are pushed to the edges, to the brink of extinction. Agricultural workers are abused, underpaid, even enslaved. This is an example of what Moore would call ‘cheap food’, where the ‘value composition’ of the goods, the amount of waged labour necessary to produce each item is ‘below the systemwide average for all commodities’. In this case, a ‘cheap nature’ is produced by a distinctly capitalist form of territorialisation, wherein forestry is converted through deforestation into palm monoculture, while ‘cheap labour’ is secured partly through the dispossession of neighbouring human communities. More calories with less socially-necessary labour-time is cheap food.

Cheap is not, of course, the same thing as efficient. Food production is, alongside fuel, a fulcrum of the capitalist organisation of work-energetics. It is one that, as with fossil fuels, wastes an incredible amount of the energy it extracts. According to the FAO (Food and Agriculture Organization of the United Nations), 30 per cent of cereals grown for human and animal consumption are wasted, along with almost half of all root crops, fruits and vegetables. To conclude from this grotesque squander that a ‘more efficient’ capitalism would ‘solve the problem’ of ‘the environment’ would be to fail to understand waste, capitalism and ecology: that the first is intrinsic to the second; that the second, whatever the degree to which it is inflected by the first, is inimical to the third.

Capitalism also directly undermines its own productivity, precisely through its industrially-produced biospheric destruction. According to the UN, for example, there are at most sixty harvests remaining before the world’s soils are too exhausted to feed the planet. This edaphic impoverishment is a product, not a byproduct. It is the predictable, and long-predicted, consequence of intensive agriculture, over-grazing and the destruction of natural features (such as trees) that prevent erosion. Likewise, the death-drop of insect biomass, the decline of pollinating bees, are hastened by the extensive use of pesticides and fertilisers. Capitalist food production can only evade the problem – a problem, in its terms, of accumulation – either by establishing new ‘cheap natures’ through such means as deforestation, or by extracting rent from competitor producers through such means as intellectual property rights. For instance, since 1994’s notorious TRIPS agreement (Trade-Related Aspects of Intellectual Property Rights), through the rules of UPOV (Union for the Protection of New Plant Varieties), particularly the notorious UPOV 1991, and in the face of local fightbacks from Guatemala to Ghana, the World Trade Organisation has enforced property agreements outlawing the saving of seeds from one season to the next, thus sharply raising costs for farmers producing 70 per cent of the global food supply.

#### 4.

#### 5. Speculative economy—that crashes.

Foster et al. 21 – John Bellamy, the editor of Monthly Review and a professor of sociology at the University of Oregon. R. Jamil Jonna, associate editor for communications and production at Monthly Review. Brett Clark, associate editor of Monthly Review and a professor of sociology at the University of Utah. “The Contagion of Capital Financialised Capitalism, COVID-19, and the Great Divide”, Jus Semper Global Alliance. In Pursuit of the People and Planet Paradigm Sustainable Human Development, <https://jussemper.org/Resources/Economic%20Data/Resources/BellamyFosterJonaClark-ContagionCapital.pdf>, 03-xx-2021

As we have seen, when corporations do not invest their economic surplus in new capital formation—primarily due to vanishing investment opportunities in an economy characterised by excess capacity—they are left with abundant free cash that is partly returned to the shareholders through share buybacks and, to a lesser degree, dividends. It is also used for speculation, including mergers, acquisitions, and the panoply of corporate “cash management” techniques that amount to the leveraging of free cash to enhance returns. This gives rise to a whole alphabet soup of 19 financial instruments, in which corporations use the cash at their disposal partly as collateral for debt leverage, with non-financial corporate debt rising rapidly as a share of national income. Predictably recurring internal corporate funds in the form of free cash constitute a “flow collateral” allowing for further leverage, feeding speculation. A speculative economy relies on borrowed funds for leverage, backed up in part by cash. Expanding cash reserves are also needed as hedges in case of financial defaults. The whole system is a house of cards. The progressive financialisation of the capitalist economy, whereby the financial superstructure continues to expand as a share of the underlying productive economy, has led to ever-greater asset price bubbles and growing threats of world economic meltdown. So far, a complete meltdown has been headed off by central banks, as in the 2000 and 2008 financial crashes. At every major recurring disturbance, and with serious economic repercussions, the monetary authorities pump massive amounts of cash into the financial superstructure of the economy only to give rise to greater bubbles in the future. Theoretically, stock values represent future expected streams of earnings arising primarily from production. Nowadays, 20 however, finance has become increasingly autonomous from production (or the “real economy”), relying on its own speculative “self-financing,” leading to financial bubbles, contagions, and crashes, with the monetary authorities intervening to keep the whole house of cards from collapsing. This serves to reduce the risk to speculators, thereby keeping the value of stocks and other financial assets rising on a long-term basis, along with the overall wealth/income ratio. In these circumstances, so-called asset accumulation by speculative means has replaced actual accumulation or productive investment as a route to the increase of wealth, generating a condition of “profits without production.”21 In order to grasp the full significance of the financialisation of the economy, it is useful to look at the two conceptions of capital (relative to national income) depicted in Chart 3. One of these, the numerator of the lower line, is the 22 traditional conception of capital as fixed investment stock (physical structures and equipment) at historical cost minus depreciation. This is called the fixed capital stock of the nation and is tied directly to economic growth. It represents 23 what economic theorists from Adam Smith to Karl Marx to Keynes have referred to as the accumulation of capital. Capital formation and national income are closely related, generally rising and falling together, producing the relatively flat line, representing the ratio of fixed capital stock to national income, shown in Chart 3.24 Yet, capital, as Marx noted very early in the process, has more and more taken on the “duplicate” form of “fictitious capital,” that is, the structure of financial claims (in monetary values) produced by the formal title to this real capital. Insofar as economic activity is directed to the appreciation of such financial claims to wealth relatively independently of the accumulation of capital at the level of production, it has metamorphosed into a largely speculative form.25 This can be seen by looking again at Chart 3. In contrast to the lower line, the upper line depicts what is traditionally seen as the wealth/income ratio (which some economic theorists, such as Thomas Piketty, conflate with the capital/ income ratio, treating wealth as capital). The numerator here is the value of corporate stocks. Since the mid–1980s, the 26 ratio of stock value to national income has increased more than 300 percent. This marks an enormous growth of financial wealth, with speculation-induced asset growth sidelining the role of productive investment or capital accumulation as such in the amassing of wealth. This is associated with a massive redistribution of wealth to the top of society. The top 10 percent of the U.S. population owns 88 percent of the value of stocks, while the top 1 percent owns 56 percent. Rising stock values relative to national income thus mean, all other things being equal, rapidly rising 27 wealth (and income) inequality.28 The existence of the two conceptions of capital (and of capital/income ratios) presented here—one representing historical investment cost minus depreciation, and conforming to the notion of accumulated capital stock, the other the monetary value of stock equities (in economics traditionally treated as wealth rather than capital)—is often downplayed within establishment economics under the assumption that in the long run they will simply fall in line with each other, and with national income. As leading mainstream economic growth theorist Robert Solow writes: “Stock market values, the financial counterpart of corporate productive capital, can fluctuate violently, more violently than national income. In a recession the wealth-income ratio may fall noticeably, although the stock of productive capital, and even its expected future earning power, may have changed very little or not at all. But as long as we stick to longer-run trends…this difficulty can safely be disregarded.”29 But can the divergence of stock values from income (and from fixed capital stock) in reality be so easily disregarded? Chart 3 depicts a sharp increase in stock values relative to national income, which has now continued for over a third of a century, with decreases in total stock values as a ratio of national income (output) occurring during recessions, then rebounding during recoveries. The 30 overall movement is clearly in the direction of compounded financial hyperextension. This conforms to the general pattern of the financialisation of the capitalist economy, constituting a structural change in the system associated with the growth of monopoly-finance capital. This has gone hand in hand with a bubblier economy, with financial bubbles bursting in 1987, 1991, 2001, and 2008, but ultimately shored up by the Federal Reserve and other central banks. Today, vast amounts of free cash are spilling over into waves of mergers and acquisitions, typically aimed at acquiring mega-monopoly positions in the economy. A major focus is the tech sector, much of which is directed at commodifying all information in society, in the form of a ubiquitous surveillance capitalism. All financial bubbles derive their animus 31 from some common rationale, which claims that this time is different, discounting the reality of a bubble. In the present case, the rationale is that the advance of the FAANG stocks (Facebook, Apple, Amazon, Netflix, and Google), which now comprise almost a quarter of the value of Standard and Poor 500’s total capitalisation, is unstoppable, reflecting the dominance of technology. Apple alone has reached a stock market valuation of $2 trillion. All of this is feeding a massive increase in income and wealth inequality in the United States, as the gains from financial assets rise relative to income. Yet, like all previous bubbles, this one too will burst.32 Kalecki determined that the export surplus on the U.S. current account increased free cash, as did the federal deficit.33 However, the current account deficit cannot be seen, in today’s overall structural context, as simply reducing free cash, because of the changed role of multinational corporations in late imperialism, which alters other parts of the equation. Due to globalisation and the rise of the global labor arbitrage, U.S. multinational corporations in their intra-firm relations have in effect substituted production overseas by their affiliates for parent company exports, thereby decreasing their investment in fixed capital in the United States. The sales abroad of goods by majority-owned affiliates of U.S. 34 multinational corporations in 2018 were 14.5 times the exports of goods to majority-owned affiliates. Foreign profits of 35 U.S. corporations as a proportion of U.S. domestic corporate profits rose from 4 percent in 1950 to 9 percent in 1970 to 29 percent in 2019. This mainly reflects the shift in production to low unit labor cost countries in the Global South. Samir Amin described the vast expropriation of surplus from the Global South, based on the global labor arbitrage, as a form of “imperialist rent.”36 This expansion of global labor-value chains is also associated with an epochal increase in what is called the non-equity mode of production, or arm’s length production. Companies like Apple and Nike rely not on foreign direct investment abroad, but instead draw on subcontractors overseas to produce their goods at extremely low unit labor costs, often generating gross profit margins on shipping prices on the order of 50 to 60 percent.37 The loss of investment in the United States, as U.S. multinational corporations have substituted production overseas, coupled with the growth of foreign profits of U.S. mega firms, has further increased the free cash at the disposal of corporations (even with a growing deficit in the current account), thereby intensifying the all-around contradictions of over-accumulation, stagnation, and financialisation in the U.S. economy. Much of this free cash is parked in tax havens overseas to escape U.S. taxes.38

#### 6. Reject all their ev to the contrary—psychological biases and it’s colonialist.

Sideeq Mohammed, 21 (Kent Business School, The University of Kent, Canterbury UK “Stories and Organization in the Anthropocene” Preface pp viii-X Published 08-31-2021; Accessed 10-30-2021; Wally)

Yet other storying is woven into this deterministic new “grand narrative”. There are those who tell the story that our current ways of life can continue forever without abatement or alteration. Building robust identity politics out of climate change denial, the “cool dudes” (see McCright PREFACE: STORIES THAT WRITE THEMSELVES ix & Dunlap, 2011) who are proud consumers of meat, single-use plastics, and fossil fuels are dwindling in number as a new story is emerging, one that sees the anthropocene as an uncharted new territory for capitalist innovation and creativity. For some, like then governor of the Bank of England, Mark Carney, the anthropocene represents a “huge opportunity” for those firms willing to manage their risks correctly and take the necessary steps to adapt and innovate. Speaking in an interview in 2019, he described what seemed to be the feelings of a distended mass of people with private wealth interests who believe that “capitalism is part of the solution and part of what we need to do” in our fight against a changing climate (Busby, 2019). Indeed, Capital is already creating an extensive array of strategies for continuing to grow and proliferate well into the future. Turning fish scales into bioplastics, recycling concrete, cars that run on coffee grounds or other food waste, bacteria that can survive by eating plastics in the water supply, robotic bees to pollinate flowers, new more efficient decarbonization systems, and all other varieties of “environmentally friendly” technologies are the site of a new gold rush, with a generation of eager new entrepreneurs, inventors, and scientists, who have internalized what some might term the neoliberal story of individual success through hard-work and ingenuity, are racing to produce the next big paradigm-altering, wealth-generating innovation. The story here is inherently multiple, a reversible figure which can be seen as either attempts to green capitalism and render it sustainable in order to save the human race from ecological collapse or as blatant and transparent profiteering off of the crises and challenges of the anthropocene. Is it a rabbit or a duck? Is it both at once if we squint our eyes? Are we trying to “save the planet” or turn the global economy into a glorified pyramid scheme with green optics? This tension is never more transparent than when fossil fuel companies like BP produce grandiose and green end of year reports which speak about the extensive and continued work that they are doing to reduce their own carbon footprints and transition to renewable sources of energy like wind and solar (see BP, 2019). Make no mistake, this is Capital’s survival instinct awakening, realizing that it faces the threat of decreased growth and profits, and reaching out to capture and commodify new territories. The warped story or heroic-fantasy that “the market” cum messiah will arrive with some new innovation, usually through the vessel of some Elon Musk-esque entrepreneur, in order to save us from the destruction of the anthropocene, is deeply embedded into the fabric of our collective unconscious. Yet this story is demonstrably fallacious. In An inconvenient truth: how organizations translate climate change into business as usual, Christopher Wright and Daniel Nyberg (2017) draw on a ten-year case study of Australian organizations in order to tell us bluntly that the contemporary corporation cannot be a “leader” when it comes to climate change and finding new modes of living in the anthropocene. Organizations consistently prioritize short-term profits over long-term social welfare and discount the idea of responding to climate change if it means curtailing growth. Consequently, their responses to the anthropocene will always seek to deploy placatory branding and conciliatory policy: trying to improve energy efficiency, reduce waste and recycle, reduce carbon emissions, develop new more sustainable products, manage their supply chains to have reduced environmental impact, participate in State attempts at regulation through reporting emissions, advocacy, lobbying, and so on. All of these adaptations are best described as attempts to secure some kind of social, political or market advantage—which is to say that in every case, contemporary organizations seek to preserve the very logics of capitalist production which are implicated in ecological crisis. Indeed, pressure from consumers, lobbying groups, and many State and international bodies means that the majority of large organizations now adopt at least the pretence of environmentalism in order to secure future revenue streams. This is why Wright and Nyberg suggest that only systematic intervention by a State or other authority can coerce firms to acting in ways that do not only serve their best interests—they are all too aware that the anthropocene is a new territory to be colonized by the eager and insightful lust of Capital. Rather than scuppering or stymying it in any way, the anthropocene, as Žižek (2010) once intimated, may well champion Capital to new and greater successes.

#### 7. Profit stifles innovation—property rights, no incentive for R&D

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

But prioritizing profit is a double-edged sword that can hamper innovation. Owning the proprietary rights allows private firms to block workers—through anti-competitive tools like non-compete agreements, patents, and licenses—who put labor into the innovation process from applying the extensive technical expertise and intimate understanding of the product to improve the innovation substantially. This becomes especially relevant once the workers leave the firm division in which they worked, or leave the firm altogether. Understandably, this lack of control and ownership will cause some workers, however passionate they may be about a project, to be less willing to maximize their contribution to the innovation.

Of course, the so-called nimbleness that allows firms to make drastic changes like mass layoffs is extremely harmful to the workers. This is no fluke. The capitalist economy thrives on a reserve army of labor. Inching closer to full employment makes workers scarcer, which empowers the labor force as a whole to bargain for higher wages and better work conditions. These threaten the firm’s bottom line. So, the capitalist economy is structured to maintain the balance of power towards the owners of capital. Positions that pay well (and less than well) come with the precariousness of at-will employment and disappearing union power. A constant pool of unemployed labor is maintained through layoffs and other tactics like higher interest rates, which the government will compel to help slow growth and thereby hiring. This system harms the potential for innovation, too.

The fear of losing work can dissuade workers from taking risks, experimenting, or speaking up as they identify items that could improve a taken approach—all actions that foster innovation. Meanwhile, thousands of individuals who could be contributing to the innovative process are instead involuntarily un-employed. This model also encourages monopolization, as concentrating market power gives private firms the most control over how much profit they can extract. But squashing competition that could contribute fresh ideas hurts every phase of the innovation process, while giving workers in fewer workplaces space to innovate.

Deferring to profit causes many areas of R&D to go unexplored. Private firms have less reason to invest in innovations likely to be made universally available for free if managers or investors do not see much upside for the firm’s bottom line. In theory, the slack in private research can be picked up by the public sector. In reality, however, decades of austerity measures  threaten the public’s ability to underwrite risky and inefficient research. Both the Democratic and Republican parties increasingly adhere to a neoliberal ideology that vilifies “big government,” promotes running government like a business, pretends that government budgets should mirror household budgets or the private firm’s balance sheet, and rams privatization under the guises of so-called public-private partnerships and private subcontractors.

In the United States, public investment in R&D has been trending downward. As documented in a 2014 report from the Information Technology & Innovation Foundation, “[f]rom 2010 to 2013, federal R&D spending fell from $158.8 to $133.2 billion … Between 2003 and 2008, state funding for university research, as a share of GDP, dropped on average by 2 percent. States such as Arizona and Utah saw decreases of 49 percent and 24 percent respectively.” Even if public investment in the least profitable aspect of research suddenly surged, in our current model, the private sector continues to be the primary driver of development, production, and distribution. Where there remains little potential for profit, private firms will be reluctant to advance to the next phases of the innovation process. Public-private projects raise similar concerns. Coordinated efforts can increase private investment by spreading some costs and risk to the public. But to attract private partners in the first place, the public sector has a greater incentive to prioritize R&D projects with more financial upsides.

This is how the quest for profits and tight grip over proprietary rights, both important features of the capitalist model, discourage risk. Innovations are bound for plateauing after a few years, as firms increasingly favor minor aesthetic tweaks and updates over bold ideas while preventing other avenues of innovation from blossoming. At the same time, massive amounts of capital continue to float into the hands of a few. The price of innovating under capitalism is then both decreased innovation and decreased equality. The idea that this approach to innovation must be our best and only option is a delusion.

#### Also causes Inequality, work times, fear of shareholder suits—zeros sustainability

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STIFLING WORKERS, STIFLING CREATIVITY

Many of the most sophisticated innovations of our time, from groundbreaking drugs to smart car technology, have depended on a deep pool of creative labor. But the idea that capitalism allows the bestsuited workers to join that pool is wishful thinking. As journalist Chris Hayes writes in Twilight of the Elites: America After Meritocracy, meritocracy “can only truly come to flower in a society that starts out with a relatively high degree of equality.” From 1979 to 2015, the annual average household income of the top 1% grew five times faster than that of the bottom 90th percentile. The reality is that deep inequalities in how this country’s wealth is distributed make meritocracy all but a myth. Some people can afford to attend college and access spaces where discovery is encouraged, moving into a “creative pipeline,” while their poorer peers go right into the workforce or juggle demanding classes with work schedules. While some with great innate talent for innovation end up in these coveted creative jobs, many more—poor and workingclass—are pushed by financial necessity into positions mismatched to their potential.

In theory, one doesn’t need a creative-focused job to innovate. But creativity requires a certain freedom— an ability to “waste” time, to work nonlinearly, to experiment and repeatedly fail. Capitalism’s constant dictate to maximize productivity leaves people with little time to spare, at work or at home—especially in poor and working-class households: The bottom fifth of earners have seen their work hours increase by 24.3% since 1979, compared to 3.6% for the top fifth.

Being in a more precarious financial position, or in a job with little security, also discourages workers from taking risks, even when the risks might lead to innovation. The precarity makes it difficult to approach one’s supervisors and ask for sick days, let alone personal time to go down rabbit holes. It makes it frightening to change fields or spend money on any project that might result in even more precarity.

Notably, the corporate structure itself has been known to stifle creation. Many corporate firms are under the effective control of shareholders, to whom managers owe a fiduciary duty to maximize profits. Shareholders who believe this duty has been breached typically have the right to sue the corporation. While this power can be used for the greater good—note how Tesla was sued by shareholders in response to its poor safety record—it also opens the door to shortsighted shareholders. One DuPont shareholder, for example, demanded the chemical company “not invest a single dollar in research that will not generate a positive return within f ive years.” What’s more, according to a 2017 working paper by the Institute for New Economic Thinking, “Many of America’s largest corporations, Pfizer and Merck among them, routinely distribute more than 100% of profits to shareholders, generating the extra cash by reducing reserves, selling off assets, taking on debt or laying off employees.”

Even the most creative of workers who make it into innovative roles in the private sector may find themselves starved of resources. As professors Chen Lin and Sibo Liu of the University of Hong Kong, and Gustavo Manso of the University of California, Berkeley, explain in a 2018 study, the threat of shareholder litigation generally discourages managers from “experimenting [with] new ideas,” which acts as an “uncontrolled tax on innovation.”

#### This also means decoupling is nonsense

Marques 20 – Luiz, associate professor at the Department of History, University of Campinas (Unicamp), Brazil. “The Illusion of a Sustainable Capitalism” in “Capitalism and Environmental Collapse”, Springer, <https://link.springer.com/chapter/10.1007/978-3-030-47527-7_13>, 08-18-2020

If I am not mistaken, the **advocates of this thesis prefer the following argument: adopting innovative solutions to increase the efficiency of the input/product or product/waste ratio and improve environmental safety in the production process** **increases** the company’s **competitiveness** (as opposed to reducing it) because it is a value-generating process, be it in terms of risk management, brand image, and, finally, effective financial results. **If this is true, then taking the lead and being at the forefront of economic processes with lower environmental impact and risk will ensure a better profitabilit**y than the average profit rate. I hope to not underestimate the literature on the business and sustainability binomial by saying that it limits itself to elaborating variations on this theme while offering several case studies on the direct relationship between sustainability and profitability. There are a growing number of economists and NGOs committed to encouraging companies to embrace this belief. They naturally render a tremendous service to society and to the companies themselves through their work. **However**, their **success is limited by the three aspects that render an environmentally sustainable capitalism impossible**, as stated in the title of this section. **(1) Decoupling and Circular Economy Decoupling** **is the hope that eco-efficient technologies** and production processes **in industrialized countries with mature economies will enable the miracle of increased production** and consumption **with** **less pressure** (or at least no corresponding increase in pressure) **on** **ecosystems** (Jöstrom and Östblom 2010). **It is true that a greater efficiency in the production process may allow for relative** decoupling, **meaning that it enables a reduction in pressure per product or per unit of GDP**. **But it does not decrease this pressure in absolute terms**, **since the number of products does not cease to increase on a global scale.** **The mechanism known as the “Jevons paradox**” **or rebound effect describes how increasing demand for energy or natural resources** **always tends to offset the eco-efficiency gain** **of technological innovation**. **Thus, although energy efficiency per product has doubled** or even tripled **since 1950, this gain is offset by the** **expansion** **of production at a greater rate than the** **eco-efficiency gain.** The actions of institutions and business foundations that advocate for an eco-efficient and circular economy based on reverse engineering, recycling, reuse, and remanufacturing are certainly positive. We know, however, that **there is no circular economy**. **No economy, let alone a global economy trapped in the paradigm** of **expansion, can evade the second law of thermodynamics**, whose relationship with economics has been analyzed by Nicholas Georgescu-Roegen since the 1970s (1971, 1975 and 1995). Here we must state the obvious: **even though the surplus energy supplied by oil and other fossil fuels in relation to the energy invested to obtain them is declining** (for this declining EROI, see Chap. 5, Sect. 5.5), **low-carbon renewable energies are not yet, and may never be, as efficient as oil.** **This means that the energy transition,** while urgent and imperative, **will further distance us from a circular economy.** According to calculations by Dominique Guyonnet, “**to provide one Kw/h of electricity through land-based wind energy requires about 10 times more reinforced concrete and steel** **and 20 times more copper** **and** **aluminum** than a coal-fired thermal power plant” (Madeline 2016). **The only way**, therefore, **to lessen the environmental impact of capitalism is to reduce**, in absolute terms, **the consumption of energy** **and** **goods** by the richest 10% or 20% of the planet. **This is incompatible with capitalism**’s basic mechanism of expansive functioning and with the worldview that it sells to society. **(2) The Law of Resources Pyramid The increasing scarcity** **of certain inputs and the need to secure their large-scale and low-cost supply nullify the potential benefits of various green initiatives taken on by** **companies**. **These cannot**, in fact, **evade the law of the resources pyramid**, described by Richard Heinberg (2007): **The capstone [of the pyramid] represents the easily and cheaply extracted** **portion of the resource; the next layer is the portion of the resource base that can be extracted with more difficulty and expense**, **and with worse environmental impacts**; **while the remaining bulk of the pyramid represents resources unlikely to be extracted** under any realistic pricing scenario This law of the resources pyramid can be stated in an even simpler form: **in capitalism, the logic of capital accumulation** **and** **surplus**, **together with the growing scarcity of finite natural resources**, **necessarily exacerbates** **the negative environmental impact** **of economic activity.** **(3) The Impossibility of Internalizing the Environmental Cost What makes it specifically impossible for corporations to submit themselves to the environmental imperative is the impossibility of “internalizing”** **the costs of increasing environmental damage** **that they bring about**. **Methodologies to “price**” **nature are now** **multiplying**. **But whatever the methodology** (**always based on the assumption that the value of nature is reducible to a market price**), **the result is the same: it is** **impossible** **for corporations to internalize their environmental cost because the total value generated by their activity is often less than the monetary expression** of **the value of the natural heritage that was destroyed by that activity.**4 A report was prepared for The Economics of Ecosystems and Biodiversity (TEEB), titled Natural Capital at Risk. **The top 100 externalities of business (2013) show that:** **The estimated cost of land use, water consumption**, **GHG emissions**, **air pollution**, **land** **and** **water pollution** **and** **waste** **for the world’s primary sectors amounts to almost** **US$7.3 trillion**. The analysis takes account of impacts under standard operating practices, but excludes the cost of, and risk from, low-probability, high-impact catastrophic events. (…) **This equates to 13% of global economic output** in 2009. Risk to business overall would be higher if all upstream sector impacts were included.

## GSC

#### Aging forces and lack of arsenal check

Lee, 21

(Manseok is a third-year Ph. D. student at the Goldman School of Public Policy at the University of California, Berkeley; February 22nd 2021 "Deterring North Korea’s Dynamic Nuclear Strategy", War on the Rocks, Available online at https://warontherocks.com/2021/02/deterring-north-koreas-dynamic-nuclear-strategy/, Accessed 2-27-2021)

North Korea’s Capabilities

Because it faces international sanctions and general economic collapse, without any remaining sources of foreign assistance, North Korea lacks the economic capacity to pursue both nuclear weapons development and a modernized military force. The Kim regime has chosen to prioritize nuclear and missile development over conventional weapons. This means that North Korea’s conventional forces are aging, and Pyongyang lacks the logistical capabilities necessary to conduct a war over an extended period of time without foreign support. But North Korea has steadily developed its nuclear capabilities. Although the exact size of the country’s nuclear stockpile remains unclear, North Korea is estimated to possess approximately 20 to 60 nuclear warheads as well as sufficient fissile material to create another 60 nuclear warheads. However, the number of nuclear weapons and the level of technology possessed by North Korea are still far from the capabilities required to pursue coercive nuclear strategies, such as nuclear escalation or brinkmanship. These strategies involve the threat of pre-emptive nuclear attacks or the use of limited nuclear strikes to force the enemy to offer greater concessions. For North Korea, however, 20 to 60 nuclear warheads would seemingly be insufficient to effectively use such strategies. In addition, North Korea’s tactical nuclear weapons, intercontinental ballistic missiles, and submarine-launched ballistic missile technologies, which are still in the development stage, appear inadequate for coercive nuclear strategies. This relationship between North Korea’s nuclear and conventional forces will shape the country’s threshold for employing nuclear weapons. A high threshold implies North Korea will prefer the threat of nuclear employment to the actual employment of nuclear weapons, while its conventional forces will play a larger role in its chosen course of action. A low threshold means North Korea might consider the actual use of nuclear weapons to achieve its strategic objectives.

## Global Development