# 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

### 1NC OFF

Next off is politics

#### B3 passes now

Stamper, 1/31

(Dustin, Managing Director at Grant Thornton, "BBB talks to restart as Biden concedes package cuts," 1/31/22 <https://www.grantthornton.com/library/newsletters/tax/2022/hot-topics/feb-01/bbb-talks-to-restart-as-Biden-concedes-package-cuts.aspx> NL)

Lawmakers are starting negotiations over a smaller reimagined version of the Build Back Better reconciliation bill after President Joe Biden conceded that they will need to break the package up to “get as much as we can now, and fight for the rest later.” Biden acknowledged that he may have to sacrifice key priorities—such as the child tax credit and increased spending on social community colleges—in order to get agreement from Sen. Joe Manchin, D-W.V. This could still leave room for a substantial package that includes major tax provisions. Biden noted there is broad support for pre-K funding, significant climate investments (including tax credits), and health care reform, funded by tax increases. Procedurally, Democrats are still looking to pack as many priorities as possible into a single reconciliation bill that can pass both chambers. House Speaker Nancy Pelosi, D-Calif., stated that Democrats can’t simply divide the bill up because any pieces moving outside of reconciliation will need 60 votes in the Senate. The tax title of an updated reconciliation bill could include international reform, alternative energy credit extensions and enhancements, IRS funding increases, and other revenue raisers. The Biden administration will likely be pushing to enact proposed changes to the deduction for foreign-derived intangible income, the tax on global intangible low-tax income, and the base erosion and anti-abuse tax to bring the U.S. in line with the global minimum tax agreement brokered by the administration.

#### 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 the antitrust PIC:

#### The United States federal government should substantially increase prohibitions on gender-based price discrimination.

#### The counterplan PICs out of anti-trust legislation and the FTC and DOJ as enforcers---other agencies’ regulations solve.

Lawrence Fullerton et al. 08. Joel M Mitnick, William V Reiss, George C Karamanos and Owen H Smith. Sidley Austin LLP. Vertical Agreements The regulation of distribution practices in 34 jurisdictions worldwide. “United States.” https://www.sidley.com/-/media/files/publications/2008/03/getting-the-deal-through--vertical-agreements-2008/files/view-united-states-chapter/fileattachment/united-states-21.pdf

5 What entity or agency is responsible for enforcing prohibitions on anticompetitive vertical restraints? Do governments or ministers have a role?

The Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DoJ) are the two federal agencies responsible for the enforcement of federal antitrust laws. The FTC and the DoJ have jurisdiction to investigate many of the same types of conduct, and therefore have adopted a clearance procedure pursuant to which matters are handled by whichever agency has the most expertise in a particular area.

Additionally, other agencies, such as the Securities and Exchange Commission and Federal Communications Commission, maintain oversight authority over regulated industries pursuant to various federal statutes, and therefore may review vertical restraints for anti-competitive effects.

### 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 FTC DA:

#### The plan destroys FTC credibility and backlash circumvents solvency

William E. Kovacic 20, Professor at the George Mason University School of Law, JD from Columbia University, BA from Princeton University, “Keeping Score: Improving the Positive Foundations for Antitrust Policy”, University of Pennsylvania Journal of Business Law, Volume 23, Issue 1, 23 U. Pa. J. Bus. L. 49, Lexis

THE POLITICAL ASSAULT ON THE FTC From the late 1960s through the 1970s, the FTC pursued an extraordinarily ambitious agenda of competition and consumer protection matters. Significant antitrust litigation included challenges to dominant firm misconduct and collective dominance, distribution practices, horizontal restraints, and facilitating practices. Many matters involved powerful economic interests, and in a number of cases the Commission sought structural relief in the form of divestitures or the compulsory licensing of [\*75] intellectual property. In 1974, the agency also initiated a program that required certain large firms to provide "line-of-business" data concerning a range of performance indicators. In the same period, the Commission used a mix of litigation and rulemaking to transform its consumer protection agenda. Through policy guidance and litigation, the agency introduced its advertising substantiation program that required firms to have support for factual claims made in their advertisements. The Commission initiated over twenty-five rulemaking proceedings and promulgated final rules involving a broad collection of product and service sectors. As a group, the FTC's competition and consumer protection initiatives aroused fierce opposition from the affected firms and industries, which contested the agency's actions in court and before Congress. The complaints of industry resonated with a large, powerful bipartisan coalition of legislators who criticized the Commission's activism, proposed various measures to curb the agency's authority, and ultimately adopted a number of restrictions in The Federal Trade Commission Improvements Act of 1980 [\*76] (FTC Improvements Act). In 1980, bitter opposition to elements of the FTC's competition and consumer protection programs led Congress to allow the FTC's funding to lapse, forcing the agency to temporarily cease operations. Perhaps emboldened by the weak political support the Commission enjoyed before 1981, when the Democrats controlled the White House and both chambers of Congress, the Reagan administration briefly resumed the assault on the agency's funding. In January 1981, David Stockman, Ronald Reagan's first Director of the Office of Management and Budget (OMB), launched a short-lived effort to eliminate funding for the FTC's competition policy program. The congressional and executive branch officials who criticized the FTC in this period advanced two positive claims to justify recommendations for withdrawing authority or funding for the Commission. One claim was that the agency's choice of competition and consumer protection programs had contradicted congressional guidance about how the FTC should use its authority and resources. Many legislators complained that the agency had disregarded the legislature's preferences and used its powers in ways that Congress never contemplated to fall within the FTC's remit. As Congress considered bills in 1979 to limit the Commission's powers, Congressman [\*77] William Frenzel captured the prevailing legislative mood: It is bad enough to be counterproductive and therefore highly inflationary, but the FTC compounds its sins by generally ignoring the intent of our laws, and writing its own laws whenever the whimsey strikes it . . . Ignoring Congress can be a virtue, but the FTC's excessive nose-thumbing at the legislative branch has become legend. In short, the FTC has made itself into virulent political and economic pestilence, insulated from the people and their representatives, and accountable to no influence except its own caprice. The Commission, Frenzel concluded, was "a rogue agency gone insane." The accusation of Commission disobedience figured prominently in Senate deliberations on the 1980 FTC Improvements Act. In less flamboyant but still pointed terms, the chief Senate sponsors of the FTC Improvements Act said restrictions were necessary to curb the agency's unauthorized adventurism. Senator Howard Cannon explained: "The real reason that we have proposed this legislation for the FTC is because the Commission appeared to be fully prepared to push its statutory authority to the very brink and beyond. Good judgment and wisdom had been replaced with an arrogance that seemed unparalleled among independent regulatory agencies." The accusation of disregard for congressional will soon echoed in statements by high level officials in the newly arrived Reagan administration. OMB Director Stockman recited a variant of this theme in an appearance before a House of Representatives Committee early in 1981 to address his proposal to eliminate funding for the agency's competition mission. Stockman said, " . . . in recent years the FTC has served the public interest very poorly, in major part because it has sought to expand its power and influence beyond that envisioned by Congress." Beyond generalized claims of institutional disobedience, the accusation of disregard for congressional will was invoked to justify proposals to impose restrictions on specific FTC initiatives. For example, in the fall of [\*78] 1979, the Senate Commerce Committee held hearings on a proposal by Senator Howell Heflin to eliminate the FTC's power to order divestiture or other forms of structural relief in non-merger cases. This was a shot across the bow of the FTC's pending "shared monopoly" cases involving the breakfast cereal and petroleum refining sectors, where the FTC had requested structural relief (divestitures and, in the cereal case, compulsory trademark licensing) to restore competition. Congress did not adopt the Helfin proposal, but the idea of eliminating or restricting the FTC's power to seek divestiture remained a serious threat to the agency. Roughly a year after the Commerce Committee hearings on the Heflin amendment, on the day before the balloting in the 1980 presidential elections, Vice-President Walter Mondale appeared at a campaign rally in Battle Creek, Michigan (the headquarters of the Kellogg Company). The Vice-President assured his audience that, if he and President Jimmy Carter were reelected, the Carter administration would seek legislation to ban the FTC from obtaining divestiture in the breakfast cereal shared monopolization case. A second, related claim was that the FTC had abandoned any adherence to sound administrative practice and descended into utterly irrational decision making. The agency was not merely disobedient ("rogue") but [\*79] crazy ("insane"), as well. Here, again, Congressman Frenzel pungently made the point. The FTC, Frenzel said, "is a king-sized cancer on our economy. It has undoubtedly added more unnecessary costs on American consumers who it is charged with protecting, than any other half dozen agencies combined." David Stockman's initial broadside against the Commission in February 1981 echoed this sentiment. In a newspaper interview, Stockman said the FTC "is a passel of ideologues who are hostile to the business system, to the free enterprise system, and who sit down there and invent theories that justify more meddling and interference in the economy." The accusation of disobedience and the diagnosis of insanity fit poorly, or at least awkwardly, with the positive record of the FTC's activities in the 1970s. As discussed immediately below, the rogue agency story clashes with the many instances, especially between 1969 and 1976, in which congressional committees and key legislators directed the agency to carry out an aggressive, innovative enforcement program against major commercial interests. In 1969, numerous legislators endorsed the view of two external studies that the FTC had used its authority timidly and ineffectively. Leading members of Congress demanded that the agency [\*80] transform its competition and consumer programs or face extinction. Congress described the content of the desired transformation in several ways. At a high level, oversight committees and individual legislators called for a dramatic boost in the agency's appetite to undertake ambitious, risky projects--to replace a cautious, risk-avoiding decision calculus with a bold philosophy that erred in favor of intervention and used the agency's elastic powers innovatively. Congress's admonition to be aggressive and use power expansively emerged again and again in confirmation proceedings and routine oversight hearings. During hearings in 1970 to confirm Caspar Weinberger to be the Commission's new chair, Senator Warren Magnuson, Chairman of the Senate Commerce Committee, told the nominee to "maintain the right kind of morale by recruiting strongly and expanding . . . Trade Commission programs in order to perform the job well." In setting out this charge, Magnuson seemed to recognize that the FTC would have to be steadfast in resisting backlash--including from Congress--that would emerge as the FTC went about "expanding" its programs. The Commerce Committee Chairman said Congress was calling on the FTC to perform "tasks that require a great deal of attention and a great deal of fortitude not to respond to any pressures that come from any place." Weinberger's successor, Miles W. Kirkpatrick, received similar, and even more explicit congressional guidance, to apply the Commission's powers broadly and aggressively. In 1969, Kirkpatrick had chaired a blueribbon American Bar Association panel whose report recommended the FTC implement an ambitious antitrust agenda that involved significant doctrinal, operational, and political risks. In his appearances as FTC chair before [\*81] congressional committees, Kirkpatrick often heard legislators applaud the risk-preferring approach of the ABA study. In Kirkpatrick's first appearance before the Commission's Senate Appropriations subcommittee in 1971, the Subcommittee Chairman, Senator Gale McGee, provided the following guidance: I think this is one of the Federal commissions that has a much larger responsibility and capability than sometimes it has been willing to live up to for reasons of congressional sniping at it in some respects or pressures put on it through the industry and the like. Too often it has been either shy or bashful. . . . That is why we were having a rather closer look at your requests just in the hopes of encouraging you, if anything, to make mistakes, but I think the mistakes you are to make ought to be mistakes in doing and trying rather than playing safe in not doing. I believe that is the most serious mistake of all . . . you are not faulted for making mistakes. You may be for making it twice in a row, for not learning properly but, we would rather you make a mistake innovating, trying something new, rather than playing so cautiously that you never make a mistake. . . . In his appearance before the same subcommittee a year later, Senator McGee observed with approval that Kirkpatrick had "responded to the criticism . . . by both Mr. [Ralph] Nader and the American Bar Association by moving aggressively against some of the major industries in the United States." Recognizing that the approach he described could elicit opposition from affected business interests, McGee promised that he and his colleagues would exercise best efforts to watch the agency's back: "[I]f you step on toes you are going to catch flak for it, but I hope we will be able to push this even more aggressively by backing you more completely with the kind of help that I think you require." McGee closed the proceedings with [\*82] militant instructions: "Stay with it and flex your muscles, clinch your fists, sharpen your claws, and go to it. We think this is desperately important in the interest of the Congress, whose creature you are, and the consumer whose faith and substantive capabilities in surviving hang very heavily upon what you succeed in doing." Kirkpatrick served as the FTC's chair for just over twenty-nine months. The Commission's new chair, Lewis Engman, received the same policy guidance that Congress had provided Weinberger and Kirkpatrick. At Engman's confirmation hearing before the Senate Commerce Committee early in 1973, Senator Frank Moss observed: Under . . . Weinberger and Kirkpatrick, the Commission has taken on new life beginning with the search for strong and imaginative, rigorous developers and enforcers of the law and reaching out with innovative programs to restore competition and to make consumer sovereignty more than chamber of commerce rhetoric. With evident approval, Moss recounted how the FTC had "stretched its powers to provide a credible countervailing public force to the enormous economic and political power of huge corporate conglomerates which today dominate American enterprise." The members of the Senate Commerce Committee, Moss concluded, "consider it one of our solemn duties to protect the Commission from economic and political forces which would deflect it from its regulatory zeal." Member after member of the Commerce Committee echoed Moss's message to Engman. Senator Ted Stevens, an Alaska Republican, told the nominee, "I am really hopeful that . . . you will become a real zealot in terms of consumer affairs and some of these big business people will complain to us that you are going too far. That would be the day, as far as I am concerned." The FTC got the message. The words and actions of Weinberger, Kirkpatrick, Engman, and other FTC leaders in this period reflected a preference for boldness, aggressiveness, innovation, and zeal. In a letter to Senator Edward Kennedy in July 1970, Weinberger reported that the FTC was trying "to make the most of that other resource given to us by Congress [\*83] -- our statutory powers." Weinberger said the Commission had "encouraged the staff to make recommendations to us which will probe the frontiers of our statutes," had made progress in "[p]robling the outer limits" and "exploring the frontiers" of the agency's authority, and had shown it "is receptive to novel and imaginative provisions in orders seeking to remedy unlawful practices." In a speech to a professional association in 1971, Kirkpatrick reported that the Commission was "moving into 'high gear' in the task of preserving and promoting competition in the American economy." He said he and his fellow board members "fully intend to be in the vanguard of exploration of the new frontiers of antitrust law." By mid-1974, the FTC had launched several significant cases involving monopolization and collective dominance, including pathbreaking shared monopolization cases against the breakfast cereal and petroleum refining industries. With these matters underway, Engman in 1974 appeared at a congressional hearing of the Joint Economic Committee and received criticism that the FTC had been insufficiently active in challenging monopolies. The Joint Committee's chairman, Senator William Proxmire, told Engman "the FTC, like a number of other regulatory agencies seems to concern itself with minor infractions of the law, and to spend much of its time on cases of small consequence." Perhaps astonished to hear that cases to break up the nation's leading breakfast cereal manufacturers and petroleum refiners involved minor infractions or matters of small consequence, Engman replied, "The Federal Trade Commission today is very aggressive. . . . We have seen a total turnaround in terms of the types of matters which are being addressed by the Bureau of Competition." [\*84] Beyond general policy exhortations to exercise power boldly and to err on the side of intervention, of doing too much rather than too little, Congress in the early to mid-1970s instructed the Commission to focus attention on specific commercial sectors and competitive problems within them. In the face of severe fuel shortages and price spikes for petroleum products in the early 1970s, numerous legislators demanded that the FTC conduct investigations and challenge the conduct of large, integrated petroleum companies. Many insisted that the FTC use its competition mandate to force integrated refiners to deal on equitable terms with independent refiners and distributors. The Commission's decision to file the Exxon shared monopoly case, which sought extensive horizontal and vertical divestiture remedies, can be explained as a response to these demands. In the same period, Congress applied strong pressure upon the FTC to examine and correct what it believed to be serious structural obstacles to effective competition in the food manufacturing industry. Here, also, the agency's decision to prosecute the shared monopolization case against the country's leading producers of ready-to-eat breakfast cereals can be seen as a response to this concern and faithful to the congressional prescription that the FTC use novel, innovative approaches to cure competitive problems. In these and other matters, the Commission explored the frontiers of its powers in the development of new cases. When one aligns the guidance of Congress in the early to mid-1970s about the appropriate content of FTC policy making with the FTC's activity in the decade, it is apparent that the critique of the agency as disobedient to legislative will is a fiction, or at least badly misleading. A more accurate positive depiction of events in the 1970s is that the Commission faithfully followed legislative instructions given from 1970 up through the mid-1970s about the appropriate philosophy and means of enforcement, and that, as the decade came to a close, Congress changed its mind about what the FTC [\*85] should do and how it should do it. As described below in Section IV.D., that change in legislative temperament and the response by Congress to industry backlash against the FTC's program have important implications for how the FTC plans programs and selects projects in the future. Accurate positive analysis reveals that the agency was not disobedient to Congress but was inattentive to the operation of a political feedback loop that exposes Congress to industry pressure once the FTC implements programs that involve significant economic stakes and endanger powerful commercial interests. Nor does a careful study of the positive record of the 1970s show that the FTC policy making was "insane." Measured by its contributions to institution-building, the Commission did many things that epitomize good public administration. It carried out important organizational and personnel reforms that upgraded its operations and personnel. As explained more fully below, the agency also improved its mechanisms for setting priorities and selecting projects to achieve them and strengthened investments in policy research and development (including a program to evaluate the effects of completed cases). The FTC successfully carried out new regulatory duties entrusted by Congress in the 1970s; most notable was the implementation of the premerger notification mechanism that Congress created in the Hart-Scott-Rodino Antitrust Improvements Act of 1976. In all of these areas, the Commission of the 1970s made enduring enhancements to the institution and set important foundations for successful programs that followed in the next forty years. An insane agency could not have done so. [\*86] Another focal point for attention in assessing the FTC's performance in the 1970s was the quality of its substantive agenda. Was the FTC's substantive program in the 1970s "insane"? Many Commission competition and consumer protection initiatives in the 1970s encountered grave problems. FTC efforts to execute the bold, innovative, risk-preferring program that Congress had called for earlier in the decade generated a number of serious project failures. Insanity, on the part of individual leaders or the institution as a whole, does not explain the failures. These outcomes have more prosaic causes whose understanding is important to the future formulation of competition policy. Chief among the FTC's flaws were a lack of historical awareness about the political hazards associated with undertaking an agenda of bold, innovative cases against powerful commercial interests; inadequate appreciation for the demands of bringing large numbers of difficult cases and promulgating ambitious trade regulation rules would impose on the agency's improving but uneven human capital; and underestimation of the change in the center of gravity of economic learning that supports the operation of the U.S. antitrust system. As described below, many of these failings are rooted in weaknesses in the FTC's knowledge in the 1970s of the positive record of its past enforcement experience. B. The Inadequate and Misdirected Enforcement Activity Narrative Like the hyperactivity narrative described above, the inadequate activity narrative relies heavily on enforcement data to support the view that the federal antitrust agencies have brought too few cases overall and, when filing cases, have focused resources on the wrong types of matters. Implicit or explicit assumptions about the level of enforcement activity have provided a central foundation in the modern era for broad normative claims of poor system performance. One collection of inadequacy critiques attacks federal enforcement program of the Reagan administration -- a period characterized by what one journalist described as an "almost total abandonment of antitrust policy." In 1987, in discussing Reagan-era [\*87] federal antitrust enforcement, Professor Robert Pitofsky said the DOJ and the FTC had produced "the most lenient antitrust enforcement program in fifty years." Professor Milton Handler remarked that in the Reagan era "a policy of nonenforcement has set in, much to the distress of those who believe that without antitrust the free market cannot remain free." Professors Lawrence Sullivan and Wolfgang Fikentscher observed, in addressing the treatment of civil nonmerger matters, "enforcement ceased." A second body of commentary assails the work of the federal agencies in the George W. Bush administration. For example, in 2008, during his campaign to gain the Democratic Party's nomination for the presidency, Barack Obama said the George W. Bush administration "has what may be the weakest record of antitrust enforcement of any administration in the last half-century." The Obama statement did not compare activity levels across all administrations over the 50-year-long comparison period, but the statement suggested that the general claim was based on variations in activity over time. A third version of the inadequacy narrative marks the beginning of the decline of effective enforcement at the outset of the George W. Bush administration and extending through the present. A fourth variant writes off the entire period from roughly 1980 onward as an antitrust catastrophe. After noting that for most of the 20th century "antitrust enforcement waxed or waned depending on the administration in office," Professor Robert Reich recently wrote that "after 1980 it all but [\*88] disappeared." He added that Presidents Bill Clinton and Barack Obama "allowed antitrust enforcement to ossify, enabling large corporations to grow far larger and major industries to become more concentrated." Presented below are categories of arguments that rely upon specific assertions about the positive record of modern antitrust enforcement. These arguments make positive claims regarding either the amount of activity, the reasons for observed behavior, or both. GENERAL CRITICISMS OF ANTITRUST ENFORCEMENT: BORK, REAGAN, AND THE DESTRUCTION OF U.S. COMPETITION POLICY Many commentators have offered explanations for why federal antitrust enforcement became inadequate after the late 1970s. One major positive explanation is that the modern Chicago School of antitrust analysis, grounded largely in the writings of Robert Bork, inspired a severe retrenchment of enforcement at the DOJ and the FTC and led the federal courts to narrow antitrust doctrine since the late 1970s. A major focus of this discussion of the causes for changes in enforcement involves rules governing the treatment of dominant firms. A second cause offered to explain a redirection of enforcement is the ascent to the presidency of Ronald Reagan and his appointment of permissive leadership to the DOJ and the FTC. The Reagan administration [\*89] is said to have inherited a generally well-functioning antitrust enforcement system and run it into the ground. The Chicago School, Bork-centric, and Reagan-centric explanations for policy change can be misleading due to mischaracterizations of what took place and their tendency to omit other forces that had helped narrow the scope of antitrust enforcement. Bork and the Chicago School unmistakably have exerted a significant impact upon modern antitrust policy, but the retrenchment of antitrust enforcement in some areas cannot accurately be attributed to them entirely or, for a number of important developments, even principally. Many proponents of the inadequacy narrative make little or no mention of the role of modern Harvard School scholars, such as Philip Areeda and Donald Turner, in leading courts and enforcement agencies to move the antitrust system toward a less interventionist stance. Areeda and Turner encouraged courts to forego reliance on noneconomic goals in deciding antitrust cases. The two Harvard scholars also advocated the adoption of stricter procedural and doctrinal screens to counteract what they perceived to be flaws in the U.S. system of private rights of action. The inadequacy narrative often overlooks the influence of the modern Harvard School and thus misses how much the permissiveness of modern antitrust policy reflects the Harvard School's concern that private rights of action over-deter legitimate business conduct by dominant firms. [\*90] This yields a faulty positive diagnosis of the forces that have reduced the reach of the U.S. antitrust regime. As noted below, understanding how the institution-grounded limitations proposed by the modern Harvard School have imposed greater demands on plaintiffs has important implications for government plaintiffs seeking to devise a strategy to reclaim doctrinal ground lost since the 1970s. Similar imprecision and omission characterize the portrayal of the Reagan administration as the force that swung antitrust policy away from a sensible interventionist equilibrium and gave it a durably noninterventionist orientation. Some elements of the Reagan-centric narrative turn events 180 degrees around from their positive roots. More significant, the narrative does not address how badly the Congress and the White House had damaged the FTC's stature and operations before Ronald Reagan took office in late January 1981. By the end of 1980, the Commission had been shoved into the equivalent of political bankruptcy by a Congress and a White House under the control of the Democratic Party. By treating the 1980 presidential election as the cause of an abrupt change in federal antitrust enforcement policy, the Reagan-centric inadequacy narrative fails to grasp the significance of the political assault, led by Democrats, against the FTC in the late 1970s. Recognition of how the FTC's relationship with Congress changed over the course of the 1970s forces one to confront the question of why an agency that enjoyed powerful congressional support through much of the decade came to grief so quickly. The episode has a sobering cautionary lesson for contemporary policy making: it demonstrates how quickly congressional attitudes can change once powerful business interests affected by FTC actions bring their [\*91] resources to bear upon Congress, and how turnover in the legislature can erode vital political support. An accurate positive account of the 1970s suggests that an agency should strive to complete its cases and rulemaking initiatives as expeditiously as possible, lest long lags between the start and conclusion of matters expose the agency to debilitating political backlash. This policy making prescription becomes apparent only by forming an accurate picture of what happened to the FTC in the 1970s. CHICAGO-SCHOOL INSPIRED FOCUS ON PRICE EFFECTS Critics of modern FTC and DOJ law enforcement often state that the federal agencies focus entirely on price and output effects in selecting and prosecuting cases. This tunnel-visioned approach is said to ignore important considerations involving the harmful effects of business behavior on quality and innovation. In 2019, in a newspaper op-ed, Rana Fordoohar, a journalist who covers the tech sector, stated: "But monopoly policy in America is currently driven by "Chicago School" thinking, which espouses the idea that as long as consumers aren't paying too much for a good or service, all is well." In August 2020, Joshua Brustein, a business journalist, said: "For decades, antitrust enforcers have centered on the consumer welfare standard, which defined price increases as the only valid focus of antitrust action." Like the portrayal of activity levels, these positive descriptions of the policy concerns that have guided FTC and DOJ law enforcement are faulty. The claim that the federal antitrust agencies since the late 1970s have focused solely upon price and output effects overlooks the many important instances in which innovation and other quality-related effects were paramount in FTC and DOJ decisions to challenge mergers and bring nonmerger cases. Among other areas from the 1980s to the present, the DOJ and the FTC have emphasized innovation effects in analyzing competitive effects in deals involving defense contractors and transactions [\*92] in the health care sector. [FOOTNOTE] See, e.g., Joint Statement of the Department of Justice and the Federal Trade Commission on Preserving Competition in the Defense Industry (Apr. 12, 2016) ("In the defense industry, the Agencies are especially focused on ensuring that defense mergers will not adversely affect short- and long-term innovation crucial to our national security. . . ."); Daniel L. Rubinfeld & John Haven, Innovation and Antitrust Enforcement, in DYNAMIC COMPETITION AND PUBLIC POLICY 65 (Jerry Ellig ed., 2001) (discussing DOJ emphasis on innovation-related effects in antitrust enforcement, including the Department's challenge to Lockheed Martin's effort to purchase Northrop Grumman in the late 1990s); William E. Kovacic, Competition Policy Retrospective: The Formation of the United Launch Alliance and the Ascent of SpaceX, 27 GEO. MASON L. REV. 863, 867-68, 899-900 (2020) [hereinafter Competition Policy Retrospective] (discussing centrality of innovation issues in modern antitrust analysis of aerospace and defense mergers). [END FOOTNOTE] INADEQUATE ENFORCEMENT AGAINST DOMINANT FIRM MISCONDUCT A recurring critique of modern U.S. federal enforcement is the failure of the DOJ and the FTC to police dominant firm misconduct. In 2002, Professor Robert Pitofsky wrote that "during the Reagan years, there was no enforcement whatsoever" against attempts to monopolize and monopolization. At a conference in 2009, Professor Harvey Goldschmid observed that during the George W. Bush presidency "there has been no enforcement" of Section 2 of the Sherman Act. In a wide-ranging attack upon federal antitrust enforcement since the 1970s, Jonathan Tepper and Denise Hearn concluded: The evidence confirms the death of antitrust. When surveying merger challenges, [Professor Gustavo] Grullon found that enforcement of Section 2 of the Sherman Act fell from an average of 15.7 cases per year from 1970-1999 to less than 3 over the period 2000-2014. . . . The recent failure to enforce antitrust is horrifying, considering how industries have become more concentrated every year. In May 2018, Senator Richard Blumenthal and Professor Tim Wu [\*93] authored an op-ed piece that recited similar statistics: "Enforcement of the antimonopoly laws has fallen: Between 1970 and 1999, the United States brought about 15 monopoly cases each year; between 2000 and 2014, that number went down to just three." Each of these statements about the amount of federal enforcement activity is incorrect. The Reagan antitrust agencies did not bring many cases involving attempted monopolization or monopolization, but the number exceeded what Professor Pitofsky called "no enforcement whatsoever". The number of FTC attempted monopolization and monopolization cases initiated from 2001 through 2008 exceeded what Professor Goldschmid called "no enforcement." From 1970 through 1999, federal enforcement of Section 2 of the Sherman Act and the enforcement of Section 5 of the FTC Act to challenge collective dominance or single-firm exclusionary conduct did not exceed four cases per year - a notably lower rate of activity than the number of cases per year reported by Senator Blumenthal and Professor Wu ("about 15 cases each year") and the number for the same period reported by Jonathan Tepper and Denise Hearn (15.7 cases per year). [\*94] INADEQUATE MERGER ENFORCEMENT Inadequacy narratives frequently use categorical statements about activity levels to demonstrate weaknesses in federal merger enforcement. In a discussion of Reagan administration antitrust policy, Professor Eleanor Fox observed that "U.S. federal merger enforcement ground to a halt." In the 2010 edition of their antitrust casebook, Professor Robert Pitofsky, Professor Harvey Goldschmid, and Judge Diane Wood observed that there was "no enforcement at all against vertical or conglomerate mergers during the Bush Administration." In a recent book discussing U.S. antitrust policy, Professor Tim Wu observed that the DOJ in the George W. Bush administration "did not block any major mergers." The factual claims contained in these assessments are incorrect. Federal merger enforcement during the Reagan administration did not grind to a halt. The George W. Bush Administration did not challenge large numbers of vertical mergers, but the number was greater than the "no enforcement at all" amount claimed by Professor Pitofsky, Professor [\*95] Goldschmid, and Judge Wood. During the Bush administration, the DOJ sued and blocked mergers involving General Dynamics/Newport News Shipbuilding (nuclear submarine design and production) and United Airlines/US Airways (airline transportation services). Given the significance of the merging parties and the importance of the economic sectors at issue, competition law experts, in responding to Professor Wu, likely would score these proposed transactions as "major" mergers. C. How Narratives Predicated Upon Mistaken Positive Assumptions Distort Understanding About the Functioning of the U.S. Antitrust Regime Should the competition policy community of academics, advocacy groups, government officials, and practitioners care about these and other inaccurate depictions of federal enforcement activity? Indeed, they should. There is a danger that the fractured positive accounts of past activity will be taken as true and inform the debate about the future of competition policy. There is a fast-expanding literature that contends, as Professor Daniel Crane puts it, that "antitrust enforcement has drifted toward near-oblivion, with potentially dire consequences for our economy, and society more generally." The portrayal of inert federal agencies as abandoning a sensible earlier custom of robust enforcement is a particularly important pillar of modern calls for sweeping reform. Failure to Learn from Earlier Enforcement Activities. A major hazard of the inadequacy narratives and their dismal depiction of modern antitrust policy is that they impede the learning by which an antitrust agency improves over time. If it is assumed as a fact that the federal antitrust enforcement [\*96] policy was devoid of useful activity for the past forty years or longer, then there is no point in looking for positive accomplishments. A listener who accepts as true the claim that nothing happened, or that what happened was the work of an insane agency, reasonably might conclude that there is nothing worth emulating from the earlier period. There is a serious cost to embracing the excessive activity narrative or the inadequate activity narrative as resting on sound positive foundations. By writing off the relevant eras as a wasteland, one ignores noteworthy policy developments that modern analysts can use to guide policy going forward. Merger enforcement provides an example. If federal merger enforcement actually ground to a halt between 1981 and 1988, there would be no merger challenges to study. Yet the federal enforcers blocked a number of deals in this period and, in some instances, the government gained favorable judicial decisions that provide clues about how to formulate successful challenges in the future. Perhaps the most notable of the government's merger litigation victories in the 1980s was the FTC's successful challenge to Hospital Corp.'s effort to acquire Hospital Affiliates International, Inc. and Health Care Corp. The Commission argued that the acquisitions would reduce competition by enabling the surviving firms to coordinate behavior more effectively with regard to pricing and other terms of service. The 117-page opinion for the Commission by Commissioner Terry Calvani is a textbook model of superb opinion-writing, what the Seventh Circuit called a "model of lucidity." Commissioner Calvani carefully set out the arguments of complaint counsel and the defendants, reviewed the precedent and literature regarding the coordinated effects theory of harm, and displayed [\*97] the type of erudition and expertise that is offered as a justification for entrusting antitrust adjudication to an expert administrative body. Every commissioner who is assigned to write an opinion for the FTC should feel an obligation to read the Calvani Hospital Corp. decision to see the quality of analysis and style of presentation that can impress a court of appeals favorably. Rather than dismiss the period since 1980 as a barren era in federal enforcement, the advocates for a major expansion of intervention should assemble an accurate positive record of every decision and every initiative that can help them achieve their ends. In the face of a demanding judiciary, the FTC will need every advantage it can obtain, including footholds provided by enforcement measures undertaken from the early 1980s forward. If proponents of fundamental change treat the past forty years as an empty space in antitrust policy, they will walk past precedents and practices that would advance their cause. If one assumes that timidity bordering on cowardice gripped the federal agencies after 1999, there is likewise no point in considering how the FTC in the 2010s achieved considerable success in three consecutive trips to the Supreme Court in antitrust cases - the first time the Commission had won three straight cases before the high court since the 1960s - or bothering to understand what mix of strategy and advocacy (and, perhaps, luck) made it possible. The analysis of innovation issues provides another example of how an accurate grasp of the positive record can help build a new program. Consider the claim, noted above, that the federal agencies brought no vertical merger cases between 2001 and 2008. An observer who embraced this view is likely to overlook the FTC's decision to block the proposed merger of Cytyc and Digene. The Commission's analysis of this transaction teaches a lot about how to analyze innovation markets that reach back to the earliest stages of an R&D pipeline. Adherence to the view that modern antitrust policy has ignored [\*98] innovation effects in merger analysis and in nonmerger cases likewise will miss important sources of insight. The experience of the two federal agencies since the early 1980s in reviewing aerospace and defense industry mergers illuminates how to analyze innovation issues and formulate successful merger challenges in dynamic, high technology sectors. The federal government's analysis of these transactions has been representative of a larger awareness that innovation concerns should be decisive, or at least equal in importance to price effects, in a significant number of merger reviews and nonmerger matters. Diagnosing the Obstacles to Litigation Success and Overcoming Them. A second and closely related reason to resist faulty positive accounts of past experience is that they obscure the path to possible litigation success in single-firm monopolization cases. In the FTC's unsuccessful Rambus case, the U.S. Court of Appeals for the District of Columbia relied heavily on a Supreme Court decision ( NYNEX Corp. v. Discon, Inc. ) that was premised in part on concerns about overdeterrence that might arise from private treble-damage law suits. The FTC might have argued to the D.C. Circuit that the Commission, as a federal government agency, was a responsible steward of the public trust and need not be bound by doctrines designed to confine private litigants. Future attempts to use litigation to condemn dominant firm conduct, and extend the reach of antitrust oversight, might emphasize the distinctive role of public enforcement and, perhaps, resort more extensively to the FTC's administrative adjudication process. In other words, seeing more clearly the foundations of defendant-friendly doctrine indicates what litigation strategy (i.e., premised on the distinctive role of the public prosecutor and the special capacity of the FTC's administrative process) promises the greatest prospects for success in what is today a daunting judicial environment. To use litigation to expand the zone of potential intervention, the Commission will need to study and build [\*99] upon litigation successes such as McWane, Inc. v. FTC, where the Commission prevailed on a monopolization theory of liability before a court of appeals that has not always been a favorable forum for the review of Commission antitrust cases. If one assumes, as some commentators suggest, that the federal agencies brought no monopolization cases in the past twenty years, then one is unlikely to look for or study McWane - to recognize the doctrinal footholds it provides for future cases, to analyze how the agency assembled a convincing factual record, and, more generally, to see how the agency can replicate the success in the future. Setting a Common Foundation for Debate About Future Antitrust Enforcement. A third reason to remedy the uncertain grasp of the past is its importance to the modern debates about the proper direction for the U.S. antitrust system. Without a common understanding of what actually happened in the past, how can policy makers and commentators make sound normative judgments about what the U.S. enforcement agencies should do in the future? Professor Douglas Melamed recently has posited that the contestants in the modern debate about antitrust policy often talk past each other and do not engage on questions crucial to deciding whether and how much to modify current antitrust policy, or to create new competition policy instruments and institutions. It is doubtful that what Professor Melamed calls two largely disconnected "conversations" can be joined up without a better common understanding of what actually has taken place. In so many ways, accurate comprehension of what happened is the essential foundation for the processes of interpretation (What explains the behavior in question? What is its significance?), evaluation (Was the behavior good or bad?), and refinement (What should we do next time?). Think of it in terms of teaching a class. Suppose the bases for the grade in the course are (a) regular attendance in class, (b) contributions to class discussion, and (c) performance on an end-of-term examination. Before we determine the quality of the student's work and assign a grade, we need first to agree about whether the student showed up for class, spoke in class, and turned in an exam. Modern discourse about U.S. competition law indicates a lack of agreement on equivalents of these basic predicates for a normative assessment of the performance of the antitrust enforcement system. Appreciating How Institutional Arrangements Shape Substantive [\*100] Outcomes. Both of the inadequacy narratives described above lapse into describing the U.S. antitrust system as regularly succumbing to irrational (or, as Representative Frenzel put it, insane) swings in behavior, from wild overreaching in the 1970s and in earlier periods of antitrust history to excessive restraint from the late 1970s to the present. In their positive description of why events transpired as they did, the inadequacy narratives focus heavily on the role of agency leadership and personality. For example, the excessive enforcement narrative portrays federal enforcement officials in the 1960s as possessed by a deranged opposition to mergers and depicts Michael Pertschuk, the FTC's chairman from 1977-1981, as a singularly malevolent force who drove the agency off the rails. The inadequate enforcement narrative damns William Baxter, who chaired the DOJ Antitrust Division from 1981 through 1983, and James C. Miller III, who chaired the FTC from 1981 to 1984, as irrational extremists with no fidelity to norms that promote sound policy making. The abilities and instincts of individual leaders are undoubtedly important to the success of a competition authority. Yet the personality-driven explanation for agency behavior overlooks the role that institutional arrangements have played in shaping outcomes - for example, by moderating policy impulses of some leaders and creating structures and mechanisms (such as a program of ex post evaluation of agency decisions) that improve policy making regardless of who is in charge. The single-minded focus on personalities also obscures the extent to which various institutional arrangements played central roles in the agency's achievement of successful policy outcomes. In short, one loses the ability to develop a [\*101] better sense of what accounts for policy successes and failures. Replacing a supposed pariah with a presumed miracle worker may not improve the status quo by much if deep-seated institutional weaknesses are major sources of observed policy failures.

#### FTC is key to AI regulation—expertise and international clout.

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

The FTC’s authority to promulgate rules defining unfair or deceptive acts or practices is limited, and therefore it must enforce its authority indirectly on a case-by-case basis.244 As such, and because it generally lacks the ability to assess civil penalties, the FTC mostly relies on settlements resulting from its enforcement activities to communicate the rules it wants companies to follow.245 In addition, due to staff and budget constraints, the FTC often must rely on informal complaints and self-reporting of potential violations.246 The FTC’s Section 5 authority, furthermore, does not extend to non-profit organizations, common carriers, financial institutions, and certain other entities, nor can it regulate harms committed by consumers in non-commercial contexts.247 Despite these limitations, the FTC has a formidable reputation as an enforcement authority, and commercial entities, and their lawyers, pay close attention to its orders and decisions.248 For example, when the FTC issues a complaint, it is published on the FTC’s website, which often generates significant attention in the privacy community.249 One reason for this is the fear firms have of the FTC’s auditing process, which not only is “exhaustive and demanding,” but can last for as long as 20 years.250 As such, the FTC settles most of the enforcement actions it initiates.251 Firms are motivated to settle with the FTC because they can avoid having to admit any wrongdoing in exchange for taking remedial measures, and thus they also avoid the costs to their reputation from apologizing.252 Though done by necessity, the rule-making process the FTC engages in with its consent orders and settlement agreements can be of benefit when regulating emerging technologies. 253 For one, it allows the flexibility needed to adapt to new and rapidly changing situations.254 Further, the FTC can wait and see if an industry consensus develops around a particular standard before codifying that rule through its enforcement actions.255 As with the common law, which has long demonstrated the ability to adjust to technological changes iteratively, the FTC’s incremental case-bycase approach can help minimize the risks of producing incorrect or inappropriate regulatory policy outcomes.256 In addition to its use of consent orders and settlement agreements, the FTC has created a type of “soft law” by issuing guidelines, press releases, workshops, and white papers.257 Unlike in enforcement actions, where the FTC looks at a company’s conduct and sees how its behavior compares to industry standards, the FTC arrives at the best practices it develops for guidance purposes through a “deep and ongoing engagement with all stakeholders.”258 As such, not only is the FTC’s authority broad enough to regulate the use of emerging technologies such as AI in commerce, but the FTC’s enforcement actions also constitute a body of jurisprudence the FTC can rely on to address the real and potential harms that stem from the deployment of consumeroriented AI.259 Given its broad grant of authority, the regulatory tools at its disposal, and its experience dealing with emerging technologies, the FTC is currently in the best position to take the lead in regulating AI. The FTC’s leadership is sorely needed to fill in the remaining – and quite large – gaps in those few sectoral laws that specifically address AI and algorithmic decision-making.260 Several factors make the FTC the ideal agency for this role. First, the FTC can use its broad Section 5 powers to respond rapidly and nimbly to the types of unanticipated regulatory issues AI is likely to create.261 Second, the FTC has an established history of approaching emerging technologies with “a light regulatory touch” during their beginning stages, waiting to increase its regulatory efforts only once the technology has become more established.262 This approach provides the innovative space needed for new technologies such as AI to develop to their full potential. Thus, as it has in the past, the FTC would focus on disclosure requirements rather than conduct prohibition, and take a case-by-case approach rather than rely on rulemaking.263 Also, as it has traditionally done, the FTC can hold public events on consumer-related AI and issue reports and white papers to guide industry.264 In other words, the FTC has long taken a co-regulatory approach to regulation, which it can and should proceed to do with AI. As in other emerging technology areas, this will help industry continue to grow and innovate, while allowing for the calibration among all relevant stakeholders of the “appropriate expectations” concerning the use and deployment of AI decision-making systems.265 At the same time, the FTC should use its regulatory powers to nudge, and when necessary, push companies to refrain from engaging in unfair and deceptive trade practices in the design and deployment of AI systems.266 The FTC should also place the onus on firms that design and implement those systems to ensure misplaced or unrealistic consumer expectations about AI are corrected.267 By nudging (or pushing) firms in this way, the FTC can “gradually impose a set of sticky default practices that companies can only deviate from if they very explicitly notify consumers.”268 In terms of disclosure requirements, as it has done in other contexts, the FTC can develop rules and guidelines for “when and how a company must disclose information to avoid deception and protect a consumer from harm,” which can include requiring firms to adopt the equivalent of a privacy policy. 269 Given the black box like nature of most algorithmic decision-making processes, there is much that AI developers might have to disclose to prevent those processes from being deemed unfair or deceptive.270 In addition, given its broad authority under Section 5, the FTC is able to address small, nuanced changes in AI design that could adversely affect consumers, but that other areas of law, such as tort, may not be able to adequately handle.271 Again, this is important because AI and algorithmic decision-making can pose profound and systemic risks of harm, even though the actual harm to individual consumers may be small or hard to quantify. And as it has done in the area of privacy, the FTC can become the de facto federal agency authority charged with protecting consumers from harms caused by AI systems and other algorithmic decisionmaking processes.272 The FTC also can, and should, seek to work with other agencies to address AI-related harms, given that the regulatory efforts of other agencies will still occur and be needed in specific sectors or industries, which would impact and be relevant to the FTC’s efforts as well.273 Agency cooperation is essential to ensuring regulatory consistency, accuracy, and efficiency in the type of complex, varied technological landscape that AI presents.274 This should not be a problem as the FTC’s Section 5 authority overlaps regularly with the authority of other agencies, and the FTC itself has a history of cooperating with those agencies.275 Further, the FTC can use its experience working with other agencies to build standards and policy consensus within the regulatory community and among stakeholders. 276 The overarching role the FTC has played in protecting consumer privacy within the United States also has given it legitimacy within the wider privacy community. The FTC has been pivotal over time in promoting international confidence in the United States’ ability to regulate privacy by for example acting as the essential mechanism for enforcing the Safe Harbor Agreement with the European Union.277 As it takes on a similar overarching regulatory role for AI and algorithmic decision-making processes in this country, the FTC should gain a similar level of legitimacy internationally. This is important given the increasingly cross border nature of AI research and development.

#### Extinction.

CAS 21—(Chinese national academy for natural sciences, ranked #1 largest contributor to worldwide leading journals by the Nature Index from 2016-2020). Chinese Academy of Sciences. 2021. "Special topic: Strategic Research on Ethical Governance of Science and Technology". Proceedings of the Chinese Academy of Sciences, Issue 11. https://inf.news/en/tech/2a3b11644ef1cee2613adbccd7b0cd5c.html

Artificial intelligence algorithms may use algorithmic discrimination, or form a horizontal monopoly agreement or hub-and-spoke agreement through algorithmic collusion, to destroy the market competition environment when it is less likely to be detected and proven. The use of algorithmic decision-making in various fields of society may cause changes in the power structure. Algorithms have a significant impact on people's rights and freedom by virtue of their technical advantages in processing massive data and the advantages of embedding in ubiquitous information systems. For example, the algorithm for credit evaluation in bank credit will affect whether citizens can obtain loans, and the evaluation of social harm through algorithms in criminal justice will affect whether to conduct pretrial detention. These are all prominent manifestations. The abuse of artificial intelligence in work scenarios may affect the rights of workers, and the substitution of artificial intelligence for workers may trigger a crisis of large-scale structural unemployment and bring risks in terms of labor rights or employment opportunities. As artificial intelligence is increasingly widely used in all aspects of social production and life, security risks such as vulnerabilities and design flaws in artificial intelligence systems may cause social problems such as data leakage of personal information, stop of industrial production lines, and traffic paralysis, threatening financial and social security. And national security. The abuse of artificial intelligence weapons may exacerbate inequality worldwide, threatening human life and world peace... Artificial intelligence ethical risk governance is complicated, and a complete theoretical framework and governance system have not yet been formed.

### 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 the trigger warnings PIC

#### Vote neg to endorse the entire 1AC sans their trigger warning.

#### Trigger warnings increase psychological trauma. This turns the whole aff

APS, 20

(Association for Psychological Science, "The Following News Release Contains Potentially Disturbing Content: Trigger Warnings Fail to Help and May Even Harm," June 9 <https://www.psychologicalscience.org/news/releases/trigger-warnings-fail-to-help.html> NL)

For some, traumatic events leave deep psychological scars that can resurface many years later as renewed emotional pain or unwanted memories. In an effort to spare survivors reminders of past trauma, some institutions and individuals provide so-called trigger warnings, alerts that an upcoming program or text may contain unsettling content. Recently, however, a growing body of research has called into question the effectiveness of trigger warnings. A new study published in the journal Clinical Psychological Science shines additional light on this ongoing debate and finds that trigger warnings offer little to no help in avoiding painful memories and perhaps are even harmful for the survivors of past emotional trauma. “Specifically, we found that trigger warnings did not help trauma survivors brace themselves to face potentially upsetting content,” said Payton Jones, a researcher at Harvard University and lead author on the study. “In some cases, they made things worse.” Worryingly, the researchers discovered that trigger warnings seem to increase the extent to which people see trauma as central to their identity, which can worsen the impact of posttraumatic stress disorder (PTSD) in the long run. In academic settings, a trigger warning is typically an alert given by a teacher or professor that upcoming content or course materials may be distressing to individuals who have experienced certain traumatic life events. Such warnings are intended to give students the opportunity to step outside of the lecture hall or to overlook certain passages in reading assignments. According to a 2016 survey conducted by National Public Radio, about half of professors said they have used a trigger warning in advance of introducing potentially difficult material. “Over the past decade, there has been extensive debate on the appropriateness of trigger warnings, particularly in academic environments, where they have been accused of promoting censorship,” Jones said. “Other critics have suggested the trigger warnings may create an unrealistic bubble, free from negative thoughts, which would not prepare students for life beyond academia.” Until recently, much of this debate was based on conjecture with little scientific research to back up claims either way. To improve the body of research on this topic, Jones and his colleagues conducted a randomized experiment among two groups of people who had experienced a serious trauma in the past. Both groups read a series of literature passages. One group received trigger warnings prior to distressing passages while the other did not. Participants rated their emotions after reading each passage and also completed a series of questionnaires at the end. Overall, the researchers found little statistical differences in the reactions of both groups. Neither seemed to be spared the emotional impact of reading the text. Whether trigger warnings are explicitly harmful was less clear, though Jones and his colleagues did find evidence that trigger warnings increased the belief that their trauma is an essential part of a survivor’s life story, which research has shown is countertherapeutic. “I was surprised that something so small—a few trigger warnings in a short experiment—could influence the way someone views their trauma,” noted Jones. “In our culture, I think we overemphasize how important trauma should be in a person’s life. Trigger warnings are one example of this.”

### 1NC OFF

Next off is the Trade Off DA

**Facebook is the top antitrust priority- that’s key**

**Zakrzewski, 21** -- Washington Post technology policy reporter

[Cat Zakrzewski, "Lina Khan’s first big test as FTC chief: Defining Facebook as a monopoly," Washington Post, 8-19-2021, https://www.washingtonpost.com/technology/2021/08/19/ftc-facebook-lawsuit-lina-khan-deadline/, accessed 11-9-2021]

“The courts can be an impediment to strong antitrust enforcement, but there are **a lot of smart people** and there is a lot of political energy focused on how to **overcome** it,” the aide said. “The energy on Facebook and other Big Tech platforms is going to **increase and increase** **until something meaningful happens** in Washington to rein in their power and to stop anticompetitive behavior. There’s rising antitrust pressure coming at Facebook from a huge number of directions right now and clearly the momentum is not on their side.”

From Capitol Hill to the states, advocates for greater antitrust enforcement are closely watching the FTC’s response to the federal judge. Boasberg was detailed and prescriptive in his dismissal, giving the FTC a clear road map to bring a stronger case. He asked the agency to provide more evidence to prove its assertion that Facebook controls 60 percent of the social media market, including showing its calculations, and criticized arguments the agency made about how Facebook abused smaller rivals by controlling their access to data.

But Boasberg indicated that the agency could answer these questions and move forward.

“While there are certainly bones that one could pick with the FTC’s market-definition allegations, the Court does not find them fatally devoid of meat,” he wrote.

Some legal experts think that the FTC will be able to address these criticisms from the judge to ensure that the case is not completely dismissed. But it’s **no easy task for a** relatively **small agency**, which sought several extra weeks to respond to the judge’s issues with the case after an initial July 29 deadline.

“There’s multiple signals that FTC is serious about doing their job of investigations and bringing these cases and fighting them hard,” said Charlotte Slaiman, competition policy director at the consumer group Public Knowledge.

Though the most significant, the Facebook case is but one of a wide range of issues on Khan’s plate. A month after she assumed office, the Biden administration issued a sweeping competition executive order, which called for her agency to take a tougher line on concentration throughout the economy.

So far, Khan has taken a series of steps to signal a shake-up has arrived at the FTC. She’s started hosting open meetings to open the agency’s business to the public, and she’s warned that greater scrutiny of mergers is on its way.

But the **challenge** will be for the agency to **remain focused** on the most important cases, including Facebook, Kovacic said. “She has a downpour of demands from both ends of the avenue,” he said.

**The plan trade-offs**

**Kovacic, 13** – Professor of Law at George Washington University

[William E. Kovacic & David A. Hyman, "Competition Agencies with Complex Policy Portfolios: Divide or Conquer?" GW Law Faculty Publications, 2013, <https://scholarship.law.gwu.edu/faculty_publications/631>, accessed 7-4-21]

A second mechanism is to fund new projects adequately by a relatively silent form of **triage**. This consists of **draining resources away from other programs** ostensibly designed to implement congressionally imposed duties. To support new programs in areas such as privacy, data protection, and mortgage lending fraud, the FTC over time has quietly **abandoned other programs** that used to be mainstays of enforcement. To some extent this is done with at least the implicit approval of Congress. Through official budget requests and oversight hearings, Congress is at least generally aware of how the Commission is spending its money. It can detect that some areas of policy responsibility seem to be inactive. Congress can observe, for example, that the FTC has brought two Robinson-Patman Act price discrimination cases in the past 23 years.112 This reliably indicates diminished attention to a statute whose enforcement in the 1960s yielded hundreds of cases. For the most part, the FTC has constructed or retooled major programs involving privacy, financial services, mergers, horizontal restraints, and single firm conduct by **severely reducing outlays** for the enforcement of the Robinson-Patman Act and consumer protection statutes dealing with fur and textile labeling.

**Social media misinfo causes extinction-** truth decay is an impact filter

**Rich, 20** RAND President and Chief Executive Officer

[Michael D, of the Corporation. "Think Tanks in the Era of Truth Decay", accessed 9-1-2021, https://www.rand.org/blog/rand-review/2020/10/think-tanks-in-the-era-of-truth-decay.html]

We are living through a moment of crisis that will define who we are as a nation; yet we can't even agree on what's real and what's rumor. Our political discourse too often amounts to opinions about opinions, shouted across a cable-television split screen. Asked to describe their feelings toward the federal government, a majority of Americans say either “frustrated” or “angry.” All of this points to a civic disease that I've been calling “**Truth Decay**,” and that has **enfeebled our response** to **everything** from climate change to domestic terrorism to a global pandemic. It's the diminishing role of facts and analysis in American public life, and it cuts much deeper than any political party or demographic. It's why nonpartisan think tanks like RAND are as important now as they have ever been. I've always said that RAND is an idea as much as a research institute—a belief that the best way to **solve** the most **complex** and difficult **problems** is to begin with facts and objective analysis. In our early days, that meant figuring out how to put a satellite into orbit, or how to manage the threat of **global nuclear war**. Today, it means saving lives and livelihoods from COVID-19, building a more just and equitable society, and responding to the ever-changing threats of an ever-accelerating world. Our goal throughout has been to make communities safer and more secure, healthier and more prosperous. At RAND, we have never shied away from a problem because it is too difficult or too complex. We've made countering Truth Decay one of our highest priorities because it is both, and because it threatens the very foundations of our democracy. In recent and soon-to-be-published studies, there's a growing body of evidence showing that people don't just lack trust in American institutions like Congress or the media. They actively distrust them. They expect those institutions to display some basic competence, to provide accurate information, to perform their duties with integrity. And they just don't see it. And so, often, they just walk away from the public square. Last year, we asked hundreds of Americans where they get their news. More than a quarter of them said they know where they could go for reliable facts and information—sources like newspapers or television news shows. They just don't have the time or interest to bother. We've made countering Truth Decay one of our highest priorities because it threatens the very foundations of our democracy. That kind of disengagement has helped drive a wedge between what is true and what we think is true. Crime rates in American cities are far below the peaks we saw in the 1990s, but you would hardly be alone if you thought it has never been more dangerous to walk down the street. The scientific evidence for childhood vaccines has never been so strong, yet the World Health Organization recently listed vaccine hesitancy as one of the greatest threats to global health. That's what I mean when I talk about Truth Decay. The proliferation of cable news shows and **social media** sites has resulted in an echo chamber of voices that agree with us—or a shouting gallery of those that don't. The switch from one-hour network news programs to 24-hour coverage did not come with a 24-fold increase in reported facts. We shouldn't be surprised when people use words like “frustrated” or “angry” to describe the national mood. But here's why I'm optimistic. A few years ago, RAND endeavored to review all of the evidence for and against some of the most common ideas for reducing gun violence—tougher background checks, for example, or weapon bans. We found that there was often a lack of reliable evidence either way. Federal constraints on gun research had created a factual vacuum around one of our most vociferous debates. Everyone was just shouting into the void. That study, though, caught the attention of the Laura and John Arnold Foundation, now called Arnold Ventures. It brought together a research consortium to invest up to $50 million in gun violence research. And Congress, which had resisted funding research into gun violence for 20 years, passed a bipartisan spending bill to provide $25 million more. We've seen periods before in American history when the truth struggled to be heard. Some of those eras ended with new forms of journalism, recommitted to chasing down facts and holding those in power to account. Others ended with government reforms aimed at earning back the trust of the governed. None of them ended without renewed faith in objective analysis to guide public policy. As a research institute with two core values—quality and objectivity—that's our stock in trade. The problems we face, as a nation and a world, demand a workforce of people who can collect and analyze data, think through solutions, and provide insights and recommendations without spin or bias. The standards we set at RAND—research that is transparent and clear, based on the best information, and temperate in tone—are meant to ensure that the bluest of blue-state Democrats and the reddest of red-state Republicans can trust our findings equally. When we launched a fundraising campaign for the future of RAND earlier this year, we named it “Tomorrow Demands Today.” That's a different way of saying what French writer Antoine de Saint-Exupéry once wrote, a line I've always thought spoke directly to RAND: “Your job is not to foresee the future, but to enable it.” At this moment in history, that means restoring facts and analysis to the core of American public policy. The stakes could not be higher. As a longtime friend, a former chairman of the board at RAND, told me, RAND was established more than 70 years ago to address the existential threat of the time, the Soviet Union and its nuclear arsenal. **Truth Decay**, he said, is the **existential threat** of our time. That, unfortunately, is the truth.

### 1NC OFF

Next off is States:

#### The 50 states and all relevant sub-federal territories should substantially increase prohibitions on gender-based price discrimination by expanding the scope of core antitrust laws.

#### 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.

### Case

#### Extinction first

Cummisky, 96

(David, professor of philosophy at Bates College, Kantian Consequentialism, pg. 145//shree)

We must not obscure the issue by characterizing this type of case as the sacrifice of individuals for some abstract “social entity.” It is not a question of some persons having to bear the cost for some elusive “overall social good.” Instead, the question is whether some persons must bear the inescapable cost for the sake of other persons. Robert Nozick, for example, argues that to use a person in this way does not sufficiently respect and take account of the fact that he is a separate person, that his is the only life he has.” But why is this not equally true of all those whom we do not save through our failure to act? By emphasizing solely the one who must bear the cost if we act, we fail to sufficiently respect and take account of the many other separate persons, each with only one life, who will bear the cost of our inaction. In such a situation, what would a conscientious Kantian agent, an agent motivated by the unconditional value of rational beings, choose? A morally good agent recognizes that the basis of all particular duties is the principle that “rational nature exists as an end in itself” (GMM 429). Rational nature as such is the supreme objective end of all conduct. If one truly believes that all rational beings have an equal value, then the rational solution to such a dilemma involves maximally promoting the lives and liberties of as many rational beings as possible (chapter 5). In order to avoid this conclusion, the non-consequentialist Kantian needs to justify agent-centered constraints. As we saw in chapter 1, however, even most Kantian deontologists recognize that agent-centered constraints require a non-value-based rationale. But we have seen that Kant’s normative theory is based on an unconditionally valuable end. How can a concern for the value of rational beings lead to a refusal to sacrifice rational beings even when this would prevent other more extensive losses of rational beings? If the moral law is based on the value of rational beings and their ends, then what is the rationale for prohibiting a moral agent from maximally promoting these two tiers of value? If I sacrifice some for the sake for others, I do not use them arbitrarily, and I do not deny the unconditional value of rational beings. Persons may have “dignity, that is, an unconditional and incomparable worth” that transcends any market value( GMM 436)., but persons also have a fundamental equality that dictates that some must sometimes give way for the sake of others (chapter 5 and 7). The concept of the end-in-itself does not support th view that we may never force another to bear some cost in order to benefit others. If one focuses on the equal value of all rational beings, the equal consideration suggests that one may have to sacrifice some to save many.

#### V2L inevitable but extinction ruins it

Kacou, 08

(Arrien Kacou, Cosmos and History: The Journal of Natural and Social Philosophy, Vol 4, No 1-2 (2008), “Why even mind, on the a priori matter of life”, 2008, <http://cosmosandhistory.org/index.php/journal/article/view/92/184> NL)

Furthermore, that manner of finding things good that is in pleasure can certainly not exist in any world without consciousness (i.e., without “life,” as we now understand the word)—slight analogies put aside. In fact, we can begin to develop a more sophisticated definition of the concept of “pleasure,” in the broadest possible sense of the word, as follows: it is the common psychological element in all psychological experience of goodness (be it in joy, admiration, or whatever else). In this sense, **pleasure can always be pictured to “mediate” all awareness** or perception or judgment of goodness: **there is** pleasure in all consciousness of things good**;** pleasure is the common element of all conscious satisfaction. In short, it is simply the very experience of liking things, or the liking of experience, in general. In this sense, **pleasure is**, not only uniquely characteristic of life but also, **the** core expression of goodness in life—the most general sign or phenomenon for favorable conscious valuation, in other words. **This does not mean that “good” is absolutely synonymous with “pleasant”—what we value may well go beyond pleasure**. (The fact that we value things needs not be reduced to the experience of liking things.) However, what we value beyond pleasure remains a matter of speculation or theory. Moreover, we note that a variety of things that may seem otherwise unrelated are correlated with pleasure—some more strongly than others. In other words, there are many things the experience of which we like. For example: the admiration of others; sex; or rock-paper-scissors. But, again, what they are is irrelevant in an inquiry on a priori value—what gives us pleasure is a matter for empirical investigation. Thus, we can see now that, in general, **something** primitively **valuable is** attainable in living—that is,pleasure itself. And it seems equally clear that we havea priori logical reason **to** pay attention to the world in any world where pleasure exists. Moreover, we can now alsoarticulate a foundation for a security interest in our life: since **the good of** pleasure can be foundin living (to the extent pleasure remains attainable),[[17]](http://cosmosandhistory.org/index.php/journal/article/view/92/184#footnote-57591-17) andonly in living, therefore, a priori, **life ought to be continuously** (and indefinitely)pursued at least for the sake of preserving the possibility of finding that good**.** However, this platitude about the value that can be found in life turns out to be, at this point, insufficient for our purposes. It seems to amount to very little more than recognizing that our subjective desire for life in and of itself shows that life has some objective value. For what difference is there between saying, “living is unique in benefiting something I value (namely, my pleasure); therefore, I should desire to go on living,” and saying, “I have a unique desire to go on living; therefore I should have a desire to go on living,” whereas the latter proposition immediately seems senseless? In other words, “life gives me pleasure,” says little more than, “I like life.” Thus, we seem to have arrived at the conclusion that the fact that we already have some (subjective) desire for life shows life to have some (objective) value. But, if that is the most we can say, then it seems our enterprise of justification was quite superficial, and the subjective/objective distinction was useless—for all we have really done is highlight the correspondence between value and desire. Perhaps, our inquiry should be a bit more complex.

#### Magnitude over probability—our limited securitization is good

Elshtain, 03

(Jean Bethke, Prof. Social and Pol. Ethics – U. Chicago, “Just War Against Terror: The Burden of American Power in a Violent World”, p. 46-48) \*gender and ableist language edited

IN THE IMMEDIATE AFTERMATH of September 11, I said to a friend, "Now we are reminded of what governments are for." The primary responsibility of government is to provide basic security—ordinary civic peace. St. Augustine calls this form of earthly peace tranquillitasordinis. This is not the perfect peace promised to believers in the Kingdom of God, the one in which the lion lies down with the lamb. On this earth, if the lion lies down with the lamb, the lamb must be replaced frequently, as Martin Luther opined with his characteristic mordant wit. 1 Portions of the U.S. Constitution refer specifically to security and public safety. "To ensure domestic tranquillity" was central to what the new order being created after the American Revolution was all about. None of the goods that human beings cherish, including the free exercise of religion, can flourish without a measure of civic peace and security. What good or goods do I have in mind? Mothers and fathers raising their children; men and women going to work; citizens of a great city making their way on streets and subways; ordinary people flying to California to visit the grandchildren or to transact business with colleagues— all of these actions are simple but profound goods made possible by civic peace. They include the faithful attending their churches, synagogues, and mosques without fear, and citizens—men and women, young and old, black, brown, and white—lining up to vote on Election Day. This civic peace is not the kingdom promised by scripture that awaits the end time. The vision of beating swords into plowshares and spears into pruning hooks, of creating a world in which "nation shall not lift up sword against nation, neither shall they learn war anymore," is connected with certain conditions that will always elude us. That vision presupposes that all persons are under one law. But our condition of pluralism and religious diversity alone precludes the rule of one law. Moreover, our condition of fallibility and imperfection precludes a world in which discontents never erupt. That said, the civic peace that violence disrupts does offer intimations of the peaceable kingdom. If we live from day to day in fear of deadly attack, the goods we cherish become elusive. Human beings are fragile creatures. We cannot reveal the fullness of our being, including our deep sociality, if airplanes are flying into buildings or snipers are shooting at us randomly or deadly spores are being sent through the mail. As we have learned so shockingly, we can neither take this civic peace for granted nor shake off our responsibility to respect and promote the norms and rules that sustain civic peace. We know what happens to people who live in pervasive fear. The condition of fearfulness leads to severe isolation as the desire to protect oneself and one's family becomes overwhelming. It encourages harsh measures because, as the political theorist Thomas Hobbes wrote in his 1651 work Leviathan, if we live in constant fear of violent death we are likely to seek guarantees to prevent such. Chapter 13 of Hobbes's great work is justly renowned for its vivid depiction of the horrors of a "state of nature," Hobbes's description of a world in which there is no ordered civic peace of any kind. In that horrible circumstance, all persons have the strength to kill each other, "either by secret machination, or by confederacy with others." The overriding emotion in this nightmarish world is overwhelming, paralyzing fear, for every [person] man has become an enemy to every other and men live without other security, that what their own strength, and their own invention shall furnish them withal. In such condition, there is no place for Industry; because the fruit thereof is uncertain, and consequently no Culture of the Earth; no Navigation, nor use of the commodities that may be imported by Sea; no commodious Building; no Instruments of moving, and removing such things as require much force; no Knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuallfeare, and danger of violent death; And the life of man, solitary, poore, nasty, brutish, and short. 2 This is Hobbes's famous, or infamous, war of all against all.

#### War is a prior question to structural violence

Goldstein, 01

(Joshua, Professor of International Relations at American University “Reflections: The Mutuality of Gender and War," War and Gender, Published by Cambridge University Press, ISBN 0521001803, p. 411-412)

I began this book hoping to contribute in some way to a deeper understanding of war – an understanding that would improve the chacnes of someday achieving real peace, by deleting war from our human repertoire. In following the thread of gender running through war, I found the deeper understanding I had hoped for – a multidisciplinary and multilevel engagement with the subject. Yet I became somewhat more pessimistic about how quickly or easily war may end. The war system emerges, from evidence in this book, as relatively ubiquitous and robust. Efforts to change this system must overcome several dilemmas mentioned in this book. First, peace activists face a dilemma in thinking about causes of war and working for peace. Many peace scholars and activists support the approach, "if you want peace, work for justice." Then, if one believes that sexism contributes to war, one can work for gender justice specifically (perhaps among others) in order to pursue peace. This approach brings strategic allies to the peace movement (women, labor, minorities), but rests on the assumption that injustices cause war. The evidence in this book suggests that causality runs at least as strongly the other way. War is not a product of capitalism, imperialism, gender, innate aggression, or any other single cause, although all of these influence wars' outbreaks and outcomes. Rather, war has in part fueled and sustained these and other injustices. 9 So, "if you want peace, work for peace." Indeed, if you want justice (gender and others), work for peace. Causality does not run just upward through the levels of analysis, from types of individuals, societies, and governments up to war. It runs downward too. Enloe suggests that changes in attitudes towards war and the military may be the most important way to "reverse women's oppression." The dilemma is that peace work focused on justice brings to the peace movement energy, allies, and moral grounding, yet, in light of this book's evidence, the emphasis on injustice as the main cause of war seems to be empirically inadequate. 10

#### That’s particularly true with nuclear war

Folk, 78

(Jerry, Peace Studies Professor, Bethany College Peace Education-Peace Studies Programs, Peace Change 5.1)

Those proponents of the positive peace approach who reject out of hand the work of researchers and educators coming to the field from the perspective of negative peace too easily forget that the prevention of a nuclear confrontation of global dimensions is the prerequisite for all other peace research, education, and action. Unless such a confrontation can be avoided there will be no world left in which to build positive peace. Moreover, the blanket condemnation of all such negative peace oriented research, education or action as a reactionary attempt to support and reinforce the status quo is doctrinaire. Conflict theory and resolution, disarmament studies, studies of the international system and of international organizations, and integration studies are in themselves neutral. They do not intrinsically support either the status quo or revolutionary efforts to change or overthrow it. Rather they offer a body of knowledge which can be used for either purpose or for some purpose in between. It is much more logical for those who understand peace as positive peace to integrate this knowledge into their own framework and to utilize it in achieving their own purposes. A balanced peace studies program should therefore offer the student exposure to the questions and concerns which occupy those who view the field essentially from the point of view of negative peace.

# Block

## K

### 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.

### AT: Perm

#### 2. 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).

#### 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

#### 3. They read us the link – antitrust is only a tool to distract from movements against inequality now – they just optimize competition law to make it seem like reforms are actually doing something

Kohlmeier & Sacks, April 2021 (Gabrielle Kohlmeier & Samm Sacks, Gabrielle Kohlmeier is Associate General Counsel for Antitrust, Strategic Projects and Competition Policy at Verizon Communications, and Chair of the American Bar Association Antitrust Section’s Women.Connected. Samm Sacks is a Senior Fellow at Yale Law School’s Paul Tsai China Center and a Cyber Policy Fellow at New America, and leads the U.S.-China Women’s Tech Summit discussion series., “SEVEN LESSONS FOR INCLUSIVE ANTITRUST FROM FEMINIST FOREIGN POLICY,” CPI Antitrust Chronicle April 2021, <https://www.competitionpolicyinternational.com/seven-lessons-for-inclusive-antitrust-from-feminist-foreign-policy/>, accessed on 10/28/2021) AB

VI. CONCLUSION

Outrage in the United States over systemic inequality coincides with a global antitrust upheaval. Both movements are fueled by concerns about concentrations of power, and the way that concentration leads to exclusion. Systemic exclusion, inadvertent exclusion, unconscious bias: all suggest that a laissez faire approach defaults to codification of perspectives and approaches that benefit past holders of power.

Inclusive antitrust creates more resilience, value alignment, and highlights the nuances and complexities as we navigate the fourth industrial revolution and beyond. Deliberate – and as we learn from FFP, explicit – focus on inclusion is warranted.

The lessons from FFP can help guide where inclusive antitrust may focus first and where to build: 1) broadening representation; 2) embedding processes that routinize inclusive analysis and scrutinize assumptions; 3) making data use an asset rather than impediment to inclusivity; and 4) appreciating context and which tools are best fit for purpose.

Perhaps the time has come to upgrade homo economicus from a one dimensional “rational” white male to an intersectional being with varied motivations facing different societal obstacles. An inclusive lens that does just that can reveal new competitive complexities, and multidimensional new approaches to data will help optimize competition law.

#### 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.

#### 5. Guarantees backlash – competition locks in monopolies and inequality and antitrust is followed by unionbusting, wage cuts, and job losses

Henwood, 21

(Doug, edits *Left Business Observer* and is the host of *Behind the News*. His latest book is *My Turn*, “Why Socialists Should Distrust Antitrust”, Jacobin, 07/17/2021, <https://www.jacobinmag.com/2021/07/antitrust-law-monopolies-small-business-competition-large-corporations-bigness>)

Last week, Joe Biden tweeted, “Let me be clear: capitalism without competition isn’t capitalism. It’s exploitation.” It would be too much to expect this rather dim politician to understand, much less endorse, the classic Marxist analysis of profit originating in the exploitation of workers — they produce more in value for their employer than they’re paid in wages. But the remark, in all its naiveté, does capture a spreading belief in liberal policy circles that monopoly is at the heart of our economic troubles, from crappy jobs to crappy pay and benefits. I’m not convinced. According to the introductory economics I learned in college — which was admittedly long ago — two essential features of monopolized markets were high prices and restricted supply. Those features weren’t at all visible in the US economy until the pandemic began messing with supply chains, resulting in short supplies in some sectors in the face of pent-up demand, demand that was supercharged with stimulus checks. Even so, the shortages and price spikes are affecting just a few sectors, like new cars and lumber. They’ve yet to spread economy-wide, and there’s no sign they’re about to. They [are] not the product of some long-term monopolization. For most of the last forty years, inflation has been quite low — in no small part because the working class was crushed as the 1970s turned into the 1980s and because shortages have been rare. The giants that people point to as proof of our monopoly problem include Amazon, Google, and Facebook. Amazon, like Walmart before it, is known for low prices that crush competitors. (Workers too.) That’s not standard monopoly behavior. Google and Facebook dominate their fields, but most of their “products” are free. Yes, that means “you’re the product,” as the saying goes, but what kind of improvement would it be if broken-up Googles and Facebooks charged for their services or maintained the same monetizing-the-user’s-identity business model as the originals? Nor is it clear how introducing competition would improve the quality of service. One of the lures of Facebook, for those subject to the lure, close to three billion users at the most recent count, is that so many people are on it. That facilitates communication. Breaking it up into competing services would be like making an AT&T phone customer incapable of contacting a Deutsche Telekom subscriber. Behind antitrust is a faith in competition as a positive good. As socialists we should take exception to that. We already have too much competitive individualism in this society, and we don’t need any more. We need solidarity. Stimulating the war of each against all isn’t the way to get there. A better way to handle bigness is to regulate the behemoths and encourage the growth of unions. That would do more to improve working conditions at Amazon than turning it into four or twenty little Amazons. As political economist Sam Gindin pointed out in an interview on my radio show, the deregulation movement of the 1970s and 1980s was a war on regulated oligopolies, and it was accompanied by union busting, wage cuts, and job losses. That could be a portent of life under monopoly busting. Why is antitrust getting the attention of liberals these days? In his book on the history of American corporate governance, law professor Mark Roe notes that Franklin Roosevelt saw it as a war against “private” socialism that could stave off “government” socialism. We may be seeing something similar now. With socialism polling decently, socialists working their way into the Democratic Party, and the business class in disrepute with much of the population — Gallup reports that 73 percent of the public is either somewhat or very dissatisfied with major corporations, compared to 48 percent in 2001 — pursuing antitrust may be a campaign to restore the prestige of capitalism itself. Fronting small business as the emblem of commerce is a classic bourgeois self-defense strategy. There’s nothing magic about smallness. Vincent Carosso ends his huge book on the Morgan banking family by quoting an unnamed socialist refusing to curse the peak Morgan, J. P., on his death: “We grieve that he could not live longer, to further organize the productive forces of the world, because he proved in practice what we hold in theory, that competition is not essential to trade and development.” It’s a sentiment worth recovering.

#### 6. Antitrust is used as a tool of the ruling class to distract from the inequality inherent in the system

Tell, 21

(Shawgi, Prof. Education, Nazareth College, PhD Education, UBuffalo, "Empty Rhetoric That Seeks to Misinform and Appease: On Biden's Farcical Anti-Monopoly Executive Order," Hampton Institute, 7-29-21, https://www.hamptonthink.org/read/on-bidens-farcical-anti-monopoly-executive-order?rq=antitrust)

Not a day goes by in which major owners of capital and their political representatives do not promote illusions and disinformation about the obsolete capitalist economic system. The ruling elite and their entourage rejected economic science and embraced irrationalism, incoherence, and dogmatism more than a century ago. They are unable and unwilling to offer any useful analysis of economic realities. Nothing they put forward helps advance public understanding of the economy. The mainstream news, for example, is saturated with endless mind-numbing nonsensical economic headlines. It is no accident that mainstream economics has long been called the dismal science. The internal core logic and intrinsic operation of capital ensures greater poverty, inequality, and monopoly over time. This is the inherent nature of capital. It is how capital moves and develops. These catastrophes are not the result of external forces, extenuating circumstances, or “bad people” making “bad decisions.” They are not the outcome of ill-conceived policies made by self-serving, immoral, or uninformed people. These worsening problems did not arise because something is wrong with the intentions of some individuals who make antisocial decisions. Such notions are facile. While individuals have consciousness, autonomy, self-determination, and agency, many phenomena (e.g., laws of economic development) operate objectively outside the will of individuals; they do not depend on the will of individuals. The laws of motion governing economic phenomena can be known, controlled, and directed, but not extinguished; they have to be consciously mastered, harnessed, and directed in a way that meets the needs of all. Capital is first and foremost an unequal social relationship, not a person or a thing. This unequal social relationship is relentlessly reproduced in today’s society, preventing the healthy balanced extended reproduction of society. On the one side of this unequal social relationship are the majority who own nothing but their labor power and on the other side are a tiny handful who own the means of production and live off the labor of others. Major owners of capital are the personification of capital, the embodiment of capital. This critical theoretical insight helps us avoid the rabbit hole of personal intentions and personal will, and allows us instead to objectively locate greed, insecurity, inequality, poverty, unemployment, endless debt, and other tragedies in the intrinsic built-in nature, logic, and movement of capital itself. One of these is the inexorable tendency of competition to lead to monopoly under capitalism. Competition means winners and losers. By definition, not everyone can win when competing. Competition means rivalry for supremacy. Thousands compete in the Olympics, for example, but only a select few (“winners”) go home with a gold medal.[1] It is no accident that the economy, media, and politics are heavily monopolized by a handful of billionaires while billions of people who actually produce the wealth in society and run society remain marginalized and disempowered. This brutal reality cannot be reversed or overcome with the utterance of a few platitudes, the passage of some policies, or the creation of some agencies that claim to be able to fix the outdated economic system, especially when all of the above come from billionaires themselves. On July 9, 2021, President Joe Biden issued an Executive Order on Promoting Competition in the American Economy (https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/). The order is about 7,000 words long and full of anticonscious statements. Disinformation pervades the entire order. The opening paragraph begins with the following disinformation: By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to promote the interests of American workers, businesses, and consumers, it is hereby ordered…. Here, “American workers, businesses, and consumers” are casually misequated and no mention is made of citizens or humans. The implication is that consumerism is normal, healthy, and desirable, and that workers and big business somehow have the same aims, world outlook, and interests. This conceals the fact that owners of capital and workers have antagonistic irreconcilable interests and that people exist as humans and citizens, not just utilitarian consumers and shoppers in a taken-for-granted system based on chaos, anarchy, and violence. Disinformation is further escalated in the next paragraph: A fair, open, and competitive marketplace has long been a cornerstone of the American economy, while excessive market concentration threatens basic economic liberties, democratic accountability, and the welfare of workers, farmers, small businesses, startups, and consumers. “Market concentration” has been the norm for generations. Monopolies, cartels, and oligopolies have been around since the late 1800s. Mergers and acquisitions have been taking place non-stop for decades. The so-called “free market” largely disappeared long ago. Objectively, there can be no fairness in a system rooted in wage-slavery and empire-building. Wage-slavery is the precondition for the tendency of the rich to get richer and the poor poorer. It is not a recipe for prosperity and security for all. This is also why inequality, tyranny, violence, and surveillance have been growing over the years. Moreover, what “threatens basic economic liberties, democratic accountability, and the welfare of workers, farmers, small businesses, startups, and consumers” is the ongoing political and economic exclusion of people from control over the economy and their lives by the financial oligarchy. There can be no liberty, accountability, and welfare when most people are deprived of real decision-making power and major owners of capital make all the decisions. Problems would not constantly worsen if people had control over their lives. The “best allocation of resources” cannot be made when the economy is carved up, fractured, and controlled by competing owners of capital. Although recurring economic crises for well over a century have repeatedly discredited “free market” ideology, the 7,000-word executive order is saturated with the language of “choice,” “competition,” and “consumers.” This is the same worn-out language used by privatizers of all hues at home and abroad. Further, while the executive order gives many examples of “economic consolidation” in numerous sectors, the government is not interested in creating a self-reliant vibrant diverse economy that meets the needs of all. It is not committed to reversing “the harmful effects of monopoly and monopsony.” Numerous antitrust laws have not stopped either. Big mergers and acquisitions have been going on for years. Rather, the executive order is an attempt to restructure economic and political arrangements among different factions of the wealthy elite; it reflects a new stage or form of inter-capitalist rivalry for even greater domination of the economy by fewer owners of capital. In other words, moving forward, the economy will remain monopolized by a few monopolies. Wealth is only going to become more concentrated in fewer hands in the years ahead. Mountains of data from hundreds of sources document growing wealth and income inequality every year. The bulk of the executive order is filled with endless directives, strategies, rules, and suggestions for how to curb “unfair practices” and promote “fairness” and “competition.” But these all ring hollow given concrete realities and past experience. Today, governments at all levels have been taken over by global private monopoly interests and have become instruments of decisions made on a supranational basis. There is a fine-tuned revolving door between officials from government and the private sector; they have become synonymous for all essential purposes. The same people who run major corporations also serve in high-level government positions where they advance the narrow interests of the private sector and then they leave government and return to their high-level corporate positions. There is a reason why the majority of members of Congress are millionaires. The Executive Branch in the United States, especially the President’s Office, is a major tool for the expression of the will of the most powerful monopolies. This is why billions of dollars are spent every few years to select the President of the country. A modern economy must be controlled and directed by workers themselves. Only such an economy can provide for the needs of all and avoid endless economic distortions. Uneven economic development, “unfair” arrangements, “market concentration,” monopolies, oligopolies, and recurring crises cannot be avoided so long as those who actually produce the social product have no control over the social product. Workers have first claim to the wealth they produce and have the right to decide how, where, and when that wealth is used. Major owners of capital are historically superfluous and a big block to progress. They are not needed for a healthy vibrant self-reliant economy that meets the needs of all.

#### 7. Cap is the root cause of gendered violence

**Cloud 2003** [Dana, Prof at UT Austin, Talk for Regional Socialist Conference, “Marxism and Oppression”, 4.19]

**In order to challenge oppression, it is important to know where it comes from. Historians, archaeologists, and anthropologists tell us that in pre-class societies** such as hunter-gatherer societies, **racism and sexism were unheard of. Because homosexuality was not an identifiable category** of such societies, **discrimination on that basis did not occur** either. In fact, it is clear that racism, **sexism, and homophobia have arisen in particular kinds of societies, namely class societies**. Women’s oppression originated in the first class societies, while racism came into prominence in the early periods of capitalism when colonialism and slavery drove the economic system. The prohibition against gays and lesbians is a relatively modern phenomenon. But what all forms of oppression have in common is that they did not always exist and are not endemic to human nature. **They were created in the interest of ruling classes in society and continue to benefit the people at the top of society, while dividing and conquering the rest of us so as to weaken the common fight against the oppressors**. The work of Marx’s collaborator Friederich Engels onThe Origins of the Family, Private Property, and the State in some respects reflects the Victorian times in which in was written. Engels moralizes about women’s sexuality and doesn’t even include gay and lesbian liberation in his discussion of the oppressive family. However, anthropologists like the feminist Rayna Reiter have confirmed his most important and central argument that **it was in the first settled agricultural societies that women became an oppressed class. In societies where for the first time people could accumulate a surplus of** food and other **resources, it was possible for some people to hoard wealth and control** its **distribution**. The first governments or state structures formed to legitimate an emerging ruling class. As settled communities grew in size and became more complex social organizations, and, most importantly, **as the surplus grew, the distribution of wealth became unequal—and a small number of men rose above the rest** of the population in wealth and power. **In the previous hunter-gatherer societies, there had been a sexual division of labor, but one without a hierarchy of value.** There was no strict demarcation between the reproductive and productive spheres. **All of that changed with** the development of **private property** in more settled communities. **The earlier division of labor** in which men did the heavier work, hunting, and animal agriculture, **became a system of differential control** over resource distribution. **The new system required more field workers and sought to maximize women’s reproductive potential. Production shifted away from the household** over time and women became associated with the reproductive role, losing control over the production and distribution of the necessities of life. **It was not a matter of male sexism, but of economic priorities of a developing class system. This is why Engels identifies women’s oppression as the first form of systematic class oppression in the world. Marxists** since Engels **have not dismissed the oppression of women as secondary** to other kinds of oppression and exploitation. **To the contrary, women’s oppression has a primary place in Marxist analysis and is a key issue that socialists organize around today**. From this history we know that **sexism did not always exist, and** that **men do not have an inherent interest in oppressing women as** domestic servants or sexual slaves. **Instead, women’s oppression always has served a class hierarchy in society. In our society** divided by sexism, **ideas about women’s nature** as domestic caretakers or irrational sexual beings **justify paying women lower wages compared to men, so that employers can pit workers against one another in competition for the same work**. Most women have always had to work outside the home to support their families. Today, women around the world are exploited in sweatshops where their status as women allows bosses to pay them very little, driving down the wages of both men and women. At the same time, **capitalist society relies on ideas about women to justify not providing very much in the way of social services** that would help provide health care, family leave, unemployment insurance, access to primary and higher education, and so forth—**all because these things are supposed to happen in the private family**, where women are responsible. This lack of social support results in a lower quality of life for many men as well as women. **Finally, contemporary ideologies that pit men against women encourage us to fight each other rather than organizing together.**

#### 8. Class comes first – treating it as equivalent to other forms of oppression masks power relations and dooms solvency

Gimenez 1 (Martha, Sociology Professor at UC Boulder, “Marxism and Class; Gender and Race”, Race, Gender and Class, Vol. 8 http://www.colorado.edu/Sociology/gimenez/work/cgr.html) lr \*we do not endorse problematic language

There are many competing theories of race, gender, class, American society, political economy, power, etc. but no specific theory is invoked to define how the terms race, gender and class are used, or to identify how they are related to the rest of the social system. To some extent, race, gender and class and their intersections and interlockings have become a mantra to be invoked in any and all theoretical contexts, for a tacit agreement about their ubiquitousness and meaning seems to have developed among RGC studies advocates, so that all that remains to be dome is empirically to document their intersections everywhere, for everything that happens is, by definition, raced, classed, and gendered. This pragmatic acceptance of race, gender and class, as givens, results in the downplaying of theory, and the resort to experience as the source of knowledge. The emphasis on experience in the construction of knowledge is intended as a corrective to theories that, presumably, reflect only the experience of the powerful. RGC seems to offer a subjectivist understanding of theory as simply a reflection of the experience and consciousness of the individual theorist, rather than as a body of propositions which is collectively and systematically produced under historically specific conditions of possibility which grant them historical validity for as long as those conditions prevail. Instead, knowledge and theory are pragmatically conceived as the products or reflection of experience and, as such, unavoidably partial, so that greater accuracy and relative completeness can be approximated only through gathering the experiential accounts of all groups. Such is the importance given to the role of experience in the production of knowledge that in the eight page introduction to the first section of an RGC anthology, the word experience is repeated thirty six times (Andersen and Collins, 1995: 1-9). I agree with the importance of learning from the experience of all groups, especially those who have been silenced by oppression and exclusion and by the effects of ideologies that mystify their actual conditions of existence. To learn how people describe their understanding of their lives is very illuminating, for "ideas are the conscious expression -- real or illusory -- of (our) actual relations and activities" (Marx, 1994: 111), because "social existence determines consciousness" (Marx, 1994: 211). Given that our existence is shaped by the capitalist mode of production, experience, to be fully understood in its broader social and political implications, has to be situated in the context of the capitalist forces and relations that produce it. Experience in itself, however, is suspect because, dialectically, it is a unity of opposites; it is, at the same time, unique, personal, insightful and revealing and, at the same time, thoroughly social, partial, mystifying, itself the product of historical forces about which individuals may know little or nothing about (for a critical assessment of experience as a source of knowledge see Sherry Gorelick, "Contradictions of feminist methodology," in Chow, Wilkinson, and Baca Zinn, 1996; applicable to the role of experience in contemporary RGC and feminist research is Jacoby's critique of the 1960s politics of subjectivity: Jacoby, 1973: 37- 49). Given the emancipatory goals of the RGC perspective, it is through the analytical tools of Marxist theory that it can move forward, beyond the impasse revealed by the constant reiteration of variations on the "interlocking" metaphor. This would require, however, a) a rethinking and modification of the postulated relationships between race, class and gender, and b) a reconsideration of the notion that, because everyone is located at the intersection of these structures, all social relations and interactions are "raced," "classed," and "gendered." In the RGC perspective, race, gender and class are presented as equivalent systems of oppression with extremely negative consequences for the oppressed. It is also asserted that the theorization of the connections between these systems require "a working hypothesis of equivalency" (Collins, 1997:74). Whether or not it is possible to view class as just another system of oppression depends on the theoretical framework within class is defined. If defined within the traditional sociology of stratification perspective, in terms of a gradation perspective, class refers simply to strata or population aggregates ranked on the basis of standard SES indicators (income, occupation, and education) (for an excellent discussion of the difference between gradational and relational concepts of class, see Ossowski, 1963). Class in this non-relational, descriptive sense has no claims to being more fundamental than gender or racial oppression; it simply refers to the set of individual attributes that place individuals within an aggregate or strata arbitrarily defined by the researcher (i.e., depending on their data and research purposes, anywhere from three or four to twelve "classes" can be identified). From the standpoint of Marxist theory, however, class is qualitatively different from gender and race and cannot be considered just another system of oppression. As Eagleton points out, whereas racism and sexism are unremittingly bad, class is not entirely a "bad thing" even though socialists would like to abolish it. The bourgeoisie in its revolutionary stage was instrumental in ushering a new era in historical development, one which liberated the average person from the oppressions of feudalism and put forth the ideals of liberty, equality and fraternity. Today, however, it has an unquestionably negative role to play as it expands and deepens the rule of capital over the entire globe. The working class, on the other hand, is pivotally located to wage the final struggle against capital and, consequently, it is "an excellent thing" (Eagleton, 1996: 57). While racism and sexism have no redeeming feature, class relations are, dialectically, a unity of opposites; both a site of exploitation and, objectively, a site where the potential agents of social change are forged. To argue that the working class is the fundamental agent of change does not entail the notion that it is the only agent of change. The working class is of course composed of women and men who belong to different races, ethnicities, national origins, cultures, and so forth, so that gender and racial/ethnic struggles have the potential of fueling class struggles because, given the patterns of wealth ownership and income distribution in this and all capitalist countries, those who raise the banners of gender and racial struggles are overwhelmingly propertyless workers, technically members of the working class, people who need to work for economic survival whether it is for a wage or a salary, for whom racism, sexism and class exploitation matter. But this vision of a mobilized working class where gender and racial struggles are not subsumed but are nevertheless related requires a class conscious effort to link RGC studies to the Marxist analysis of historical change. In so far as the "class" in RGC remains a neutral concept, open to any and all theoretical meanings, just one oppression among others, intersectionality will not realize its revolutionary potential. Nevertheless, I want to argue against the notion that class should be considered equivalent to gender and race. I find the grounds for my argument not only on the crucial role class struggles play in processes of epochal change but also in the very assumptions of RGC studies and the ethnomethodological insights put forth by West and Fenstermaker (1994). The assumption of the simultaneity of experience (i.e., all interactions are raced, classed, gendered) together with the ambiguity inherent in the interactions themselves, so that while one person might think ~~he or she~~ is "doing gender," another might interpret those "doings" in terms of "doing class," highlight the basic issue that Collins accurately identifies when she argues that ethnomethodology ignores power relations. Power relations underlie all processes of social interaction and this is why social facts are constraining upon people. But the pervasiveness of power ought not to obfuscate the fact that some power relations are more important and consequential than others. For example, the power that physical attractiveness might confer a woman in her interactions with her less attractive female supervisor or employer does not match the economic power of the latter over the former. In my view, the flattening or erasure of the qualitative difference between class, race and gender in the RGC perspective is the foundation for the recognition that it is important to deal with "basic relations of domination and subordination" which now appear disembodied, outside class relations. In the effort to reject "class reductionism," by postulating the equivalence between class and other forms of oppression, the RGC perspective both negates the fundamental importance of class but it is forced to acknowledge its importance by postulating some other "basic" structures of domination. Class relations -- whether we are referring to the relations between capitalist and wage workers, or to the relations between workers (salaried and waged) and their managers and supervisors, those who are placed in "contradictory class locations," (Wright, 1978) -- are of paramount importance, for most people's economic survival is determined by them. Those in dominant class positions do exert power over their employees and subordinates and a crucial way in which that power is used is through their choosing the identity they impute their workers. Whatever identity workers might claim or "do," employers can, in turn, disregard their claims and "read" their "doings" differently as "raced" or "gendered" or both, rather than as "classed," thus downplaying their class location and the class nature of their grievances. To argue, then, that class is fundamental is not to "reduce" gender or racial oppression to class, but to acknowledge that the underlying basic and "nameless" power at the root of what happens in social interactions grounded in "intersectionality" is class power.

### Sustainability

#### 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.

#### 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. Supply chain disruptions—collapses globally.

Neil 20 – Stephanie, Editor in Chief of Automation World. “The Pandemic is Shaping the Future Supply Chain”, Automation World, <https://www.automationworld.com/factory/supply-chain-management/article/21172689/the-pandemic-is-shaping-the-future-supply-chain>, 08-24-2020

According to Bruce McIndoe, president of McIndoe Risk Advisory, there are five megatrends that will shape the future of business and the world: globalization, demographics, climate change, resource scarcity, and technology innovation. Each are interlinked and influence global supply chains as the world supports a growing global population.

McIndoe briefly described these trends:

Globalization: As a result of an uncoupling movement between the U.S. and China and vulnerabilities in the global supply chain that the pandemic exposed, there will be a shift to deglobalization via onshoring or nearshoring.

Demographics: As we add two billion more people in the next 30 years, we’ll need more water, food, and housing to support them.  It’s estimated that 80% of these new citizens will live in cities and by 2050 we’ll see cities with 50-to-100 million people. Based on urban density, growth of the middle class, and climate change, we’ll need to build an excess of 1 billion more housing units.   “In the next 30 years, we essentially will need to rebuild the entire global housing stock since the beginning of mankind. That is a huge demand,” McIndoe said.

Climate change: This can ultimately become the weak link in the supply chain. The greater frequency and severity of climate hazards create more disruptions in the global supply chain by interrupting production, hampering transportation, raising prices, and ultimately hurting corporate profits.

Resource scarcity: Here, we are the issue—humans are massive consumers of natural resources, and by 2050 we will consume 140 billion tons of minerals, ore, fossil fuels, and biomass per year. That’s three times the current consumption rate. We must decouple economic growth from massive resource use, McIndoe said. In addition, water and food are life or death resources for all of us. Lack of access to water has been catalyst to war and will be a major driver for human migration—which creates friction and unrest. Lack of access to food, too, can drive people to be aggressive which can evolve into civil unrest.

#### 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.

#### 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.

### Alt

#### Empirics and theoretical models show that it’s successful.

Lijster, 21

(Thijs, Ph.D. in Philosophy, University of Groningen, “The commons versus capitalism”, Eurozine, 07/29/2021, https://www.eurozine.com/the-commons-versus-capitalism/)\\JM

Since the beginning of the twenty-first century, the concept of the ‘commons’ has steadily ascended in significance in activist circles, scientific literature and in fields ranging from political philosophy and economics to jurisprudence and cultural theory. Traditionally, the commons were the natural resources that belonged to no one, which everyone could use: the forests where wood was gathered, the fields where cattle grazed or the wells where clean water could be drawn. According to current economic and political theory, over the course of capitalism’s emergence and ascent during the fifteenth to nineteenth centuries, these commons were gradually expropriated and turned into private property – the so-called ‘enclosure of the commons’. Theorists now seem to agree that this was not a one-time transition but an ongoing movement. Indeed, new commons are being created that are also in danger of being expropriated or destroyed today. In 2001 Naomi Klein wrote Reclaiming the commons, a short essay in which she mentions the anti or alter-globalization movement in the same breath as environmental movements, urban activists and labour movements, all of which she says were part of a growing resistance to increasing expropriation, privatization, ‘public’ resources and services.1 In 2009 the Nobel Prize for Economic Sciences went to American economist Elinor Ostrom, author of Governing the Commons.2 In it she debunks ecologist Garrett Hardin’s ‘tragedy of the commons’, derived from his 1968 article of the same title, which suggests a shared piece of land would quickly be depleted by farmers grazing more livestock there out of self-interest.3 Ostrom used historical sources and theoretical models to show that the commons could actually work. She asserted that collectively-managed pastures, forests, water supplies and fishing waters had worked well for centuries without state intervention or individual claims to ownership. While Klein and Ostrom wrote predominantly about existing commons and their expropriation, the concept also turns out to be applicable to all kinds of new forms of communal ownership and management, especially in the digital sphere and ‘man-made’ commons such as knowledge, culture, information and communication. Wikipedia, the encyclopaedia that is not only openly accessible and ad free but can also be added to and edited by anyone, is a prime example of this type of digital commons. Indeed, the American legal scientist Lawrence Lessig founded the Creative Commons license in 2001, providing a counterweight to the growing control of private companies over the circulation of knowledge and creativity. Since then, the concept has been researched and applied in all kinds of spheres. Urban geographers speak of ‘urban commons’, the scientific world is already being described as a ‘knowledge commons’, the Internet has ‘digital commons’ and cultural heritage ‘cultural commons’. Everything seems to be a ‘commons’ or could be described as such. Policymakers were soon eager to claim the term for themselves as well, becoming trendy in cultural memorandums. The one-time Dutch Minister of Education, Culture and Science Jet Bussemaker described education as a ‘commons’ in a 2017 speech. When Leeuwarden was European Capital of Culture in 2018, the theme was ‘community’. An elite university in the US, which charges fifty thousand dollars in tuition fees, calls the university’s library an ‘information commons’. And how could it be otherwise, when even a hip restaurant chain called The Commons claims ‘to bring people together from around the globe, to share stories, experiences and discover the beautiful things they have in common’. In short, the attention the commons has received is accompanied by a confusion of concepts, whereby the critical power of the commons is in danger of disappearing. When, or why, is something a commons? What is the difference between the ‘communal’ and the ‘public’, and how does it relate to capitalism? Two recent books attempt to answer these questions. A Common revolution Philosopher Pierre Dardot and sociologist Christian Laval’s Common: On Revolution in the 21st Century is an in-depth work4, in which the authors go back to the root of the concept in Roman law. They then enter into dialogue with virtually all thinkers and scientists who have made a relevant contribution to the discussion about the commons: from ancient and medieval philosophers such as Aristotle and Thomas Aquinas, via early modern thinkers such as Hugo de Groot and John Locke and thinkers in the socialist and anarchist tradition, such as Karl Marx and Pierre-Joseph Proudhon, to contemporary theorists such as Ostrom and Klein, Michael Hardt and Antonio Negri, and Jean-Luc Nancy and Roberto Esposito. Dardot and Laval’s preference for identifying a ‘common’ in the singular rather than plural form is already evident from the title of their book. They do not perceive ‘the common’ so much as an object or good but first and foremost as a political principle. In their introduction they write: If “the commune” is used to name a specific local, self-governing polity, and the “commons” is the name given to a diverse array of objects or resources managed by the activities of individuals and collectives, “common” is more properly the name of the principle that both animates and guides this activity. The reasons for the focus on the singular ‘common’ are both conceptual and political-strategic in nature. Dardot and Laval first want to avoid the long-running discussion about what kind of objects or goods are ‘commons’ or could be. They circumvent the question of whether there is a connection between certain natural properties of things and the degree to which they became public or private property. For example, it was long thought that water and air are common goods because they are inexhaustible and unlimited. According to Hugo de Groot, water could only become private property once it was in a specific container; indeed, anyone who has ever been puzzled by bottled mineral water now knows who to blame. Now we know how to organize price tags on nature: a vibrant global emissions rights trading system has emerged, which is essentially horse-trading for clean air. Multinationals like Nestlé and Coca-Cola are making billions from drinking water, which is quickly becoming the new oil. The Space Act, a law passed by the US Congress in 2015, has even made it possible to privatize asteroids and celestial bodies. Opposed to any form of naturalism or essentialism, Dardot and Laval argue that there are no essential properties which exclude or impose their common use and management; for them, any demarcation between ‘the common’ and private or state property is purely a legal matter. They argue that the legal standard is based on nothing more than a shared practice. With this last point, they are opposed not only to a naturalistic tradition but also, for that matter, to the discourse of Klein and others who speak of ‘reclaiming’ the ‘expropriated’ commons. After all, these terms imply that certain ‘goods’ (land, water, etc.) were once owned by something or someone else – namely, an original community – and ‘in essence’ belong to the community. Not only does such a perception of the commons adhere to the idea that property is more fundamental than a practice but it also suggests something reactive, if not even romantic, about it. It implies a harmonious state of nature and a rosy picture of an original community that never existed, not least because such original communities were often organized according to a patriarchal system and, therefore, by no means deserve to be romanticized. Karl Marx, of course, already recognized this. For him, ‘communism’ was not something archaic but, on the contrary, something modern. Capitalism’s expropriation of the commons was a necessary step towards communism for Marx. The former would create the conditions for production’s centralization, which the proletariat could then overpower in what Marx called, in Hegelian manner, the ‘negation of the negation’. Nevertheless, Dardot and Laval are not Marxists for several reasons. For them, Marx failed to recognize that the common is just as dependent on communal decision-making as it is in the case of common property, because of his emphasis on its economic ‘basis’. As a result, according to Dardot and Laval, every centrally organized form of state communism is hostile to the principle of the common. They have no illusions about the countries considered communist during the twentieth century – some of which still are to this day – and refer to them as ‘terrorist’ and ‘reactionary, bureaucratic police states’. Dardot and Laval also refute Marx for his aforementioned view of the common as a necessary historical product of capitalism. A contemporary variant of this, though perhaps a little less deterministic, can be found in Michael Hardt and Antonio Negri’s Empire Trilogy.5The authors of Empire, Multitude and Commonwealth argue that capitalist production is becoming ‘immaterial’, or rather in their terms ‘biopolitical’, based on knowledge, information and affects known as ‘human capital’ in neoliberal jargon. As such production processes are based on circulation and collective organization, the development of capitalist production creates a form of communism as a matter of course. Quoting Marx and Engels, Hardt and Negri argue in Commonwealth that capitalism, therefore, gives birth to its own gravediggers. While Dardot and Laval recognize Hardt and Negri’s understanding of ‘the common’, they are not very fond of this sort of optimism. Understanding the common as a political principle suggests that it cannot just arise from production processes alone but must also be the beginning and outcome of a political struggle. And their concept of ‘the common’ is ultimately legal: it does not describe what is but what should be. However, this shifts the problem elsewhere. The question of what the basis for laws and legal standards is ultimately leads Dardot and Laval to a fundamental paradox of philosophy, namely that laws and rules are based on collective practices and customs, which are in turn guided by laws and rules. Instead of solving this paradox, they decide to embrace it through the use of the term ‘instituent praxis’: ‘this is why the activity of instituting the common can only be done in common, such that the common is both a qualitative form of human activity and the result of this activity itself’. Following in the footsteps of philosopher Cornelius Castoriadis, they view an institution as something that always has an imaginary dimension, which offers the possibility of seeing something as different from what it is. Political-emancipatory praxis, therefore, presupposes the creation of new and different institutions, which will in turn be able to guide the collective imagination – that which we think is possible, desirable or necessary. Dardot and Laval’s position could be called anarchist, in the literal sense that their politics is groundless (an-arche, without grounds or origin). Indeed, they seem to veer towards Proudhon, the patriarch of anarchism, rather than Marx. However, in attaching importance to institutions, they do not reject all forms of authority or the exercise of power. The authors present nine ‘political propositions’ that should guide ‘revolution in the twenty-first century’, which serve as the subtitle of their book, one that should free us from the rule of state or market that has characterized the twentieth century. They ultimately arrive at a political panorama that they call a ‘federation of commons’, an alliance of autonomous, democratically-organized communities. This is somewhat reminiscent of Hannah Arendt’s ‘council republic’, with the significant difference being that Arendt always assumed a strict distinction between political and socio-economic spheres. According to Dardot and Laval, we cannot make such a distinction; if we are to take ‘the common’ seriously, not only political governance but also the sphere of production must be organized according to democratic values. Political centralization and economic competition have always characterized modern states. Dardot and Laval want to reverse both principles and replace them with ‘municipal autonomy’ and ‘economic solidarity’. One criticism of the book is that it almost never gets concrete. This may not be entirely attributable to the authors, as the ‘federation of commons’ about which they write is historically unprecedented and is precisely an attempt to think of a radically different organization of society. Nevertheless, in a study that places so much emphasis on human activity as the basis of ‘the common’, you would expect a little more analysis of this endeavour. The potential for this has already been proven not only in earlier studies by the aforementioned Elinor Ostrom but also in more recent work by Massimo De Angelis, Stavros Stavrides and Silvia Federici. Reproductive labour In the 1970s the Italian-American Silvia Federici co-founded the International Feminist Collective and the Wages for Housework movement. In this capacity, she focused on what is referred to in Marxist jargon as ‘reproductive labour’, that is to say, the forms of labour necessary to enable ‘productive labour’: namely, the production of goods and services, for which women were traditionally responsible – think caring for children and the elderly, domestic work such as cooking, washing and cleaning, and the literal reproduction of ‘workers’ through procreation. These are all forms of ‘labour’ that capitalism strongly depends on but which are not recognized as labour, because they belong to the private sphere and, therefore, not to what we normally call ‘the economy’. For a long time, workers’ and socialist movements also failed to see that the oppression and exploitation of the worker in the factory was inherently linked to the oppression and exploitation of women in the household. Thus, the wage claim for domestic labour forces us not only to recognize the equality and parity of men and women but also to question our assumptions about concepts such as ‘labour’ and ‘productivity’. Federici’s Caliban and the Witch is a historical-philosophical study in which she shows that the birth of capitalism was accompanied by increasing oppression and exercise of power over the bodies of women, which resulted, among other things, in the large-scale witch persecutions of the early modern period.6 Reenchanting the World: Feminism and the politics of the commons is a collection of Federici’s previously published essays and chapters.7 The first three pieces are from a 1990 publication on ‘new enclosures’ by the Midnight Notes Collective. All of the other texts were published after 2010. This shows just how long Federici has been working on this subject – even before it became ‘hip’ – but also makes the whole less cohesive than previous work. Conceptually and philosophically, the book doesn’t meet the thoroughness of Dardot and Laval. Nevertheless, it is a very welcome addition to the debate and literature on the commons in two respects: firstly, due to the feminist and anti or post-colonial perspective Federici brings; and, secondly, for the many concrete examples that she cites. With regard to the former, it may not be appropriate to speak of a ‘feminist perspective’ in the commons, because, as Federici makes clear, the concept of the commons naturally implies, or should imply, such a perspective. The commons have traditionally been the domain of reproduction and are fundamentally in the service of the preservation of life. Therefore, a strong connection exists between woman as the ‘primary subject of reproductive labour’ and the commons; women have historically always been the most dependent on the commons and have suffered the most from their expropriation from it. In Caliban and the Witch, Federici understands even the woman’s body itself as a ‘commons’ that was expropriated for the production of workers; hence, the strict prohibition on abortion, and the ideal image of woman as a chaste and submissive mother and housewife. Numerous examples in the book show that such expropriation practices are still the order of the day, especially from Asia, South America and Africa; Federici was a professor in Nigeria for many years. She is very critical of the micro-credit system that the World Bank has promoted as a motor of both economic development and women’s emancipation. She shows how microcredit not only introduces an economic logic – of ‘investing in entrepreneurship’ – which in practice often has a harmful effect on the commons, but also how the inability to repay debts, whatever the circumstances, is often used to publicly shame and exclude women, like a new witch hunt. It is not without reason that anti-debt movements have already emerged in several African countries. Due to her focus on reproductive labour, Federici is less hopeful or enthusiastic about what has been referred to as the post-work society, a techno-utopianism that has its origins in Marx, and which we later find with Italian post-operaismo thinkers such as Antonio Negri, or contemporary theorists such as Paul Mason and Aaron Bastani. For example, in Fully Automated Luxury Communism, Bastani sketches a ‘paradisiacal’ world of red plenty, one in which robots have taken over our work, electric vehicles transport us around the world, asteroid mines and solar parks provide us with raw materials and energy, and we consume cultured meat burgers and synthetic wine.8 The male blind spot in such theories or visions of the future is unmistakable: the work that is automated is almost always without exception productive factory labour and not that of reproduction. For this reason, Federici writes in her title essay: But how can we mechanize washing, cuddling, consoling, dressing, and feeding a child, providing sexual services, or assisting those who are ill or the elderly and not self-sufficient? … But even assuming that we could afford such devices, we must wonder at what emotional cost we would introduce them in our homes in replacement of living labour.9 The thought may then occur that household tasks are more evenly distributed through the automation of labour, or that a lot of housework can also be mechanized, but the histories of the vacuum cleaner or the washing machine tell a different story. The perspective of the commons is suitable here as well: based on western ‘modernization’ discourse with reference to Max Weber’s ‘disenchantment’, the commons and reproductive labour are either viewed as something unimportant that we can ignore, or something primitive and backward that we must transcend. Both capitalists and post-work Marxists are trapped in this narrative. The concept of the commons that Federici uses is in many ways similar to that of Dardot and Laval. Like the French duo, she emphasizes that thinking about the commons shouldn’t be understood as ‘defensive’, as a return to earlier, better times. The commons are not something of the past but of all times; if humanity is to survive, the commons must also belong to the future. This also shows that thinking in terms of the commons is not necessarily anti-capitalist. Ostrom, for example, was a proper liberal, certainly not an anti-capitalist. Capitalism constantly makes use of the commons, taking advantage of a ‘commons-fix’10 to address its crises. Think of the dependence of capitalist production on reproductive labour, for example. In our supposedly emancipated West, this dependent relationship has only shifted: American families in which both men and women have full-time jobs often rely on cheap care work from Filipino nannies, who in turn domestically outsource the care of their children to grandmothers. The World Bank’s use of the term ‘global commons’ is another example of a capitalist encapsulation of the concept, which refers to, among other things, oceans, the atmosphere and tropical rainforests. Officially, the preservation of these commons is the goal, but, in practice, it enables the management and distribution of raw materials among powerful and wealthy states, as exemplified by emissions trading. This is exactly why precise use of the concept is so important, argues Federici. ‘No commons without community’ is the banner-ready slogan she writes several times. In line with Dardot and Laval, Federici believes that commons shouldn’t be understood as things but as social relationships: commons include collective decision-making processes, social partnerships, and mutual responsibility relationships based on the resources that are shared and managed. In the case of the so-called ‘global commons’, there is no talk of this kind of global social organization. In fact, under the banner of ‘conservation’, native populations of rainforests and other ‘nature reserves’ are being dispossessed and expelled, replaced by eco-tourists and wealthy investors. The commons and the state The concept of the common (or the commons) proves useful when criticizing and analysing such developments. Federici writes with a sharp pen about the struggle for land in Latin America and Africa, about housing shortages in China and the illegal soup kitchens that arose after the fall of Salvador Allende in Chile. Federici, Dardot and Laval provide ‘the common’ with a lens through which we can connect various forms of social, political and cultural struggle. Simultaneously, the authors arm us against the false romanticization of community, or the encapsulation of the commons in trendy policy, or in the so-called ‘sharing economy’, behind which companies such as Uber and Airbnb have successfully managed to conceal their exploitative practices.

#### Alt is a prereq – gendered violence is embedded in capitalism, only shifting away solves

Johnson, 10-20-2019 (Rebecca Johnson, Rebecca Johnson, from the Acronym Institute for Disarmament Diplomacy and International Campaign to Abolish Nuclear Weapons (ICAN), "Women, Peace And Disarmament: Intersecting Identities And Security Imperatives," FiLiA, https://filia.org.uk/latest-news/2020/2/10/feminist-challenges-to-war, accessed on 11-9-2021) AB \*brackets denote edits made by card cutter to modify ableist and gendered language

\*UGA reads green

1) Women, Peace and Disarmament: Intersecting identities and security imperatives (Rebecca Johnson)

When FiLiA asked me to convene a panel on women and peace this year, I wanted to go beyond UN Security Council resolution 1325 on Women, Peace and Security, Greenham herstories and banning bombs, important though all these are.

With Nounou Booto Meeti from East Africa and the Centre for Peace, Security and Armed Violence Prevention, and Bonnie Jenkins former US State Department Counsel and the founder of Women of Color Advancing Peace, Security and Conflict Transformation, we will look at different ways to build solidarity and strengthen feminist nonviolence and actions that oppose not just weapons and war, but also the destructive policies and practices that reinforce institutional violence, injustice and climate destruction. The aim of this panel is to open conversations in FiLiA on feminist challenges to war and patriarchal violence perpetrated through militarism, racism, misogyny, and economic and political marginalisation of diverse peoples. We hope to discuss some of the ways in which women and girls can individually and collectively become more effective in changing the world to bring about justice, peace and disarmament, without which there cannot be security.

Words such as security, peace, disarmament, identity and intersectionality are open to question depending on "from where we ~~stand~~[are]". In her book with that title, Professor Cynthia Cockburn, discussed some of these contested meanings in women's activism. One of Britain's most perceptive feminist-peace writers and activists as well as a co-founder of London Women in Black , Cynthia sadly left us in September, aged 85. Her title reflects the important axiom of feminism that the personal is political.

African-American lawyer Kimberlé Crenshaw coined the term 'intersectionality' in 1989 to describe the ways in which Black women experience connecting forms and levels of discrimination and marginalisation based on their race and gender. Nowadays, the term is widely used to denote the interactions between a range of discriminations and oppressions, requiring multilayered strategies for building justice and equality.

Building on the insights of Black and feminist activists, we've learned to expose the power structures underlying discussions of "identity", and illuminate the ways in which the structures of oppression operate so that they can be more effectively addressed in all their forms. Feminist solidarity requires that we look at the personal and political implications of who we are and where we come from, and use the resources and power we have to enable others who have less

As Pragna Patel noted in her powerful opening analysis to FiLiA2019, there are also dangers in how 'intersectionality' has become co-opted to justify divisive identity politics and blur the lines of power. The dangers of this are legion. Most of us develop our identities through the intersections of life and experience connected with our places of birth and upbringing, race/ethnicity, class/caste, sex/gender/sexuality, resources and education. These and other characteristics of identity intersect with personal and familial experiences of security and insecurity, including sexual and other forms of abuse and violence.

For liberation and progressive change, it is necessary that we recognise our relative privileges and oppressions. In so doing, we must challenge ourselves, and also do our best to recognise the power dynamics when privileged actors mobilise arguments about identity oppression to further their own personal and political interests and ambitions at the expense of others' genuine needs and struggles for rights and justice.

Oppression intersects at many points in our lives, and it should come as no surprise that many of us have at times sought refuge in thoughts about being born into the wrong family or wrong body, wishing we could have been someone different. Such yearnings are embedded in patriarchal inequalities, injustice and exclusion from equal opportunities and power. Wishing to be someone different, including at times of a different gender or racial identity, is not about being in the wrong bodies, but in wrong social constructs.

When I was bullied and unhappy after my family settled in England when I was seven, I used to wish that I was had been born an only child (and the boy that my sisters had hoped for). Since I am the youngest daughter of eight children born to a loving but impractical couple that raised us in a puritanically fundamentalist community in Paraguay, North Dakota and Pennsylvania, it doesn't take much psychology to see why I thought that changing the circumstances of my birth would solve my problems. But of course no such change was on the cards. Over time I found out that I am who I am, and it's up to me to reject efforts by others to make me feel that my upbringing, body and family are something to be ashamed of.

The point is not to change our bodies or cover up our experiences, but to accept and use all the aspects of who we are to develop into the authentic and multifaceted people we are capable of becoming. Instead of cosmetic pretence, we need to create cultures of diversity and solidarity to eliminate the heavy burdens imposed by patriarchy. Through my feminist lens, that is the essence of security and peace-building.

From this background, I see war and militarism as the armed wings of patriarchy.

Militarism and war are the primary patriarchal means to project fear, power and control over other peoples and enable the imposition of religious and economic belief systems, colonialism, capitalism and sexual violence.

Through arming and fetishising violence, militarism continues to drive and enable gendered systems of oppression and violence against women and children. From the distant past and across most if not all cultures, militarism has been constructed and perpetuated to subdue and defeat everyone and everything that gets in the way of those in power. It defends and spreads exploitative extraction and seizure of natural resources, land-grabs and myriad economic and religious practices that have enslaved people and destroyed billions of lives and homes. Patriarchy needs militarism to implement its wars against women, diversity, nature and Mother Earth. From "scorched earth" practices to doctrines of "mutual assured destruction", militarism contributes massively to environmental and climate destruction, while continuing to weaponise technologies that project existential threats such as nuclear war into our future.

When we talk of women, peace and security, we have to distinguish feminist from patriarchal objectives. Patriarchal discourses on peace or security are generally framed in terms of power and weapons. Defence of women and children are portrayed as justifications for war and large military capabilities.

By contrast, feminists have demonstrated that ~~violence against women~~ [gendered violence] is embedded in the racism, colonialist-capitalist expansionism, destruction and warmongering policies that are the causes, drivers and consequences of militarism and war. As well as abusing power in the the institutions of state, predators also operate in places of education, aid, and civil society peace and development organisations, where the vulnerable are often befriended and groomed before being abused. Collusion in sexual violence is another patriarchal hallmark. And this enabling complicity is not only practised by men or right-wingers.

Feminist activists expose how power, status and resources are distributed and manpulated. Although there is now a growing #MeToo consciousness, complainants still pay a high price for exposing men with status who are good at self promotion and manipulation. Punishment and threats are used to undermine female victims and whistleblowers who make accusations of racist or sexual harassment against privileged males, while perpetrators with positions, platforms and resources still get away with threatening the security, safety and equal opportunities of marginalised people, especially women and girls

Building peace and justice requires ending collusion in racism, sexual violence and abuses of power, no matter how or by whom such abusive behaviours are dressed up and defended.

The questions we need to ask are: whose security, peace and defence are we supporting? achieved by what methods and under what conditions?

What does security and peace mean to you? How can we individually and collectively tackle security challenges we face and do more to build peace in the world?

How can we respect the rights, spaces and strategies of women and girls with different experiences of threat and oppression, while also building feminist solidarity, effective campaigning, and movements to work across the intersections and achieve peace and security for all of us?

Our environment and climate are at risk of irrevocable and existential destruction, while 13,000 nuclear weapons are in the hands of nine macho leaders who treat nuclear use and war as a virility test. As well as being climate deniers and conflict promoters, some of these leaders stand personally accused as perpetrators of sexual and racial harassment and misconduct. All of them devote obscene amounts of their nations' resources on militarism and deadly weapons. They appear to equate security with their own military-industrial freedom of action, while putting the security, survival and well-being of women and, indeed, all living creatures at risk with their policies and practices.

I do not generally identify as a pacifist, but I believe that we can achieve much higher levels of personal and political peace and security through collective nonviolent action for systemic change. Violence can sometimes change governments or personnel at the top, but active nonviolence is a far more effective way to bring about positive political, social and structural change, without which humanity cannot survive. The institutional violence and profiteering embedded in military-industrial establishments are direct causes of today's wars, nuclear threats and inability to tackle the climate emergency.

My nonviolence is intertwined with my feminism, and owes much to my experiences at Greenham Common, learning from the Suffragettes, Black Sash, Vandana Shiva, Whangari Maathai, Lijon Eknilang... and the networks of feminist rebels who for centuries have mobilised against patriarchal destruction with nonviolent resistence, courage and imagination. It's not that I don't acknowledge the writings and speeches of patriarchal gurus of nonviolence in the 20th centuries. We learned much from their struggles, including their limitations. As leaders with patriarchal assumptions about male roles, women, spirituality and power, transforming their own cultures was beyond them. It is not beyond us when we practise collective nonviolence, with mutual respect and shared power and leadership.

I remember Audre Lorde's 1979 essay "The master's tools will never dismantle the master's house" (Lorde 2017). We need both to live in this brutal and unjust world, and to transform it. Not just to dismantle patriarchy, but to imagine and build something much better in its place. By comparison with the 1980s, there is now more discussion of gender roles and impacts in relation to armed conflict, but we still face considerable resistance to recognizing gendered impacts of weapons, and feminist strategies for disarmament and security.

If the tools we currently use limit what can be done, we have three choices: do our best with what we've got; adapt the tools to increase their effectiveness for more challenges; or design new tools for transformative purposes. And we have to make these choices while living in today's world, with all the patriarchal weapons, mindsets, and institutions of power, oppression and insecurity. That makes our work difficult, but not impossible.

After many years of working at the interface between grassroots feminist activism and disarmament 'think tank' work incorporating treaty-making and the 'women, peace, security' and gender agendas, from 2008 onwards I've prioritised establishing the International Campaign to Abolish Nuclear Weapons (ICAN) in Geneva, as a global humanitarian disarmament campaign to get a multilaterally negotiated, universally applicable treaty to ban and eliminate nuclear weapons. We achieved a significant breakthrough with the UN negotiations and adoption of the 2017 Treaty on the Prohibition of Nuclear Weapons (TPNW, aka Nuclear Ban Treaty), which in turn followed from principles and strategies developed through the 1997 Mine Ban Treaty and 2008 Cluster Munitions Convention.

These disarmament agreements owe much to feminist as well as humanitarian politics and practice from the 1970s onwards. I'll turn now to Nounou who has put together this powerpoint showing how she got involved in feminist mobilising for women and peace, including working in East Africa and internationally for disarmament treaties such as these. She will be followed by Bonnie Jenkins, and we hope to leave plenty of time for questions, comments and discussion at the end.

#### And they leave the root cause of the pink tax untouched – discrimination is not done out of some hatred for non-cis males but because there’s a profit incentive – they also don’t solve for gender socialization – leave

Berliner, 20 (Mikayla R. Berliner, J.D. Candidate, 2021, Seton Hall University School of Law; B.A., Economics and Psychology, summa cum laude, 2018, Bucknell University, “ARTICLE: TACKLING THE PINK TAX: A CALL TO CONGRESS TO END GENDER-BASED PRICE DISCRIMINATION, 42 Women's Rights L. Rep. 67,” Women's Rights Law Reporter, 42, 67. https://advance.lexis.com/api/document?collection=analytical-materials&id=urn:contentItem:62MV-SKD1-JJ1H-X0R1-00000-00&context=1516831., accessed via nexis uni, accessed on 11/1/21) AB

a. Gender Socialization

Assumptions about gender are inescapable, even in seemingly gender-neutral areas of life. 151 Gender is defined as a "culturally based complex of norms, values and [behaviors] that a particular society assigns to one biological sex." 152 Through a process called "gender socialization," societies teach their members gender roles starting at a young age. 153 Parents begin the process by giving their children "gender-specific" toys, dressing them in certain clothing, and reminding them of "masculine" or "feminine" behaviors. 154 Children's peers reinforce gender stereotypes and teach them the negative implications of failing to comply with gender-appropriate characteristics. 155 Cultural and commercial products continue to send gender-stereotyping messages about conforming with gender-appropriate characteristics. 156 Later in life, gender divisions continue through many symbols and images, including clothing. 157 Because the process of gender socialization is so pervasive, conforming to socially constructed gender norms is "not a simple matter of choice." 158 Rather, gender stereotypes are so inescapable that they [\*84] determine, to some extent, "who individuals are, what they want and what they choose to do." 159 Those who choose not to comply with "appropriate" behaviors for their assigned gender face negative societal consequences. 160

b. Products as Symbols

Buying products that are against a consumer's economic self-interest may seem irrational under economic theory. 161 Consumers nevertheless buy those products because they help them express their gender identities. In fact, one of the most important ways individuals are expected to conform to their gender roles is through physical appearance. 162 "Gender appropriate" physical appearances, including clothing, makeup, and hair styles, are important for women to express their identity and present themselves. 163 In the workplace in particular, there is a widely held expectation that women conform to their gender in order to succeed. 164 Even caselaw reflects and enforces this expectation. For example, the U.S. Court of Appeals for the Ninth Circuit held in 2006 that gender-specific grooming codes requiring women employees to wear makeup does not constitute sex discrimination under Title VII, the federal law prohibiting employers from discriminating on the basis of sex. 165 Despite this expectation that women conform to their gender, the workplace also has largely masculine benchmarks for success. 166 To strike a balance between expressing their femininity and succeeding in a traditionally masculine space, many women buy and use products with feminine features that are hit with the Pink Tax, like floral-scented deodorant. 167 Thus, in addition to earning less than men in the workplace, women spend more on products to succeed in the workplace.

[\*85] People of all gender identities express themselves through the products they buy. 168 The willingness-to-pay justification for the Pink Tax on goods wrongly assumes that women are willing to pay more for feminine product attributes than men are willing to pay for masculine product attributes. The United States GAO admitted in its 2018 report to Congress that it could not determine the extent to which men and women actually have different willingness to pay levels for certain gendered products. 169 In reality, women are not the only consumers who express their gender through physical appearances; products with gender-appropriate attributes have symbolic meaning for women and men alike. 170 A study by Miriam van Tilburg et al. comparing consumers' views of strongly gendered products (i.e. with masculine or feminine attributes) and their gender-neutral equivalents found that all consumers displayed a greater intent to purchase the gendered options. 171 In fact, consumers perceived the gendered products to be more functional and aesthetically pleasing. 172 These results suggest that both women and men prefer to buy products designed to match their gender expectations over gender-neutral products. 173 These findings also undermine the idea of the rational consumer. If consumers were truly rational, they would perceive all similar products as having the same level of functional utility. The consumers in the study, however, perceived the gendered products as more functional than the gender-neutral equivalents. 174 Therefore, neither women nor men act as rational consumers when purchasing products with gendered features.

The Miriam van Tilburg et al. findings also undermine the notion that the Pink Tax merely segments consumers by their rational willingness to pay. If both women and men prefer to pay for gendered products regardless of their price, 175 then women's products costing more than men's products does not accurately reflect consumer preferences. If the market reflected true willingness to pay, then men's and women's products would all cost more than their gender- [\*86] neutral equivalents because of their symbolic meaning. It is clear that the Pink Tax is not purely economic price differentiation based solely on consumers' willingness to pay. Instead, it is problematic gender-based price discrimination that unfairly targets women in order to make a profit. 176

#### status quo feminism is consumerism by producing a complacency with consumerism as a stance against patriarchy—the alternative alone has the capacity to reappropriate feminism towards its revolutionary potential by transforming feminism’s attachment away from capitalism

Hemmings, 12

(Clare, “In the Mood for Revolution: Emma Goldman’s Passion”, New Literary History, Volume 43, Number 3, Summer 2012 NL)

For Goldman, as for other theorists at the time, women’s complicity¶ with consumerist and relational norms means they occupy a position¶ profoundly at odds with the demands of revolution. Indeed, within¶ modern anarchism, femininity and consumerism are so closely linked¶ within capitalism as to be almost synonymous. The gendered character¶ of mood as I have discussed it thus far mirrors the view that women¶ are harder to rouse politically than men because of their affective attachments¶ and displacements. But importantly, it also foregrounds the¶ ways in which their position at the public/private border makes their¶ transformation all the more crucial. Goldman, as we shall see, takes heart¶ from the idea that feminine moods are less real, or less enduring, than¶ the revolutionary mood that she hopes to foster in women, because this¶ resonates with her view of true human nature as generous and creative.¶ Through transforming their attachments to capitalism, and by reframing¶ the public sphere and their place within it, Goldman’s women have the¶ power to be at the cutting edge of revolution rather than external to¶ that process. This is certainly why Goldman’s rhetoric is so focused on the joys of investing in a different set of—revolutionary—values, as if by¶ sheer force of repetition she could transform women’s mood. But it is¶ also why she is so consistently enraged at women’s persistent complicity¶ with capitalist norms, with their embracing superficiality over depth.

#### Err neg on questions of solvency – neoliberalism preconditions bias against alternative political possibilities

Srnicek, 15

Nick Srnicek & Alexander Williams, 2015, Nick Srnicek is currently a lecturer in Digital Economy at King's College London. Alexander Williams, Associate Professor, Departments of Linguistics and Philosophy, University of Maryland. Inventing the Future: Postcapitalism in a World without Work, Chapter 3: Why Are They Winning? The Making of Neoliberal Hegemony, accessed on libgen

If our era is dominated by one hegemonic ideology, it is that of neoliberalism. It is widely assumed that the most effective away to produce and distribute goods and services is by allowing instrumentally rational individuals to exchange via the market. State regulations and national industries are, by contrast, seen as distortions and inefficiencies holding back the productive dynamics inherent to free markets. Today, this vision of how economies should operate is what both its critics and proponents take as a baseline. Neoliberalism sets the agenda for what is realistic, necessary and possible. While the economic crisis of 2008 has upset the blind belief in neoliberalism, it nevertheless remains an entrenched part of our worldview – so much so that it is difficult even for its critics to picture coherent alternatives. Yet this ideology of neoliberalism did not emerge fully formed from the minds of Milton Friedman or Friedrich Hayek, or even the Chicago School, and its global hegemony did not arise inevitably from capitalism’s logic.

In its origins, neoliberalism was a fringe theory. Its adherents found it difficult to gain employment, were often untenured, and were mocked by the Keynesian mainstream.1 Neoliberalism was far from being the worlddominating ideology it would eventually become. The question this chapter will focus on is: How did a small band of neoliberals manage to reshape the world so radically? Neoliberalism was never a given, never a necessary endpoint of capitalist accumulation. Rather, it was a political project from the beginning, and a massively successful one in the end. It succeeded by skilfully constructing an ideology and the infrastructure to support it, and by operating in a non–folk-political manner. This chapter aims to show that neoliberalism functioned as an expansive universal ideology. From humble beginnings, the universalising logic of neoliberalism made it capable of spreading across the world, infiltrating the media, the academy, the policy world, education, labour practices, and the affects, feelings and identities of everyday people. This chapter therefore focuses primarily on how neoliberal hegemony was constructed, rather than on the specific content of neoliberalism. What is of greatest interest is how it was able to transform the ideological and material fabric of global society.

What standard histories of neoliberalism often neglect is the ways in which the main components of this ideological architecture were systematically and painstakingly set in place in the decades prior to the 1970s.2 It is in this prehistory of the neoliberal era that we can discern an alternative mode of political action – one that evades the limits of folk politics. This is not to say that this prehistory provides a model for any future leftist programme simply to copy; rather, it is an instructive case study in how the right was able to move beyond folk politics and create a new hegemony. The history of neoliberalism has been one of contingencies, struggle, concentrated action, patience and grand-scale strategic thinking. It has been a flexible idea, actualised in various ways according to the specific circumstances it encountered: from Germany in the 1940s, Chile in the 1970s and the UK in the 1980s, to post-Hussein Iraq in the 2000s. This versatility has made neoliberalism a sometimes contradictory project, but one that succeeds precisely by transforming these contradictions into productive tensions.3

These tensions and variations have led some to believe that the term ‘neoliberalism’ is meaningless and should be relegated to polemics. But the term has some validity, even if it is often used loosely. In popular perception, neoliberalism is usually identified with a glorification of free markets – a position that also entails a commitment to free trade, private property rights and the free movement of capital. Defining neoliberalism as the veneration of free markets is problematic, however, because many ostensibly neoliberal states do not adhere to free-market policies. Others have argued that neoliberalism is predicated upon instilling competition wherever possible.4 This makes sense of the drive towards privatisation, but it fails to explain the debates within neoliberalism about whether competition is an ultimate good or not.5 Some take into account these tensions within neoliberalism and recognise it as the political, rather than economic, project of a particular class.6 There is certainly some truth to this claim, but, taken at face value, it cannot explain why neoliberal ideology was rejected for so long by the capitalist classes that purportedly benefit from it.

Our view is that, contrary to its popular presentation, neoliberalism differs from classical liberalism in ascribing a significant role to the state.7 A major task of neoliberalism has therefore been to take control of the state and repurpose it.8 Whereas classical liberalism advocated respect for a naturalised sphere supposedly beyond state control (the natural laws of man and the market), neoliberals understand that markets are not ‘natural’.9 Markets do not spontaneously emerge as the state backs away, but must instead be consciously constructed, sometimes from the ground up.10 For instance, there is no natural market for the commons (water, fresh air, land), or for healthcare, or for education.11 These and other markets must be built through an elaborate array of material, technical and legal constructs. Carbon markets required years to be built;12 volatility markets exist in large part as a function of abstract financial models;13 and even the most basic markets require intricate design.14 Under neoliberalism, the state therefore takes on a significant role in creating ‘natural’ markets. The state also has an important role in sustaining these markets – neoliberalism demands that the state defend property rights, enforce contracts, impose anti-trust laws, repress social dissent and maintain price stability at all costs. This latter demand, in particular, has greatly expanded in the wake of the 2008 crisis into the full-spectrum management of monetary issues through central banks. We therefore make a grave mistake if we think the neoliberal state is intended simply to step back from markets. The unprecedented interventions by central banks into financial markets are symptomatic not of the neoliberal state’s collapse, but of its central function: to create and sustain markets at all costs.15 Yet it has been an arduous and winding path from neoliberalism’s origins to the present, in which its ideas hold sway over those injecting trillions of dollars into the market.

THE NEOLIBERAL THOUGHT COLLECTIVE

The origins of neoliberalism are disparate, both geographically and intellectually. Elements of what would become the neoliberal project can be found in 1920s Vienna, 1930s Chicago and London, and 1930s and 1940s Germany. Throughout these decades, national movements worked on the margins of academia to maintain liberal ideas. It was not until 1938 that these independent movements were to gain their first transnational organisation, resulting from the Walter Lippmann Colloquium held in Paris just before the eruption of World War II. For the first time, this event brought together the classical liberal theorists, the new German ordoliberals, the British LSE liberals, and Austrian economists such as Friedrich Hayek and Ludwig von Mises. It focused on the historical ebbing of classical liberalism in the face of rising collectivism, and it was here that the first steps were made in consolidating a group of new liberal thinkers. Out of this event a new organisation – Centre International d’Études pour la Rénovation du Libéralisme – arose with the explicit aim of developing and spreading a new liberalism. The outbreak of World War II quickly put an end to the ambitious aims of this organisation, but the network of people involved would continue to work towards developing a neoliberalism. The seeds of the global neoliberal infrastructure had been planted.

It was an idea of Hayek’s that ultimately mobilised this infrastructure into a ‘neoliberal thought collective’ and inaugurated the slow rise of the new hegemony. 16 Since the Walter Lippmann Colloquium had been buried in the onslaught of World War II, the transnational infrastructure of an incipient neoliberalism had to be reconstructed. A chance meeting with a Swiss businessman in 1945 gave Hayek the financial means to put his ideas into action.17 Thus was born the Mont Pelerin Society (MPS): a closed intellectual network that provided the basic ideological infrastructure for neoliberalism to ferment.18 It is no exaggeration to say that almost all of the important figures in the postwar creation of neoliberalism were in attendance at its first meeting in 1947, including the Austrian economists, the UK liberals, the Chicago School, the German ordoliberals and a French contingent.19

From its beginnings, the MPS was consciously focused on changing political common sense and sought to develop a liberal utopia.20 It explicitly understood that this intellectual framework would then be actively filtered down through think tanks, universities and policy documents, in order to institutionalise and eventually monopolise the ideological terrain.21 In a letter to those he had invited, Hayek wrote that the purpose of the MPS was to enlist the support of the best minds in formulating a programme which has a chance of gaining general support. Our effort therefore differs from any political task in that it must be essentially a long-run effort, concerned not so much with what would be immediately practicable, but with the beliefs which must gain ascendance if the dangers are to be averted which at the moment threaten individual freedom.22 The Society thus made a ‘commitment to a long-run war of position in the “battle of ideas” … Privatized, strategic, elite deliberation was therefore established as the modus operandi.’23 Opening the ten-day event, Hayek diagnosed the problem of the new liberals: a lack of alternatives to the existing (Keynesian) order. There was no ‘consistent philosophy of the opposition groups’ and no ‘real programme’ for change.24 As a result of this diagnosis, Hayek defined the central goal of the MPS as changing elite opinion in order to establish the parameters within which public opinion could then be formed. Contrary to a common assumption, capitalists did not initially see neoliberalism as being in their interests. A major task of the MPS was therefore to educate capitalists as to why they should become neoliberals.25 In order to achieve these goals, the vision of effective action was one of operating on the invisible framework of political common sense that was formed by the ideas circulating in elite networks. From its origins, the MPS eschewed folk politics by working with a global horizon, by working abstractly (outside the parameters of existing possibilities) and by formulating a clear strategic conception of the terrain to be occupied – namely, elite opinion – in order to change political common sense.

Behind this set of goals there lay a consistent but highly flexible account of what was new about neoliberalism. Divisions arose, in particular, over the role of the state in maintaining a competitive order; some argued that intervention was necessary to sustain competition, and others that intervention was the source of monopolies and centralisation.26 There were less divisive arguments over other particular policy positions, indicating that this was far from a homogeneous or unified group. In many ways, the common element was simply the social network itself, with its commitment to building a new liberalism.27 Yet this inbuilt plurality allowed neoliberalism to foster and mutate as it spread around the world, giving it hegemonic strength in its adaptations to the particularity of each space.28 Its flexibility as an ideology allowed it to excel in carrying out its hegemonic function of incorporating different groups into an overarching consensus.29

These debates also extended to questions of strategy. Many members and financiers of Mont Pelerin were impatient with Hayek’s long-term approach and wanted to start producing books and other publications immediately, in order to influence the public.30 In the midst of Keynesian dominance, stable growth and low unemployment, Hayek keenly recognized the unlikelihood of changing public opinion. The Society’s strategy was self-consciously long- term, and Hayek’s view eventually won out within its meetings. Outside these meetings, the networks surrounding the MPS began actively to construct an extensive transnational infrastructure of ideological diffusion. Hayek had been planning since at least the mid 1940s to establish a system of think tanks propounding neoliberal ideas, while at the same time working to place Society members in government positions (a strategy that eventually produced three heads of state and a large number of cabinet ministers).31 It was the 1950s, in particular, that saw the proliferation of think tanks allied to the Society, and the subsequent diffusion of neoliberal ideas into the academic and policy worlds.

In the UK, the aims of the MPS were pursued by a network of think tanks and other organisations, such as the Institute of Economic Affairs, the Adam Smith Institute, the Centre for Policy Studies, and an array of smaller groups. Members of the MPS were to enter into US politics, first via think tanks like the American Enterprise Institute, and then through more formal positions such as Milton Friedman’s role as economic advisor to Barry Goldwater in his presidential run. Yet it was in Germany that neoliberalism would first achieve both organisational and policy success.

NOT SO TENTATIVE STEPS

In the wake of World War II, the world was primed for significant changes in economic ideas. Yet it was Germany that faced a unique set of economic difficulties – both the well-known hyperinflation problems of the Weimar Republic and the arduous post–World War II reconstruction effort. While most of the world adopted Keynesian policies, Germany took a different pathway, guided by some of the same neoliberals who had convened at the Walter Lippmann Colloquium. Given the utter collapse of the German state, the problem facing postwar reconstruction planners was how to reconstitute the state – specifically, how to produce legitimacy without having a functional state infrastructure already in place. The answer was found in the ideas propounded by the early ordoliberals: establish a space of economic freedom. This in turn generated a web of connections between individuals which produced the legitimacy of a nascent postwar German state. Rather than a legal legitimacy, the state was seen to derive its legitimacy from a well-functioning economy. 32 It was this idea that would provide the grounding for neoliberalism’s first policy experiments.

Following World War II, the ordoliberals began to move into government positions and implement their ideas, establishing the material and institutional foothold from which to shape economic ideology. The first, and perhaps most historically significant position, was the appointment of Ludwig Erhard to the directorate of economics in the postwar administrative zone of the British and US militaries. With the support of a fellow ordoliberal, Wilhelm Röpke, Erhard simultaneously eliminated all existing price and wage controls, and drastically cut income and capital taxes. This was a radical deregulatory move, and one that compelled the Soviet Union to establish a blockade on Berlin and inaugurate the Cold War. 33 In the decades that followed, ordoliberals would come increasingly to populate significant positions in the German Ministry of Economics, with Erhard himself becoming Chancellor in 1963. But despite their intentions, the ordoliberals lacked a principled distinction between legitimate and illegitimate government interventions – an ambiguity which facilitated the German economy’s transformation into increasingly Keynesian forms. Interventions to maintain competition shaded into interventions to provide welfare, and by the 1970s Germany had become a standard social democratic state. The difficulties encountered in the policy world did not stop neoliberalism from innovating on other terrains, though – in particular, the space of the so-called ‘second-hand dealers’ in ideas.

SECOND-HAND DEALERS

Neoliberals had long emphasised the importance of using a variety of venues to influence elites and construct a new common sense. In the postwar era, this approach spanned academia, the media and the policy world. But one of the primary innovations for neoliberal consolidation of the ideological sphere was the use of think tanks. While they had existed for over a hundred years, the extensive use made of them by the MPS was a novelty. It involved developing policy arguments, building policy solutions and homing in on economic culprits. An informal division of labour was established, with some think tanks focusing on the large philosophical ideas, targeting the very assumptions and rationale of the orthodox Keynesian position – this was the task adopted by the Manhattan Institute for Policy Research (MIPR) in the 1970s, for example – while others aimed to produce more immediate public policy proposals. These were explicit attempts to unhinge the dominant worldview in order to subsequently introduce specific policy solutions that were grounded upon the neoliberal view.

The figure of Antony Fisher was vital in the building of neoliberalism’s ideological hegemony. 34 One of the founders of the UK’s first neoliberal think tank – the Institute of Economic Affairs (IEA) – Fisher explicitly argued that the most difficult part of changing ideas lay not in their production, but in their diffusion. As a result of this belief, Fisher would be heavily involved in establishing conservative think tanks not only in the UK, but also in Canada (the Fraser Institute) and the United States (the MIPR). The IEA itself was focused on ‘those whom Hayek had called the “second-hand dealers” in ideas, the journalists, academics, writers, broadcasters, and teachers who dictate the long-term intellectual thinking of the nation’.35 The explicit intention was to change the ideological fabric of the British elite, infiltrating and subtly altering the terms of discourse. This also extended shrewdly to the mission of the IEA itself, which maintained a deceptive position on its own aims, presenting itself as an apolitical organisation focusing on research into markets in general.36 In line with this vision of ideological takeover, the IEA produced short pamphlets intended to be as accessible as possible to a mainstream audience.37 Moreover, these texts were written in a somewhat utopian fashion, without regard for whether a policy was capable of being implemented at that moment.38 The goal, as always, was the long-term redefinition of the possible. Over the course of decades, these various interventions developed a wide-ranging neoliberal worldview. More than just single-issue responses to the fashionable problems of the day, what the IEA and its associates had constructed was a systematic and coherent economic perspective.39 Think tanks instilled this worldview by educating and socialising rising members of political parties. Numerous members of what would become Thatcher’s administration passed through the IEA during the 1960s and 1970s.40 The outcome of the IEA’s efforts was not only to subtly transform the economic discourse in Britain, but also to naturalise two particular policies: the necessity of attacking trade union power, and the imperative of monetary stability. The former would purportedly let markets freely adapt to changing economic circumstances, while the latter would provide the basic price stability needed for a healthy capitalist economy.

In the United States, too, think tanks and academic research groups were built to push for a broadly neoliberal agenda, the Heritage Foundation and the Hoover Institute being two of the most notable.41 The MIPR aimed to redefine political common sense by writing books on neoliberal economics that were intended for a popular audience, some of which eventually sold over 500,000 copies. Other books, such as Charles Murray’s Losing Ground, laid the foundations for the policy shift which today identifies welfare dependency rather than poverty itself as the central social problem. Numerous other widespread policy ideas, such as zero-tolerance policing and workfare, stemmed from the policy factory of the MIPR. Its books succeeded in their objective of changing the common sense of the political classes and the public. The think tank, as an organisational form, was so integral to neoliberalism’s ideological success that the very process of creating think tanks was itself institutionalised. The Atlas Economic Research Foundation, founded in 1981 by Fisher, declared as its explicit aim ‘to institutionalise this process of helping start up new think tanks’. Atlas today boasts of having helped create or connect over 400 neoliberal think tanks in more than eighty countries. The sheer scale of the neoliberal ideological infrastructure is made fully transparent here.

Beyond think tanks, a variety of other mechanisms were used to build up a hegemonic discourse. In working to install the Chicago brand of neoliberalism as the dominant alternative, Milton Friedman wrote extensive op-eds and newspaper columns, and made use of television interviews in a way that was unprecedented for an academic. Businesses funded projects to turn his work into popular television shows, taking the media terrain by storm. 42 These technological tools were the essential means he used to diffuse his economic vision to policymakers and the public. Newspapers such as the Wall Street Journal, Daily Telegraph and Financial Times paralleled this effort, shaping the public’s perspective by invoking neoliberal policies at every opportunity. 43 Business schools and management consultancies also began to adopt and spread neoliberal ideas about corporate forms, and the Chicago School became a global beacon of neoliberal thought.44 Such institutions were crucial for the spread of neoliberal hegemony, since they were often the training grounds of the global elite.45 Individuals would come to these neoliberal US schools and then return to their own countries with the neoliberal ideology inculcated in them. By the 1970s, therefore, a full-spectrum infrastructure had developed to promulgate neoliberal ideas. Think tanks and utopian proclamations organised long-term thinking; public-facing speeches, pamphlets and media efforts framed the general outlines of the neoliberal common sense; and politicians and policy proposals made tactical interventions into the political terrain.46 Yet, despite their increasingly hegemonic potential, a mere decade prior to the arrival in office of Thatcher and Reagan, Keynesianism still reflected the most widely accepted approach to organising states and markets. The ideas of this group of neoliberal intellectuals were still often seen as senseless throwbacks to the failed policies of the pre–Great Depression era. But this would all change by the 1980s – a decade that would leave Keynesianism in disarray and enshrine neoliberalism as the preeminent model for economic modernisation.

GRASPING THE WHEEL

Having made national inroads, neoliberalism first gained serious international prominence in the 1970s, as a response to the combined pressures of high unemployment and high inflation – both of which had originated in oil shocks, general commodity price rises, wage increases and the expansion of credit. The dominant Keynesian approach to the economy had argued that governments should stimulate the economy by putting money into it when unemployment was rising, but, when inflation was rising, take money out of the economy, to slow down price rises. In the 1970s, however, both problems arose simultaneously – rising inflation and rising unemployment, or ‘stagflation’. The traditional Keynesian policy solutions were incapable of dealing with this conjunction, thus seemingly dictating a turn to alternative theories. It is important to be clear that, at this point, multiple interpretations of the economic problem were possible. The production of inflation through wage rigidities and trade union power was not the only possible framing of the problem, and neoliberalism was not the only possible solution. Alternative interpretations were available, alternative answers possible; in the moment, no one knew what the way out would be.47 The neoliberal narrative of the crisis, for instance, plays down the role of banking deregulation by UK Chancellor Anthony Barber in the early 1970s and the breakdown of the Bretton Woods system. These deregulations sparked a surge in the monetary base and a subsequent surge in price inflation, and then wage inflation.48 In other words, an alternative narrative was possible in which the problem was not strong unions, but rather deregulated finance.

That the neoliberal story won out is in no small measure because of the ideological infrastructure that adherents to its ideas had constructed over decades. The neoliberals found themselves well placed, since they had routinely argued that inflation was a necessary outcome of the welfare state’s unwillingness to break wage and price rigidities. They had both a diagnosis of the problem and a solution. Government officials who were uncertain about what to do in the face of crisis found a plausible story in neoliberalism.49 It was thus the long-term construction of intellectual hegemony by the neoliberal thought collective that left them well positioned to leverage their ideas into power. 50 As Milton Friedman famously put it, ‘Only a crisis – actual or perceived – produces real change. When that crisis occurs, the actions that are taken depend on the ideas that are lying around. That, I believe, is our basic function: to develop alternatives to existing policies, to keep them alive and available until the politically impossible becomes the politically inevitable.’51 This programme spells out exactly what happened in the 1970s crisis. If alternative analyses of the crisis had been accepted, it would have entailed a policy response different from that of neoliberalism. Rather than attacking the power of labour, for example, politicians could have responded by re-regulating credit creation. In other words, neoliberalism was not a necessary outcome, but a political construction.52

While Keynesian approaches were eventually able to develop an explanation of stagflation, by then it was too late, and the neoliberal approach had taken over academic economics and the policy world. In short, neoliberalism had become hegemonic. The decade after 1979 saw Margaret Thatcher elected as the British prime minister, Paul Volcker appointed as chairman of the Federal Reserve, and Ronald Reagan elected president of the United States. The IMF and World Bank, facing identity crises after the breakdown of the Bretton Woods system, were rapidly infiltrated and converted into crucibles of the true neoliberal faith by the 1980s. France undertook a neoliberal turn during the Mitterrand administration in the early 1980s, and the major economies of Europe became bound by the neoliberal policies embodied in the constitution of the European Union. In the United States and UK, a wave of systematic attacks were launched against the power of labour. Piece by piece, trade unions were demolished and labour regulations dismantled. Capital controls were loosened, finance was deregulated, and the welfare state began to be scavenged for profitable parts.

Outside Europe and North America, neoliberalism had already been forced on Chile and Argentina in the aftermath of military coups in the 1970s. The developing world debt crisis of the 1980s acted as a key moment to break traditional proto-socialist hegemonies and institute a turn to neoliberalism across the world.53 Moreover, with the breakdown of the USSR, Eastern Europe saw a wave of neoliberalising trends that were spurred on by Western economic advisors. It is estimated that these privatising policies in former Soviet nations led to a million deaths, proving that privatisation could be just as deadly as collectivisation, and that the expansion of neoliberalism was a far from bloodless affair. 54 Misery, death and dictatorships lay in the wake of its advances across the globe. This was a normative regime that had forced itself into the everyday psychic and bodily reality of the world’s population. By the mid 1990s, with the collapse of the USSR, neoliberalism’s extension via IMF structural adjustment policies, its consolidation in the UK’s New Labour and Clinton’s US administration, and its ubiquity in the academic field of economics, neoliberalism had reached its hegemonic peak. The novel conjunctural moment of the 1970s was quickly forgotten by the public, and neoliberalism took on the universal and natural qualities that Thatcher’s doctrine of ‘there is no alternative’ had espoused. Neoliberalism had become a new common sense, accepted by every party in power. It mattered little whether the left or right won; neoliberalism had stacked the deck.

THE IMPOSSIBLE BECOMES INEVITABLE

As we have seen, neoliberalism propagated its ideology through a division of labour – academics shaping education, think tanks influencing policy, and popularisers manipulating the media. The inculcation of neoliberalism involved a full-spectrum project of constructing a hegemonic worldview. A new common sense was built that came to co-opt and eventually dominate the terminology of ‘modernity’ and ‘freedom’ – terminology that fifty years ago would have had very different connotations. Today, it is nearly impossible to speak these words without immediately invoking the precepts of neoliberal capitalism.

We all know today that ‘modernisation’ translates into job cuts, the slashing of welfare and the privatisation of government services. To modernise, today, simply means to neoliberalise. The term ‘freedom’ has suffered a similar fate, reduced to individual freedom, freedom from the state, and the freedom to choose between consumer goods. Liberal ideas of individual freedom played an important role in the ideological struggle with the USSR, priming the population of the Western world to mobilise behind any ideology that purported to value individual freedoms. With its emphasis on individual freedoms, neoliberalism was able to co-opt elements of movements organised around ‘libertarianism, identity politics, [and] multiculturalism’.55 Likewise, by emphasising freedom from the state, neoliberalism was able to appeal to anarcho-capitalists and the movements of desire that exploded in May 1968.56 Lastly, with the idea of freedom being limited to a freedom of the market, the ideology could co-opt consumerist desires. At the level of production, neoliberal freedom could also recruit emerging desires among workers for flexible labour – desires that were soon turned against them.57 In struggling for and successfully seizing the ideological terrain of modernity and freedom, neoliberalism has managed to wind its way inexorably into our very self-conceptions. In arrogating the meaning of terms such as modernisation and freedom, neoliberalism has proved itself to be the single most successful hegemonic project of the last fifty years.

Neoliberalism has thus become ‘the form of our existence – the way in which we are led to conduct ourselves, to relate to others and to ourselves’.58 It is, in other words, not just politicians, business leaders, the media elite and academics who have been enrolled into this vision of the world, but also workers, students, migrants – and everyone else. In other words, neoliberalism creates subjects. Paradigmatically, we are constructed as competitive subjects – a role that encompasses and surpasses industrial capitalism’s productive subject. The imperatives of neoliberalism drive these subjects to constant self-improvement in every aspect of their lives. Perpetual education, the omnipresent requirement to be employable, and the constant need for self-reinvention are all of a piece with this neoliberal subjectivity. 59 The competitive subject, moreover, straddles the divide between the public and the private. One’s personal life is as bound to competition as one’s work life. Under these conditions, it is no surprise that anxiety proliferates in contemporary societies. Indeed, an entire battery of psychopathologies has been exacerbated under neoliberalism: stress, anxiety, depression and attention deficit disorders are increasingly common psychological responses to the world around us.60 Crucially, the construction of everyday neoliberalism has also been a primary source of political passivity. Even if you do not buy into the ideology, its effects nevertheless force you into increasingly precarious situations and increasingly entrepreneurial inclinations. We need money to survive, so we market ourselves, do multiple jobs, stress and worry about how to pay rent, pinch pennies at the grocery store, and turn socialising into networking. Given these effects, political mobilisation becomes a dream that is perpetually postponed, driven away by the anxieties and pressures of everyday life.

At the same time, we should recognise that this production of subjectivity was not simply an external imposition. Hegemony, in all its forms, operates not as an illusion, but as something that builds on the very real desires of the population. Neoliberal hegemony has played upon ideas, yearnings and drives already existing within society, mobilising and promising to fulfil those that could be aligned with its basic agenda. The worship of individual freedom, the value ascribed to hard work, freedom from the rigid work week, individual expression through work, the belief in meritocracy, the bitterness felt at corrupt politicians, unions and bureaucracies – these beliefs and desires pre-exist neoliberalism and find expression in it.61 Bridging the left–right divide, many people today are simply angry at what they see as others taking advantage of the system. Hatred for the rich tax evader combines easily with disgust for the poor welfare cheat; anger at the oppressive employer becomes indistinguishable from anger at all politicians. This is linked with the spread of middle-class identities and aspirations – desires for home ownership, self-reliance and entrepreneurial spirit were fostered and extended into formerly working-class social spaces.62 Neoliberal ideology has a grounding in lived experience and does not exist simply as an academic puzzle.63 Neoliberalism has become parasitical on everyday experience, and any critical analysis that misses this is bound to misrecognise the deep roots of neoliberalism in today’s society. Over the course of decades, neoliberalism has therefore come to shape not only elite opinions and beliefs, but also the normative fabric of everyday life itself. The particular interests of neoliberals have become universalised, which is to say, hegemonic.64 Neoliberalism constitutes our collective common sense, making us its subjects whether we believe in it or not.65

A MONT PELERIN OF THE LEFT?

It has often been argued that neoliberalism succeeded (and continues to succeed in spite of its failures) because it is supported by a series of overlapping and powerful interests – the transnational elite, the financiers, the major stockholders of the largest corporations. While these interests have certainly assisted the potency of the neoliberal ideology, such an explanation nevertheless leaves certain questions unanswered. If elite support was sufficient for ideological success, and if neoliberalism was clearly beneficial to elites, there would not have been a forty-year delay between the initial formulation of the ideas and their implementation. Instead, the embedded liberalism of Keynesianism remained ideologically dominant even as it constrained powerful interests. In particular, financial interests were sidelined for a long period after the 1929 crash and ensuing Great Depression. The power dynamics maintaining the Keynesian consensus needed to be taken apart piecemeal. Equally, an explanation of neoliberalism’s success that relies solely on its compatibility with particular elite interests also leaves unexplained why other possible responses to the problems of the 1970s were never implemented. An important element of neoliberalism’s eventual ideological success is that there was both a crisis and a readily available solution. The crisis (stagflation) was one that no government knew how to deal with at the time, while the solution was the preconceived neoliberal ideas that had been fermenting for decades in its ideological ecology. It was not that neoliberals presented a better argument for their position (the myth of rational political discourse); rather, an institutional infrastructure was constructed to project their ideas and establish them as the new common sense of the political elite.

In all of this there are important lessons to be learned, which have led some to call for a Mont Pelerin of the left.66 On the broadest level, this history of neoliberalism serves to demonstrate that the greatest recent success of the right – installing a neoliberal hegemony on a global scale – was accomplished through non–folk-political means. This means, in the first place, that the neoliberals thought in long-term visions. This was a different temporality from both election cycles and the boom-and-bust of individual protests. Instead, what the left can learn from is how the MPS patiently set out explicit objectives and analysed the terrain of their historical conjunction, all in order to propose specific and effective means to alter that terrain. It set its sights on long-term change, waiting forty years for the crisis of Keynesianism and the emergence of Reagan and Thatcher. In taking this approach, the intellectuals of neoliberalism thought abstractly in terms of possibilities: what was impossible during their own time became possible later, partly through their actions and preparations. Secondly, they sought to build a counter-hegemonic project that would overturn the consensus around social democracy and Keynesian policies. They took a full-spectrum approach to changing hegemonic conditions and built up an entire ideological infrastructure that was capable of insinuating itself into every political issue and every fibre of political common sense. It overthrew the hegemonic ideas of its time. As Philip Mirowski writes, their strategic genius was

“to appreciate that it is not enough to dangle a utopian vision just beyond reach as eventual motivation for political action; the cadre that triumphs is the side that can simultaneously mount a full set of seemingly unrelated political proposals that deal with the short-, medium-, and longterm horizons of action, combining regimes of knowledge and interim outcomes, so that the end result is the inexorable movement of the polis ever closer to the eventual goal. The shrewd strategy of simultaneously conducting both a short game and a long game, superficially appearing to the uninformed to be in mutual conflict but united behind the scenes by overarching theoretical aims, is probably the single most significant explanation of the triumph of neoliberal policies during a conjuncture where their opponents had come to expect utter refutation.”67

The third major lesson for the left to learn is that the loose collective of MPS also thought expansively in spatial terms – aiming to spread the network globally, through key nodes. In the think tank, they found an organisational form adapted to the task of global intellectual hegemony. They established networks between think tanks, politicians, journalists, the media and teachers – building a consistency between these disparate groups that did not require a unity of purpose or organisational form. This entailed an admirable flexibility in their project. While neoliberalism is often denounced as being too empirically disparate to make sense as a coherent project, it is in fact the willingness to modify its ideas in light of conditions on the ground that has made it particularly powerful as an ideology. The call for a Mont Pelerin of the left should therefore not be taken as an argument to simply copy its mode of operation. The argument is rather that the left can learn from the long-term vision, the methods of global expansion, the pragmatic flexibility and the counter-hegemonic strategy that united an ecology of organisations with a diversity of interests. The demand for a Mont Pelerin of the left is ultimately a call to build anew the hegemony of the left.

## Case

#### It damns the populations they want you to care about to a more painful death than the squo—most people die of either radiation poisoning which is literally hell on earth as people’s skin falls off and they burn up from the inside outwards OR from mass starvation and freezing to death as the sun gets bloated out—either option being way worse than the squo!—and even if that doesn’t happen, a post-apocalyptic nuclear wasteland drives rich white people into bunkers while everyone else is left to fend for themselves in a lawless, Fallout-esque wasteland that’s Folk and

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Although US-Russian nuclear arsenals have been significantly reduced (by more than two-thirds since 1989) the total number of nuclear weapons in the world—93% of which belong to the US and Russia—is still sufficient to threaten the extinction of advanced life on earth. Recent scientific studies suggest that even a ‘limited’ regional nuclear exchange would eject so much debris into the atmosphere that it could rapidly cool down the planet to temperatures not felt since the ice ages (“nuclear winter”) and significantly disrupt the global climate for years to come.29 Researchers modelled the effects of a nuclear war between India and Pakistan, in which each would use 50 Hiroshima-sized nuclear weapons (about 15 kilotons each) on major populated centres, and estimated that burning cities could release as much as five million tons of soot (impure carbon particles) into the atmosphere, where the absorption of sunlight would further heat the smoke and lift it into the stratosphere. Here the smoke could persist for years and block much of the sun’s light from reaching the earth’s surface, causing surface temperatures to drop drastically (see figure 8). This would have disastrous implications for agriculture and threaten the food supply for most of the planet (see figure 9). It has been estimated that between one and two billion people could die of starvation as a result (“nuclear famine”).30