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#### ‘Expansion’ requires making antitrust law, itself, greater, not clarifying its current state by applying it differently

Hatter 90 Jr., United States District Judge, California Central District, In re Eastport Assoc., (Terry J. 114 B.R. 686, 690, 1990 U.S. Dist. LEXIS 6308, \*10-11 (C.D. Cal. March 20, 1990), 3/20/1990, Lexis

Second, Eastport asserts that the presumption against retroactivity does not apply because the amendment was intended only as a clarification of existing law. HN7 Where an amendment to a statute is remedial in nature and merely serves to clarify existing law, no question of retroactivity is involved and the law will be applied to pending cases. City of Redlands v. Sorensen, 176 Cal. App. 3d 202, 211, 221 Cal. Rptr. 728, 732 (1985). The evidence in this case, however, does not support the conclusion that the amendment to section 66452.6(f) was simply a clarification of preexisting law. The Legislative Counsel's Digest specifically states that "the bill would *expand* the definition of development moratorium." Senate Bill 186, Stats. 1988, ch. 1330, at 3375 (emphasis added). Since the Legislative Counsel is a state official required by law to analyze pending legislation, it is reasonable to presume that the Legislature amended the statute with the intent and meaning expressed in the Counsel's digest. People v. Martinez, 194 Cal. App. 3d 15, 22, 239 Cal. Rptr. 272, 276 (1987). By its ordinary meaning, the term "expand" indicates a change in the law, rather than a restatement of existing [\*\*11] law. In light of the Counsel's comment, Eastport's argument is unpersuasive.

#### ‘Scope’ refers to authority of law, not actions

Kato 99, Judge on the Washington Appeals Court, Division Three (Kenneth H., “Spokane v. Civil Serv. Comm'n”, Court of Appeals of Washington, Division Three, Panel Four, 98 Wn. App. 574, 576, 989 P.2d 1245, 1246, 1999 Wash. App. LEXIS 2158, 12/21/1999, Lexis)

For purposes of RCW 41.56.100, which provides that a public employer is not required to collectively bargain with its employees when the subject matter involved has been "delegated to any civil service commission or personnel board similar in scope, structure and authority" to the state personnel board, "scope" refers to the body's jurisdiction or authority to take various actions.

#### Violation---the plan enforces existing antitrust law, it doesn’t increase its range of jurisdiction. Antitrust statutes are conclusively extraterritorial now.

Kava 19, JD/MBA Candidate @ JU (Samuel, “The Extraterritorial Application of the Sherman Anti-Trust Act in the Age of Globalization,” *15 J. Bus. & Tech. L. 135*, Lexis)

Initially, courts across the United States were skeptical that the Sherman Act was to be applied extraterritorially—generally opting to apply U.S. law only when transactions took place solely within its territory.7 However, after World War II courts began to expand the extraterritorial application of the Sherman Act to conduct that had an anticompetitive effect on U.S. commerce.8 While this expansive application of the Sherman Act has its origins in case law, Congress went on to codify the court’s view of the Sherman Anti-Trust Act with the passage of the Foreign Trade Antitrust Improvement Act (“FTAIA”).9 The FTAIA was an express act of Congress that the Sherman Anti-Trust Act was to be applied extraterritorially to any conduct that had a “direct, substantial, and reasonably foreseeable effect on commerce in the United States.”10 However, in an increasingly globalized market nearly all transactions have a “direct, substantial, and reasonably foreseeable effect on commerce in the United States.”11 Thus, because the test for determining the scope of the Sherman Act has become toothless in the age of globalization, this paper advocates for a more comprehensive analysis that respects international comity. Specifically, this paper focuses on the adverse effects and potential retaliatory response of the international community if the Sherman Act goes through another iteration of expansion by permitting consumers standing against Consumer-to-Consumer (“C2C”) e-commerce platforms that merely “connect buyers and multiple sellers online.”12 E-commerce, which “refers to commercial transactions conducted online,” connects local consumers with producers around the world.13 Some of the most successful e-commerce platforms include companies like: Amazon, Wal-Mart, Alibaba, JD.com, Shopify, eBay, and Rakuten.14 Because of the expansive reach of e-commerce platforms, consumers are no longer limited to their local brick-andmortar shops. As a result, e-commerce has become an integral part of consumer life because it provides consumers with a convenient way to shop, enhances consumer experience, and enables access to higher quality goods.15 By 2022, it is projected that e-commerce revenue will exceed $638 billion in the U.S. alone.16 While e-commerce has given consumers more purchasing options, and corporations access to a larger market, the “direct, substantial, and foreseeable effects” of trading through e-commerce platforms will certainly lead to an increase in Sherman Anti-Trust Act litigation against e-commerce companies that are incorporated and operated outside the United States.17 Not only will these foreign corporations have a heightened fear of being criminally prosecuted, by an aggressive United States Department of Justice, but these foreign corporations may be subject to private consumer claims based on the recently decided United States Supreme Court case Apple v. Pepper. 18 Since 1914, when Congress enacted a complimentary statute to the Sherman Anti-Trust Act, known as the Clayton Act, consumer’s had standing to bring private anti-trust claims so long as they were “direct-purchasers” of the alleged anti-trust violator.19 While the direct purchaser rule has become well-developed by the courts, and would apply to traditional e-commerce platforms that use a Businessto-Consumer (“B2C”) model, the Supreme Court was only recently given the opportunity to apply the direct purchaser rule to situations where a U.S. consumer wanted to sue an online e-commerce platform that utilized a C2C platform.20 In Apple v. Pepper, the Supreme Court determined whether a U.S. consumer had standing to bring a private anti-trust claim against a U.S. distributor who delivered a good where prices were set by a third party.21 The Court held that consumers who purchased apps for their iPhones through Apple’s App Store had standing to sue Apple, a “Consumer-to-Consumer (C2C)” e-commerce platform, because the consumer was a “direct-purchaser” from Apple.22 With this Supreme Court decision there will undoubtedly be an increase in litigation against C2C platforms.23 Specifically, regarding the extraterritorial application of the Sherman Anti-Trust Act, there will likely be a windfall of litigation against C2C e-commerce companies that are incorporated and operated outside the United States because: (1) the Clayton Act would expand “direct purchaser standing” to consumers against C2C ecommerce platforms, and (2) there are no mechanisms to minimize the extraterritorial application of the Sherman Anti-Trust Act against e-commerce companies that are incorporated and operate outside the U.S.24 Part I of this paper chronicles the Supreme Court’s changing view regarding the extraterritorial application of the Sherman Anti-Trust Act; the Act’s current extraterritorial application; and the international community’s retaliatory response to the Act’s expansive use. Part II explains the main arguments that were heard by the lower courts in Apple v. Pepper. Part III provides background to the direct purchaser rule, which was established in Illinois Brick Co. v. Illinois, Hanover Shoe v. United Shoe Machinery Co., and Kansas v. UtiliCorp United Inc. 25 In addition, Part III discusses the narrow exceptions to the direct purchaser rule. 26 Part IV analyzes the adverse economic and political effects of applying the Sherman Anti-Trust Act extraterritorially, and the need to expand the international comity exceptions as a result of the Supreme Court’s decision in Apple v. Pepper. The paper concludes by prescribing courses of action for all three branches of the United States government to ensure e-commerce continues to excel and provide benefits for its consumers, producers, and e-commerce platforms alike.

#### Vote neg:

#### Limits---there are thousands of enforcement decisions: they could deny current mergers, reverse previous ones, launch new DOJ investigations, levy fines, or prosecute individuals. ‘Enforcement action-of-the-week’ cases massively overstretch research.

#### Ground---there are no overarching DAs or precedent-based effects since enforcement decisions do not change the contours of law.

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#### Anti-trust reform is based in free market logics of upholding competition which saves capitalism.

Parakkal & Bartz-Marvez 13, Raju Parakkal: Assistant Professor of International Relations, Philadelphia University. Sherry Bartz-Marvez: Visiting Assistant Professor, Department of Economics, University of Miami (Capitalism, democratic capitalism, and the pursuit of antitrust laws, *The Antitrust Bulletin*, Vol. 58, No. 4, Winter 2013, DOI: 10.1177/0003603X1305800409)

Antitrust laws have historically been associated with countries that possess a free-market capitalist economy, which is understood as an economic system in which competition and the market forces of demand and supply determine economic outcomes. This historical association between capitalism and antitrust laws is evident from the fact that the countries that first adopted national antitrust laws, such as Canada, the United States, and the countries of Western Europe, are countries that have long embraced a market economy. On the contrary, the statist economies of the erstwhile Soviet bloc and many developing countries, for the most part, did not institute antitrust laws of the type associated with free market economies.

Notwithstanding these country examples, which indicate a positive association between a capitalist economic system and antitrust laws, there exist arguments that both support and oppose antitrust laws for a capitalist economy. Arguments in support of antitrust laws for a capitalist economy begin with the fundamental understanding that the most important ingredient of a capitalist system is market competition. The presence of a competitive market is vital to achieving the efficiency levels that a capitalist economy seeks. Therefore, competitive forces need to be protected to discipline the market players, especially the dominant ones. By preventing and punishing anticompetitive practices by market players, an antitrust law protects and promotes market competition. 1

In the United States, which is commonly understood to be the leading bastion of free-market capitalism and one of the first countries to enact an antitrust law, the role of antitrust legislation in preserving the capitalist character of its economic system is underscored by the near-constitutional status accorded to its antitrust statues by the U.S. Supreme Court. 2 The Court described these statutes as “the Magna Carta of free enterprise” and “as important to the preservation of economic freedom and our free enterprise system as the Bill of Rights is to the protection of our fundamental personal freedoms.”3 Such a sentiment is appropriate, given that the American antitrust law, the Sherman Act, was passed in 1890 to protect economic competition from rapidly-growing “trusts.”4

While the social and political zeitgeist has changed considerably since the passing of the Sherman Act, the fact remains that antitrust is perceived as key to “protecting consumers against anticompetitive conduct that raises prices, reduces output, and hinders innovation and economic growth.”5 Moreover, it is understood that “competition is a public good, and society cannot expect the victims of anticompetitive conduct to protect themselves.”6 The implication therefore is that government power, through the enforcement of antitrust statutes, is critical to reining in corporate power in order to protect economic competition and capitalism.

#### Capitalism causes existential climate change, nuclear war, and structural violence---try or die for transition.

Foster 19, Sociology Professor @ Oregon (John Bellamy, February 1st, “Capitalism Has Failed—What Next?” *The Monthly Review*, Volume 70, Issue 9, <https://monthlyreview.org/2019/02/01/capitalism-has-failed-what-next/>, Accessed 06-30-2021)

Less than two decades into the twenty-first century, it is evident that capitalism has failed as a social system. The world is mired in economic stagnation, financialization, and the most extreme inequality in human history, accompanied by mass unemployment and underemployment, precariousness, poverty, hunger, wasted output and lives, and what at this point can only be called a planetary ecological “death spiral.”1 The digital revolution, the greatest technological advance of our time, has rapidly mutated from a promise of free communication and liberated production into new means of surveillance, control, and displacement of the working population. The institutions of liberal democracy are at the point of collapse, while fascism, the rear guard of the capitalist system, is again on the march, along with patriarchy, racism, imperialism, and war.

To say that capitalism is a failed system is not, of course, to suggest that its breakdown and disintegration is imminent.2 It does, however, mean that it has passed from being a historically necessary and creative system at its inception to being a historically unnecessary and destructive one in the present century. Today, more than ever, the world is faced with the epochal choice between “the revolutionary reconstitution of society at large and the common ruin of the contending classes.”3

Indications of this failure of capitalism are everywhere. Stagnation of investment punctuated by bubbles of financial expansion, which then inevitably burst, now characterizes the so-called free market.4 Soaring inequality in income and wealth has its counterpart in the declining material circumstances of a majority of the population. Real wages for most workers in the United States have barely budged in forty years despite steadily rising productivity.5 Work intensity has increased, while work and safety protections on the job have been systematically jettisoned. Unemployment data has become more and more meaningless due to a new institutionalized underemployment in the form of contract labor in the gig economy.6 Unions have been reduced to mere shadows of their former glory as capitalism has asserted totalitarian control over workplaces. With the demise of Soviet-type societies, social democracy in Europe has perished in the new atmosphere of “liberated capitalism.”7

The capture of the surplus value produced by overexploited populations in the poorest regions of the world, via the global labor arbitrage instituted by multinational corporations, is leading to an unprecedented amassing of financial wealth at the center of the world economy and relative poverty in the periphery.8 Around $21 trillion of offshore funds are currently lodged in tax havens on islands mostly in the Caribbean, constituting “the fortified refuge of Big Finance.”9 Technologically driven monopolies resulting from the global-communications revolution, together with the rise to dominance of Wall Street-based financial capital geared to speculative asset creation, have further contributed to the riches of today’s “1 percent.” Forty-two billionaires now enjoy as much wealth as half the world’s population, while the three richest men in the United States—Jeff Bezos, Bill Gates, and Warren Buffett—have more wealth than half the U.S. population.10 In every region of the world, inequality has increased sharply in recent decades.11 The gap in per capita income and wealth between the richest and poorest nations, which has been the dominant trend for centuries, is rapidly widening once again.12 More than 60 percent of the world’s employed population, some two billion people, now work in the impoverished informal sector, forming a massive global proletariat. The global reserve army of labor is some 70 percent larger than the active labor army of formally employed workers.13

Adequate health care, housing, education, and clean water and air are increasingly out of reach for large sections of the population, even in wealthy countries in North America and Europe, while transportation is becoming more difficult in the United States and many other countries due to irrationally high levels of dependency on the automobile and disinvestment in public transportation. Urban structures are more and more characterized by gentrification and segregation, with cities becoming the playthings of the well-to-do while marginalized populations are shunted aside. About half a million people, most of them children, are homeless on any given night in the United States.14 New York City is experiencing a major rat infestation, attributed to warming temperatures, mirroring trends around the world.15

In the United States and other high-income countries, life expectancy is in decline, with a remarkable resurgence of Victorian illnesses related to poverty and exploitation. In Britain, gout, scarlet fever, whooping cough, and even scurvy are now resurgent, along with tuberculosis. With inadequate enforcement of work health and safety regulations, black lung disease has returned with a vengeance in U.S. coal country.16 Overuse of antibiotics, particularly by capitalist agribusiness, is leading to an antibiotic-resistance crisis, with the dangerous growth of superbugs generating increasing numbers of deaths, which by mid–century could surpass annual cancer deaths, prompting the World Health Organization to declare a “global health emergency.”17 These dire conditions, arising from the workings of the system, are consistent with what Frederick Engels, in the Condition of the Working Class in England, called “social murder.”18

At the instigation of giant corporations, philanthrocapitalist foundations, and neoliberal governments, public education has been restructured around corporate-designed testing based on the implementation of robotic common-core standards. This is generating massive databases on the student population, much of which are now being surreptitiously marketed and sold.19 The corporatization and privatization of education is feeding the progressive subordination of children’s needs to the cash nexus of the commodity market. We are thus seeing a dramatic return of Thomas Gradgrind’s and Mr. M’Choakumchild’s crass utilitarian philosophy dramatized in Charles Dickens’s Hard Times: “Facts are alone wanted in life” and “You are never to fancy.”20 Having been reduced to intellectual dungeons, many of the poorest, most racially segregated schools in the United States are mere pipelines for prisons or the military.21

More than two million people in the United States are behind bars, a higher rate of incarceration than any other country in the world, constituting a new Jim Crow. The total population in prison is nearly equal to the number of people in Houston, Texas, the fourth largest U.S. city. African Americans and Latinos make up 56 percent of those incarcerated, while constituting only about 32 percent of the U.S. population. Nearly 50 percent of American adults, and a much higher percentage among African Americans and Native Americans, have an immediate family member who has spent or is currently spending time behind bars. Both black men and Native American men in the United States are nearly three times, Hispanic men nearly two times, more likely to die of police shootings than white men.22 Racial divides are now widening across the entire planet.

Violence against women and the expropriation of their unpaid labor, as well as the higher level of exploitation of their paid labor, are integral to the way in which power is organized in capitalist society—and how it seeks to divide rather than unify the population. More than a third of women worldwide have experienced physical/sexual violence. Women’s bodies, in particular, are objectified, reified, and commodified as part of the normal workings of monopoly-capitalist marketing.23

The mass media-propaganda system, part of the larger corporate matrix, is now merging into a social media-based propaganda system that is more porous and seemingly anarchic, but more universal and more than ever favoring money and power. Utilizing modern marketing and surveillance techniques, which now dominate all digital interactions, vested interests are able to tailor their messages, largely unchecked, to individuals and their social networks, creating concerns about “fake news” on all sides.24 Numerous business entities promising technological manipulation of voters in countries across the world have now surfaced, auctioning off their services to the highest bidders.25 The elimination of net neutrality in the United States means further concentration, centralization, and control over the entire Internet by monopolistic service providers.

Elections are increasingly prey to unregulated “dark money” emanating from the coffers of corporations and the billionaire class. Although presenting itself as the world’s leading democracy, the United States, as Paul Baran and Paul Sweezy stated in Monopoly Capital in 1966, “is democratic in form and plutocratic in content.”26 In the Trump administration, following a long-established tradition, 72 percent of those appointed to the cabinet have come from the higher corporate echelons, while others have been drawn from the military.27

War, engineered by the United States and other major powers at the apex of the system, has become perpetual in strategic oil regions such as the Middle East, and threatens to escalate into a global thermonuclear exchange. During the Obama administration, the United States was engaged in wars/bombings in seven different countries—Afghanistan, Iraq, Syria, Libya, Yemen, Somalia, and Pakistan.28 Torture and assassinations have been reinstituted by Washington as acceptable instruments of war against those now innumerable individuals, group networks, and whole societies that are branded as terrorist. A new Cold War and nuclear arms race is in the making between the United States and Russia, while Washington is seeking to place road blocks to the continued rise of China. The Trump administration has created a new space force as a separate branch of the military in an attempt to ensure U.S. dominance in the militarization of space. Sounding the alarm on the increasing dangers of a nuclear war and of climate destabilization, the distinguished Bulletin of Atomic Scientists moved its doomsday clock in 2018 to two minutes to midnight, the closest since 1953, when it marked the advent of thermonuclear weapons.29

Increasingly severe economic sanctions are being imposed by the United States on countries like Venezuela and Nicaragua, despite their democratic elections—or because of them. Trade and currency wars are being actively promoted by core states, while racist barriers against immigration continue to be erected in Europe and the United States as some 60 million refugees and internally displaced peoples flee devastated environments. Migrant populations worldwide have risen to 250 million, with those residing in high-income countries constituting more than 14 percent of the populations of those countries, up from less than 10 percent in 2000. Meanwhile, ruling circles and wealthy countries seek to wall off islands of power and privilege from the mass of humanity, who are to be left to their fate.30

More than three-quarters of a billion people, over 10 percent of the world population, are chronically malnourished.31 Food stress in the United States keeps climbing, leading to the rapid growth of cheap dollar stores selling poor quality and toxic food. Around forty million Americans, representing one out of eight households, including nearly thirteen million children, are food insecure.32 Subsistence farmers are being pushed off their lands by agribusiness, private capital, and sovereign wealth funds in a global depeasantization process that constitutes the greatest movement of people in history.33 Urban overcrowding and poverty across much of the globe is so severe that one can now reasonably refer to a “planet of slums.”34 Meanwhile, the world housing market is estimated to be worth up to $163 trillion (as compared to the value of gold mined over all recorded history, estimated at $7.5 trillion).35

The Anthropocene epoch, first ushered in by the Great Acceleration of the world economy immediately after the Second World War, has generated enormous rifts in planetary boundaries, extending from climate change to ocean acidification, to the sixth extinction, to disruption of the global nitrogen and phosphorus cycles, to the loss of freshwater, to the disappearance of forests, to widespread toxic-chemical and radioactive pollution.36 It is now estimated that 60 percent of the world’s wildlife vertebrate population (including mammals, reptiles, amphibians, birds, and fish) have been wiped out since 1970, while the worldwide abundance of invertebrates has declined by 45 percent in recent decades.37 What climatologist James Hansen calls the “species exterminations” resulting from accelerating climate change and rapidly shifting climate zones are only compounding this general process of biodiversity loss. Biologists expect that half of all species will be facing extinction by the end of the century.38

If present climate-change trends continue, the “global carbon budget” associated with a 2°C increase in average global temperature will be broken in sixteen years (while a 1.5°C increase in global average temperature—staying beneath which is the key to long-term stabilization of the climate—will be reached in a decade). Earth System scientists warn that the world is now perilously close to a Hothouse Earth, in which catastrophic climate change will be locked in and irreversible.39 The ecological, social, and economic costs to humanity of continuing to increase carbon emissions by 2.0 percent a year as in recent decades (rising in 2018 by 2.7 percent—3.4 percent in the United States), and failing to meet the minimal 3.0 percent annual reductions in emissions currently needed to avoid a catastrophic destabilization of the earth’s energy balance, are simply incalculable.40

Nevertheless, major energy corporations continue to lie about climate change, promoting and bankrolling climate denialism—while admitting the truth in their internal documents. These corporations are working to accelerate the extraction and production of fossil fuels, including the dirtiest, most greenhouse gas-generating varieties, reaping enormous profits in the process. The melting of the Arctic ice from global warming is seen by capital as a new El Dorado, opening up massive additional oil and gas reserves to be exploited without regard to the consequences for the earth’s climate. In response to scientific reports on climate change, Exxon Mobil declared that it intends to extract and sell all of the fossil-fuel reserves at its disposal.41 Energy corporations continue to intervene in climate negotiations to ensure that any agreements to limit carbon emissions are defanged. Capitalist countries across the board are putting the accumulation of wealth for a few above combatting climate destabilization, threatening the very future of humanity.

#### Racial capitalism outweighs — Capitalism necessitates super-exploitation of the Global South, colonial dispossession, militaristic imperialism, and racial hierarchies to sustain itself. The system must be rejected on ethical grounds.

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Drawing on the intellectual production of twentieth-century Black anticapitalists, I theorize modern U.S. racial capitalism as a racially hierarchical political economy constituting war and militarism, imperialist accumulation, expropriation by domination, and labor superexploitation.14 The racial here specifically refers to Blackness, defined as African descendants’ relationship to the capitalist mode of production—their structural location—and the condition, status, and material realities emanating therefrom.15 It is out of this structural location that the irresolvable contradiction of value minus worth arises. Stated differently, Blackness is a capacious category of surplus value extraction essential to an array of political-economic functions, including accumulation, disaccumulation, debt, planned obsolescence, and absorption of the burdens of economic crises.16 At the same time, Blackness is the quintessential condition of disposability, expendability, and devalorization.

Footnote 14: Another feature of modern U.S. racial capitalism is property by dispossession. In Theft Is Property! Dispossession and Critical Theory, Robert Nichols draws on the experience of Indigenous peoples in the United States, Canada, and New Zealand to theorize how the “system of landed property” was fundamentally predicated on violent dispossession. While the Anglo-derived legal-political regimes differed in these localities, the “intertwined and co-constitutive” material effects converged in the legalized theft of indigenous territory amounting in “approximately 6 percent of the total land on the surface of Earth.” Such dispossession, Nichols notes, is recursive: “In a standard formulation one would assume that ‘property’ is logically, chronologically, and normatively prior to ‘theft.’ However, in this (colonial) context, theft is the mechanism and means by which property is generated: hence its recursivity. Recursive dispossession is effectively a form of property-generating theft.” As such, theft and dispossession, through property regimes, are an ongoing feature of the Indigenous reality of modern U.S. racial capitalism. Robert Nichols, Theft Is Property! Dispossession and Critical Theory (Durham: Duke University Press, 2020), 50–51.

Footnote 15: Borrowing from Karl Marx’s dictum that the labor process is the hidden abode of the capitalist production of value, and Nancy Fraser’s conceptualization of reproduction as the even more hidden abode, or background condition, for the possibility of capitalist production, I understand Blackness as the obfuscated abode. The immense value of Blackness is obscured and rendered unintelligible by its positioning as worthlessness, as something that does not amount to anything—but that does not equal nothing. As a structural location at the intersection of indispensability and disposability, Blackness exceeds the category of race, is not reducible to class, and does not fit the specifications of caste.

My operationalization of capitalism follows Oliver Cromwell Cox’s explication in Capitalism and American Leadership.17 Modern U.S. racial capitalism arose in the context of the First World War, when, as Cox explains, the United States took advantage of the conflict to capture the markets of South America, Asia, and Africa for its “over-expanded capacity.”18 Cox further expounds upon this auspicious moment of ascendant modern U.S. racial capitalism thus:

By 1914, the United States had brought its superb natural resources within reach of intensive exploitation. Under the stimulus of its foreign-trade outlets, the financial assistance of the older capitalist nations, and a flexible system of protective tariffs, the nation developed a magnificent work of transportation and communication so that its mines, factories, and farms became integrated into an effectively producing organism having easy access to its seaports.… [Likewise,] further internal expansion depended upon far greater emphasis on an ever widening foreign commerce.… Major entrepreneurs of the United States proceeded to step up their campaign for expansion abroad. The war accentuated this movement. It accelerated the growth of [modern] American [racial] capitalism and impressed upon its leaders as nothing had before the need for external markets.19

Relatedly, Peter James Hudson argues that the First World War fundamentally changed the terms of order of international finance, allowing New York to compete with London, Paris, and Berlin for the first time in the realm of global banking. This was not least because the Great War “drastically reordered global credit flows,” with the United States transforming from a debtor into a creditor nation.20 In addition to Latin American and Caribbean nations and businesses turning to the United States for financing and credit, domestic saving and investment patterns were altered to the benefit of imperial financial institutions like the City Bank.21

Although the United States is, to use Cox’s terminology, more a “lusty child of an already highly developed capitalism” than an exceptional capitalist power, the nation perfected its techniques of accumulation through its vast natural wealth, large domestic market, imbalance of Northern and Southern economies, and, importantly, through its lack of concern for the political and economic welfare of the overwhelming masses of its population, least of all the descendants of the enslaved.22 Modern U.S. racial capitalism is thus sustained by military expenditure, the maintenance of an extremely low standard of living in “dependent” countries, and the domestic superexploitation of Black toilers and laborers. Cox notes that Black labor has been the “chief human factor” in wealth production; as such, “the dominant economic class has always been at the motivating center of the spreads of racial antagonism. This is to be expected since the economic content of the antagonism, especially at its proliferating source in the South, has been precisely that of labor-capital relations.”23 In a general sense, racial capitalism in the United States constitutes “a peculiar variant of capitalist production” in which Blackness expresses a structural location at the bottom of the labor hierarchy characterized by depressed wages, working conditions, job opportunities, and widespread exclusion from labor unions.24

Furthermore, modern U.S. racial capitalism is rooted in the imbrication of anti-Blackness and antiradicalism. Anti-Blackness describes the reduction of Blackness to a category of abjection and subjection through narrations of absolute biological or cultural difference; ruling-class monopolization of political power; negative and derogatory mass media propaganda; the ascent of discriminatory legislation that maintains and reinscribes inequality, not least various modes of segregation; and social relations in which distrust and antipathy toward those racialized as Black is normalized and in which “interracial mass behavior involving violence assumes a continuously potential danger.”25 Anti-Blackness thus conceals the inherent contradiction of Blackness—value minus worth—obscuring and distorting its structural location by, as Ralph and Singhal remark, contorting it into only a “debilitated condition.”26 Antiradicalism can be understood as the physical and discursive repression and condemnation of anticapitalist and/or left-leaning ideas, politics, practices, and modes of organizing that are construed as subversive, seditious, and otherwise threatening to capitalist society. These include, but are not limited to, internationalism, anti-imperialism, anticolonialism, peace activism, and antisexism.

Anti-Blackness and antiradicalism function as the legitimating architecture of modern U.S. racial capitalism, which includes rationalizing discourses, cultural narratives, technologies of repression, legal structures, and social practices that inform and are informed by racial capitalism’s political economy.27 Throughout the twentieth century, anti-Blackness propelled the “Black Scare,” defined as the specter of racial, social, and economic domination of superior whites by inferior Black populations. Antiradicalism, in turn, was enunciated through the “Red Scare,” understood as the threat of communist takeover, infiltration, and disruption of the American way of life.28 For example, in the 1919 Justice Department Report, Radicalism and Sedition Among the Negroes, As Reflected in Their Publications, it was asserted that the radical antigovernment stance of a certain class of Negroes was manifested in their “ill-governed reaction toward race rioting,” “threat of retaliatory measures in connection with lynching,” open demand for social equality, identification with the Industrial Workers of the World (IWW), and “outspoken advocacy of the Bolshevik or Soviet doctrine.”29

Here, anti-Blackness, articulated through the fear of the “assertion of race consciousness,” was attached to the IWW and Bolshevism—in other words, to anticapitalism—to make it appear even more subversive and dangerous. Likewise, antiradicalism, expressed through the denigration of the IWW and Soviet Doctrine, was made to seem all the more threatening and antithetical to the social order in its linkage with Black insistence on equality and self-defense against racial terrorism. In this way, “defiance and insolently race-centered condemnation of the white race” and “the Negro seeing red” came to be understood as seditious in the context of modern U.S. racial capitalism.

The link between my theory of modern U.S. racial capitalism and Robinson’s catholic theory of racial capitalism, beyond his “suggest[ion] that it was there,” is vivified through the prison abolitionist and scholar Ruth Wilson Gilmore, who writes: “Capitalism…[is] never not racial.… Racial capitalism: a mode of production developed in agriculture, improved by enclosure in the Old World, and captive land and labor in the Americas, perfected in slavery’s time-motion, field factory choreography, its imperative forged on the anvils of imperial war-making monarchs.”30 Racial capitalism, she continues, “requires all kinds of scheming, including hard work by elites and their compradors in the overlapping and interlocking space-economies of the planet’s surface. They build and dismantle and reconfigure states, moving capacity into and out of the public realm. And they think very hard about money on the move.”31 Perhaps more than Gilmore, though, my approach aligns with that of Neville Alexander as described by Hudson.32 Like Alexander, who focused on South Africa, I offer a particularistic understanding of racial capitalism, mine being rooted in the political economy of Blackness and the legitimating architectures of anti-Blackness and antiradicalism in the United States. Gilmore qua Robinson offers a more universalist and transhistorical conception. Like Alexander, my theory of modern U.S. racial capitalism is primarily rooted in (Black) Marxist-Leninists and fellow travelers. This is an important epistemological distinction: whereas Robinson finds Marxism-Leninism to be, at best, inattentive to race, my theory of modern U.S. racial capitalism is rooted in the work of Black freedom fighters who, as Marxist-Leninists, were able to offer potent and enduring analyses and critiques of the conjunctural entanglements of racialism, white supremacy, and anti-Blackness, on the one hand, and capitalist exploitation and class antagonism on the other hand.33

Although Robinson draws on scholars like Fernand Braudel, Henri Pirenne, David Brion Davis, and Eli Heckscher to understand European history, socialist theory, and the European working class, the work of Black Marxists like James Ford, Walter Rodney, Amílcar Cabral, and Paul Robeson offer me those same intellectual, historical, and theoretical resources. Finally, I agree with Alexander that the resolution to racial capitalism is antiracist socialism, not a cultural-metaphysical Black radical tradition.

In what remains of this essay, I will draw on the work of Black Marxist-Leninists and anticapitalists to explicate the defining features of modern U.S. racial capitalism—war and militarism, imperialist accumulation, expropriation by domination, labor superexploitation, and property by dispossession. In this, I demonstrate that their critiques and analyses offer a blueprint for theorizing modern U.S. racial capitalism.

War and militarism facilitate the endless drive for profit. Military conflicts between imperial powers result in the reapportioning of boundaries, possessions, and spheres of influence that often exacerbate racial and spatial economic subjection. War and militarism also perpetuate the endless construction of “threats,” primarily in racialized and socialist states, against which to defend progress, prosperity, freedom, and security. The manufacturing of conflict legitimates the mobilization of extraordinary violence to expropriate untold resources that produce relations of underdevelopment, dependency, extraversion, and disarticulation in the Global South. Moreover, the ruling elite and labor aristocracy in imperialist countries, not least the United States, wage perpetual war to defend their way of life and standard of living against the racialized majority who, because they would benefit most from the redistribution of the world’s wealth and resources, represent a perpetual threat.

#### The alternative is to reject the aff in favor of socialist organizing

Giroux 20, McMaster University Professor for Scholarship in the Public Interest and The Paulo Freire Distinguished Scholar in Critical Pedagogy (Henry, June 9th, “Racist Violence Can’t Be Separated from the Violence of Neoliberal Capitalism,” *Truthout*, <https://truthout.org/articles/racist-violence-cant-be-separated-from-the-violence-of-neoliberal-capitalism/>, Accessed 08-24-2021)

As educators, it is crucial for us to examine how we talk, teach, and write about inequality as an object of critique in an age of precarity, uncertainty and the current pandemic crisis. This is especially true at a time when a growing number of authoritarian regimes around the globe substitute replace thoughtful dialogue and critical engagement with the suppression of dissent and a culture of forgetting r. How do we situate our analysis of education as part of a broader discourse and mode of analysis that interrogates the promises, ideals, and claims of a substantive democracy? How do we fight against iniquitous relations of power and wealth that empty power of its emancipatory possibilities, and as Hannah Arendt has argued, “makes most people superfluous as human beings”? How might we understand how neoliberal ideology, with its appropriation of market-based values, regressive notions of freedom and agency, uses language to infiltrate daily life? How does a pandemic pedagogy in the service of neoliberalism produce identities defined by market values, and normalize a notion of responsibility and individuality that convinces people that whatever problem they face they have no one to blame but themselves? Repeated endlessly on right-wing media platforms, the underlying conditions that disproportionately produce chronic illness among poor people of color disappear among a public distracted, if not persuaded, by a pandemic pedagogy that celebrates unchecked self-interest, disdains social responsibility, and turns away from the reality of a society with deep-seated institutional rot and unravelling of social connections and the social contract.

Pandemic pedagogy thrives on inequality and becomes a militarized and heartless normalizing tool to convince the broader public that the lives of the elderly, sick, and vulnerable should be valued according to how much they contribute to the economy. And if they are willing to die in order not to be a drain on the economy, all well and good. Nothing escapes the cruel logic of neoliberalism with its arrogance and hubris on full display as it bathes in the glow of right-wing populism, ultra-nationalism, and neofascism. Its accoutrements of dictatorship are everywhere and can be seen in the swagger of militia that storm state capitals, in police who punch and pepper spray protesters and push elderly men to the ground, and in military forces on the streets without badges reinforcing a climate of fear, repression, and unaccountability. There is more at work here than a lack of humanity on the part of the Trump administration. As the Irish journalist Fintan O’Toole observes, there is also the deepening grip of a culture of cruelty and dehumanization. He writes:

“As a society the American people are being habituated into accepting cruelty on a wide scale. Americans are being taught by Trump and his administration not to see other people as human beings whose lives are as important as their own. Once that line has been crossed – and it is not just Trump and the people around him, but many of Trump’s supporters as well – then we know where that all leads, what the ultimate destination is. There is no mystery about it. We know what happens when a government and its leaders dehumanize large numbers of people.”

Depoliticization and the Authoritarian Turn

Neoliberalism is not only an economic system, it is also an ideological apparatus that relentlessly attempts to structure consciousness, values, desires, and modes of identification in ways that align individuals with its governing structures. Central to this pedagogical project is the attempt to prevent individuals from translating private issues and troubles into broader systemic considerations. By doing this, it becomes difficult for individuals to grasp the historical, social, economic, and political forces at work in shaping a social order as a human activity deeply immersed in specific relations of power. Neoliberalism’s attempt to erase or rewrite historical and social forces makes it difficult for individuals to imagine alternative notions of society, with themselves as collective actors, or view their problems as more than the limitations of faulty character, moral failure, or a problem of personal responsibility. Reducing individuals to isolated, discrete, hermetically-sealed human beings whose lives are shaped only by notions of self-reliance and self-sufficiency is a pedagogical strategy that utterly depoliticizes people, leading them to believe that however a society is shaped, it is part of a natural order. President Trump echoed this “no alternative” narrative when asked about celebrities and rich people having special access to being tested for the coronavirus while few others had access. He replied, “Perhaps that’s been the story of life.”

This individualization of the social with its mounting privatization, gated communities, and social atomization undermines collective action, any viable notion of solidarity, and weakens the notion of global connectivity. The philosopher Byung-Chul Han has rightly argued that contemporary neoliberal society is shaped by a dysfunctional notion of solitude and hermitically-sealed notions of agency, all of which undermine the values and social connections vital to a democracy. He writes:

“Those subject to the neoliberal economy do not constitute a we that is capable of collective action. The mounting egoization and atomization of society is making the space for collective action shrink… The general collapse of the collective and the communal has engulfed it. Solidarity is vanishing. Privatization now reaches into the depths of the soul itself. The erosion of the communal is making all collective efforts more and more unlikely.”

This panoptical nature of hyper-individualism is more aligned with shared fears than shared responsibilities. Under such circumstances, trust and the notion that all life is related become difficult to grasp as the myopic language of private self-interest inures individuals to wider social problems such as extreme inequality. There is no understanding in this discourse of the damage fanatical entrepreneurialism does to our embodied collectivity. Nor is there any value attributed to the important responsibilities, social values, and notion of the common good that exceeds who we are as individuals, or how we have been shaped by diverse social forces in particular ways.

It should be clear that questions of economic and social justice cannot be addressed by a neoliberal pedagogy that enshrines self-interest and privatization while converting every social problem into individualized market solutions or regressive matters of personal responsibility. Under neoliberalism’s disimagination machine, individual responsibility is coupled with an ethos of greed, avarice, and personal gain. One consequence is the tearing up of social solidarities, public values, and an almost pathological disdain for democracy. This radical form of privatization is also a powerful force for the rise of fascist politics because it depoliticizes individuals, immerses them in the logic of social Darwinism, and makes them susceptible to the dehumanization of those considered a threat or disposable.

Just as the spread of the pandemic virus in the United States was not an innocent act of nature, neither is the rise and pervasive grip of inequality. What is clear is that neoliberal support for unbridled individualism has weakened democratic pressures and eroded democracy and equality as governing principles. Moreover, as a mode of public pedagogy, it has undercut social provisions, the social contract, and support for public goods such as education, public health, essential infrastructure, public transportation, and the most basic elements of the welfare state. As a form of pedagogical practice, neoliberalism has morphed into a form of pandemic pedagogy that sacrifices social needs and human life in the name of an economic rationality that values reviving economic growth over human rights. As a lived system of meaning and values, self-reliance and rugged individualism are the only categories available for shaping how individuals view themselves, and their relationship to others and to the planet. The individualization of everyone and the reduction of social problems to private troubles is paralleled by sanctioning a world marked by borders, walls, racism, hate, and a rejection of government intervention in the interest of the common good. Most importantly, neoliberal individualization personalizes power, creating a depoliticized subject whose only obligation as a citizen is defined by consuming and living in a world free from ethical and social responsibilities. In many ways, it does not just empty politics of any substance, it destroys its emancipatory prospects.

The neoliberal strategists use education not only to mask their abuses and the effects of their criminogenic policies, they also – in a time of crisis, when dissatisfaction of the masses might lead to chaos, revolts, and dangerous levels of resistance – move dangerously close to creating the conditions for a fascist politics. The noted theologian Frei Betto is right in stating that under such conditions, “…they cover up the causes of social ills and cover up their effects with ideologies that, by obscuring causes, fuel mood in the face of the effects. That’s why neoliberalism is now showing its authoritarian face – building walls that divide countries and ethnic groups, executive power over legislature and judiciary, disinformation about digital networks, the cult of the homeland, the brazen offensive against human rights.”

Neoliberalism and its regressive notion of individualism and individual responsibility has undermined the belief that human beings both make the world and can change it. The pandemic has ushered in a crisis that undermines that belief and opens the door for rethinking what kind of society and notion of politics will be faithful to the creation of a socialist democracy that speaks to the core values of justice, equality and solidarity. Under such circumstances, private resistance must give way to collective resistance, and personal and political rights must include economic rights. If inequality is to be defeated, the social state must replace the corporate state and social rights must be guaranteed for all. There can be no adequate struggle for economic justice and social equality unless economic inequality on a global level is addressed along with a movement for climate justice, the elimination of systemic racism and a halt to the spiraling militarism that has resulted in endless wars. This can only take place if the anti-democratic ideology of neoliberalism, with its collapse of the public into the private and its institutional structures of domination, are fully addressed and discredited. Étienne Balibar is right in stating that the triumph of neoliberalism has resulted in the “death zones of humanity.” Following Balibar, what must be made clear is that neoliberal capitalism is itself a pandemic and a dangerous harbinger of an updated fascist politics.

Overcoming Pandemic Pedagogy

The kind of societies that will emerge after the pandemic is up for grabs. In some cases, the crisis will give way to authoritarian regimes such as Chile, Hungary and Turkey, all of which have used the urgency of COVID-19 as an excuse to impose more state control and surveillance, squelch dissent, eliminate civil liberties and concentrate power in the hands of an authoritarian political class. As is well documented, history in a time of crisis also has the potential to change dominant ideologies, rethink the meaning of governance, and enlarge the sphere of justice and equality through a vision that fights for a more generous and inclusive politics. It is crucial to rethink the project of politics in order to imagine forms of resistance that are collective, inclusive and global, capable of producing new democratic arrangements for social life, more radical values and a “global economy which will no longer be at the mercy of market mechanisms.” This is a politics that must move beyond siloed identities and fractured political factions in order to build transnational solidarities in the service of an alternative radically democratic society. Making the pedagogical more political means challenging those forms of pandemic pedagogy that turn politics into theater, a favorite tactic of Trump. In this case, the performance works to suspend disbelief, hold power accountable and unravel one’s sense of critical agency. Pandemic pedagogy does more than undermine critical thinking and informed judgments, it dissolves the line between the truth and lies, fantasy and reality, and in doing so, destroys the foundation for understanding, engaging and promoting that social and economic justice. The endgame under the rubric of a pandemic pedagogy is not simply the destruction of the truth, but the elimination of democracy itself.

Central to developing an alternative democratic vision is development of a language that refuses to look away and be commodified. Such a language should be able to break through the continuity and consensus of common sense and appeals to the natural order of things. At stake here is the need to reclaim both critical and redemptive elements of a radical democracy in order to address the full spectrum of violence that structures institutions and everyday life in the United States. This is a language connected to the acquisition of civic literacy, and it demands a different regime of desires and identifications to enable us to move from “shock and stunned silence toward a coherent visceral speech, one as strong as the force that is charging at us.”

Of course, there is more at stake here than a struggle over meaning; there is also the struggle over power, over the need to create a formative culture that will produce informed critical agents who will fight for and contribute to a broad social movement that will translate meaning into a fierce struggle for economic, political and social justice. Agency in this sense must be connected to a notion of possibility and education in the service of radical change. Reimagining the future only becomes meaningful when it is rooted in a fierce struggle against the horrors and totalitarian practices of a pandemic pedagogy that falsely claims that it exists outside of history.

Václav Havel, the late Czech political dissident-turned-politician, once argued that politics follows culture, by which he meant that changing consciousness is the first step toward building mass movements of resistance. What is crucial here in the age of multiple crises is a thorough grasp of the notion that critical and engaged forms of agency are a product of emancipatory education. Moreover, at the heart of any viable notion of politics is the recognition that politics begins with attempts to change the way people think, act and feel with respect to both how they view themselves and their relations to others. There is more to agency than the neoliberal emphasis on the “empire of the self,” with its unchecked belief in the virtues of a form of self-interest that despises the bonds of sociality, solidarity and community.

The U.S. is in the midst of a political and pedagogical crisis. This is a crisis defined not only by a brutalizing racism and massive inequality, but also a constitutional crisis produced by a growing authoritarianism that has been in the making for some time. The recent attacks by the police on journalists, peaceful protesters and even elderly people marching for racial justice echoes the violence of the Brownshirts in the 1930s. Let’s stop the futile debate about whether or not the U.S. is in the midst of a fascist state and shift the register to the more serious question of how to resist it and restore a semblance of real democracy.

Under such circumstances, education should be viewed as central to politics, and it plays a crucial role in producing informed judgments, actions, morality and social responsibility at the forefront not only of agency, but politics itself. In this scenario, truth and politics mutually inform each other to erupt in a pedagogical awakening at the moment when the rules are broken. Taking risks becomes a necessity, self-reflection narrates its capacity for critically engaged agency and thinking the impossible is not an option, but a necessity. Without an informed and educated citizenry, democracy can lead to tyranny, even fascism.

Trump represents the malignant presence of a fascism that never dies and is ready to remerge at different times in different context in sometimes not-so-recognizable forms. The COVID-19 crisis and the pandemic of inequality and racism have revealed elements of a fascist politics that are more than abstractions. The struggle against a fascist politics is now visible in the rebellions taking place across the United States. While there are no political guarantees for a victory, there is a new sense that the future can be changed in the image of a just and sustainable society. There is a new energy for reform taking place in the aftermath of the killing of George Floyd. Massive protests for racial, economic and social justice are emerging all over the globe. As I have argued in The Terror of the Unforeseen, at stake here is the need for these protests to transition from a pedagogical moment and collective outburst of moral anger to a progressive international movement that is well organized and unified. Such a movement must build solidarity among different groups, imagine new forms of social life, make the impossible possible, and produce a revolutionary project in defense of equality, social justice and popular sovereignty. The racial, class, ecological and public health crisis facing the globe can only be understood as part of a comprehensive crisis of the totality. Immediate solutions such as defunding the police and improving community services are important, but they do not deal with the larger issue of eliminating a neoliberal system structured in massive racial and economic inequalities. David Harvey is right in arguing that the “immediate task is nothing more nor less than the self-conscious construction of a new political framework for approaching the question of inequality, through a deep and profound critique of our economic and social system.” This is a crisis in which different threads of oppression must be understood as part of the general crisis of capitalism. The various protests now evolving internationally at the popular level offer the promise of new global anti-fascist and anti-capitalist movements. In the current moment, democracy may be under a severe threat and appear frighteningly vulnerable, but with young people and others rising up across the globe — inspired, energized and marching in the streets — the future of a radical democracy is waiting to breathe again.

### 1NC

#### The United States federal government should substantially increase prohibitions on by the private sector by expanding regulatory constraints in extra-territoriality by applying a balancing test.

#### The counterplan solves and competes

Shelanski 18, Professor of Law @ Georgetown (Howard, “Antitrust and Deregulation,” Yale Law Journal)

A. Antitrust and Regulation as Policy Alternatives

A variety of institutions can govern economic competition. Decentralized, capitalist economies generally rely on markets themselves to provide the incen- tives and discipline necessary to keep prices low, output high, and innovation moving forward.8 But sometimes market forces alone cannot ensure efficiency and economic welfare—for example, when the market structure has changed due to mergers or the rise of a dominant firm, or when the market is an oligopoly susceptible to parallel conduct or collusion. In such cases, governance of competition by a nonmarket institution might be warranted. Because concentrated markets or even monopolies can arise for good reasons related to efficiency, in- novation, and consumer preference, the governance of competition more often involves vigilance than liability or injunctions. Then-Judge Stephen Breyer, long a leading scholar of antitrust and regulation, described the best situation as being an unregulated, competitive market in which “antitrust may help maintain com- petition.”9 Antitrust law aims to prevent the improper creation and exploitation of market power on a case-by-case basis while avoiding the punishment of commercial success justly earned through “skill, foresight and industry.”10 Thus, competition authorities like the FTC and the DOJ’s Antitrust Division review mergers, inves- tigate single-firm conduct, and prosecute collusion.11 Private plaintiffs can pur- sue civil antitrust liability through suits in the federal courts.12 To win their claims, enforcement agencies and private plaintiffs bear the burden of showing that the effect of a firm’s activity is “substantially to lessen competition, or to tend to create a monopoly,”13 or to constitute a “contract, combination, . . . or conspir- acy” in restraint of trade,14 or to “monopolize, or attempt to monopolize” any line of business.15 Antitrust is not, however, the only institution through which government addresses competition concerns and market failures. Congress can give regulatory agencies authority to intervene where they see the need to address competition and market structure—and Congress has often done so. With such statutory authority, “[i]n effect, the agency becomes a limited-jurisdiction enforcer of antitrust principles.”16 For example, the Department of Transportation (DOT) has jurisdiction to approve transfers of routes between airlines carriers, giving it a role in reviewing airline mergers.17 The 1992 Cable Act gave the FCC authority to limit the share of the national cable market that a single operator could serve, thereby giving the agency some control over the industry’s market structure.18 The FCC has long regulated market entry and, through its control over license transfers, reviewed mergers and acquisitions in several sectors of the telecom- munications industry. More recently, the FCC issued,19 and then repealed, 20 “network neutrality” regulations intended to preserve ease of entry and a level playing field for digital services. The Food and Drug Administration (FDA), Securities and Exchange Commission (SEC), Department of Energy, and numerous other federal agencies have various powers that directly affect competition.21 State regulation can be important as well in governing competition, particularly in the insurance and healthcare industries.22 In contrast to the case-by-case approach of antitrust, regulation typically im- poses ex ante prohibitions or requirements on business conduct. The Telecommunications Act of 1996, for example, required incumbent local telephone com- panies to grant new competitors access to parts of their networks and prohibited incumbents from refusing to interconnect calls from their customers to custom- ers of competing networks.23 With the rule in place, the FCC bore no burden of proving that a specific instance of network access was necessary for competition, or that a specific denial of interconnection would harm competition. In contrast to antitrust, where the burden of proving liability is on the agency, under a regulatory regime the burden of seeking a waiver from regulation or challenging an agency’s enforcement decision is usually on the regulated party. Antitrust and regulation therefore present alternative approaches to governing competition and addressing market failures.24 The government can review individual mergers under the antitrust laws, as it does in most markets, or it can set rules that impose clear, ex ante limits on the extent of concentration, as the FCC did for media ownership under the Communications Act.25 Government can investigate under the antitrust laws whether a firm has monopoly power that it has “willful[ly]” acquired or maintained other than “as a consequence of a su- perior product, business acumen, or historic accident.”26 Alternatively, with au- thority from Congress an agency can regulate how much of a market a single firm can serve, as the FCC tried to do with cable companies,27 or require firms to dispose of key assets in order to promote competition in a relevant market, as the DOT has done with airline slots.28

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#### T Prohibition

#### “Prohibition” requires a declaration of per se illegality

Loevinger 61 (Honorable Lee Loevinger- Assistant Attorney General in charge of the Antitrust Division. “THE RULE OF REASON IN ANTITRUST LAW” , *Section of Antitrust Law* , 1961, Vol. 19, PROCEEDINGS AT THE ANNUAL MEETING, ST. LOUIS, MISSOURI, AUGUST 7 THROUGH 11, 1961 (1961), pp. 245-251, JSTOR accessed online via KU libraries, date accessed 9/13/21)

Running through the history of antitrust law are two contrapuntal themes: A prohibition of restraint of trade and a principle lately called the "rule of reason" which limits the prohibition. The legal rule against restraint of trade began in the 15th century in cases holding that a contract by which a man agreed not to practice his trade or profession was illegal.1 However, in the course of development of the common law, it became established that agreements which were ancillary to the sale or transfer of a trade or business and which were limited so as to impose a restriction no greater than reasonably necessary to protect the purchaser's interest.2

Thus, when the Sherman Act incorporated the common-law principles on this subject into federal statutory law 3 by adopting the concept of restraint of trade, it presumably imported both the principle that restrictions on competition are illegal and also the principle that in some circumstances a showing of reasonableness will legalize restrictions on competition. Nevertheless, when the question was first presented to the United States Supreme Court under the Sherman Act, it was clearly held (despite later disavowals4 ) that the justification of reasonableness was not available as a defense to a combination which had the effect of restraining trade.' Indeed, it was intimated that the question of reasonableness was not open to the courts in these actions at common law.6 However, when the Court reviewed this matter in Standard Oil Co. v. United States,7 it said in fairly explicit terms both that the Sherman Act prohibited only contracts or acts which unreasonably restrained competition and that the standard of reasonableness had been applied to all restraints of trade at the common law. The Court's assertion is somewhat weakened by the fact that it construed the rule of reason not as applying a standard for judging the character or consequences of the challenged conduct, but as a technique involving the application of human intelligence, or reason, to the problem of making a judgment about whether the conduct does restrain trade.'

#### The aff violates—they create a new legal standard for courts to decide whether a practice is “unreasonable” based on weighing evidence—not a declaration of illegality without inquiry

#### VOTE NEG

#### FIRST---Ground---balancing tests devastate core links, because they allow the practice when it’s beneficial. AND, creates a moving target, because the disallowed behavior is context-dependent.

#### SECOND---Bidirectionality---rule of reason creates legally protected practices

### 1NC

#### Infrastructure succeeds---PC is key

Pettypiece 9-30-2021 American print and broadcast journalist. She is currently Senior White House Correspondent for NBC News Digital (Shannon, “With agenda in peril, Biden faces pressure to break Democratic impasse,” *NBC News*, <https://www.nbcnews.com/politics/white-house/agenda-peril-biden-faces-pressure-break-democratic-impasse-n1280504>)

President Joe Biden and his top aides scrambled Thursday to break a [deadlock](https://www.nbcnews.com/politics/congress/house-braces-infrastructure-vote-progressive-democrats-vow-block-n1280379) between House and Senate Democrats in what could be a last-ditch effort to save a key piece of his domestic political agenda. Biden spent the day at the White House out of public view making calls to Democratic leaders and other members of Congress as staff members went in and out of the Oval Office to update him on talks, White House press secretary Jen Psaki said. The White House was taking the situation "hour by hour," and Biden had cleared his schedule to focus on the [negotiations](https://www.nbcnews.com/politics/congress/mutually-assured-destruction-house-liberals-dig-halting-infrastructure-bill-n1280275), she said. "We are working towards winning a vote tonight. We have several hours left in the day," Psaki said Thursday afternoon, referring to the day's deadline as "self-imposed." Biden is at risk of losing momentum on the $550 billion infrastructure bill, along with a wider $3.5 billion social spending package. Both were central campaign promises, and they are the focus of his domestic policy agenda. With time running out on the legislative calendar for Biden's first year, White House officials have acknowledged that they are at a pivotal moment, with their domestic agenda likely to face even more hurdles next year, when members of Congress shift attention to their re-election bids. The infrastructure bill, which [passed the Senate last month](https://www.nbcnews.com/politics/congress/senate-vote-massive-infrastructure-package-centerpiece-biden-agenda-n1276134), is opposed by dozens of progressive Democratic in the House, who say they want progress on the separate $3.5 trillion measure to fund a range of social safety net programs. But the larger spending bill lacked the 50 votes it needed in the Senate, with Democrats Joe Manchin of West Virginia and Kyrsten Sinema of Arizona coming out in opposition. White House officials said Biden has made significant efforts in recent days to win support from Manchin and Sinema, who met with him separately at the White House on Tuesday for the second time in a week. Top White House officials also met with Sinema on the Hill on Wednesday, while Biden met at the White House that afternoon with Senate Majority Leader Chuck Schumer, D-N.Y., and House Speaker Nancy Pelosi, D-Calif. Fellow Democrats have criticized Biden for not doing more to put pressure on the senators, such as accusing them of threatening to topple his and the party's agendas. Psaki has said Biden, who spent 36 years in the Senate, does not believe that would be effective. "I don't know if you've met many senators. They're not going to be forced to do anything that's not in their interest," Psaki said Wednesday. "His view is we've made some progress. You've seen some members come down. You've seen some members come up. You've seen active negotiations," she said. White House officials in recent days have said that despite the apparent impasse, they believe progress is being made behind the scenes as the various sides continue to talk. Biden canceled a trip to Chicago on Wednesday in part because he felt negotiations were making progress and he needed to stay in Washington to them keep on track, a White House official said.

#### Antitrust reform trades off with other legislative priorities

Carstensen 21, JD and MA @ Yale, Former Chair of U-W Law School, Senior Fellow of the American Antitrust Institute (Peter, “THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST,” <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en>)

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.

#### Solves grid collapse – immediate action is key to mitigate growing risks

Pittsburgh Post-Gazette 3-4-2021 (“Invest in Infrastructure,” <https://www.post-gazette.com/opinion/editorials/2021/03/05/Invest-in-infrastructure/stories/202102270028>)

Now is the time for a reckoning, a realization: While it’s important to study the past to avoid repeating the same mistakes, the country must also look to its future and see the obvious — that America’s infrastructure as a whole needs some serious upkeep. Democrats and Republicans alike have flirted with the idea of a sweeping infrastructure bill in recent years, and President Joe Biden’s team is working to outline such legislation. These efforts should proceed swiftly — now is the time for Congress to invest in infrastructure, not only to help prevent crises, but also to jump-start an economy mired in the coronavirus pandemic. Despite being one of the richest countries in the world, the U.S. seems constantly to hover on the edge of disaster, with news of natural forces smashing through power grids and levies and fire prevention strategies on a yearly or monthly basis. Texas is only the most recent state to have been pushed over the edge. The American Society of Civil Engineers just this week gave America’s infrastructure an overall grade of C-minus in its quadrennial report card. The last grade was D-plus and that report cited decades of underfunding and unheeded recommendations. C-minus is an improvement but deserves not just federal attention but actual intervention. The report notes “we are heading in the right direction, but a lot of work remains.” There is opportunity in the recent economic and environmental devastation that grabs headlines and breaks hearts. In the aftermath of the Great Depression, the government put millions to work improving parks and building roads and bridges and airports. President Dwight Eisenhower’s interstate highway system remains the life veins of interstate travel. A new and vigorous infrastructure package for America would fix what needs to be fixed and offer the promise of an economic boon. The purpose of the federal government is to address the needs of American society in a way that can’t be tackled by states in a piecemeal fashion. What has happened in recent days within The Lone Star State demonstrates keenly that this is the time — actually past the time — that our federal leaders must shore up the foundations of our federation. Congress should act swiftly to lead states in reversing the entropy chewing away at America’s foundations. Until this happens, society stands on shifting sands.

#### Grid collapse kills hundreds of millions and eliminates adaptation to societal stressors

Greene 19, M.S. in Nuclear Engineering from the University of Tennessee. He is a recognized subject matter expert in nuclear reactor safety, nuclear fuel cycle technologies, and advanced reactor concept development. Mr. Greene is widely acclaimed for his systems analysis, team building, innovation, knowledge organization, presentation, and technical communication skills. Mr. Greene worked at the Oak Ridge National Laboratory (ORNL) for over three decades. During his career at ORNL, he served as Director of Research Reactor Development Programs and Director of Nuclear Technology Programs (Sherrell, “Enhancing Electric Grid, Critical Infrastructure, and Societal Resilience with Resilient Nuclear Power Plants (rNPPs),” Nuclear Technology, 205.3)

Societies and nations are examples of large-scale, complex social-physical systems. Thus, societal resilience can be defined as the ability of a nation, population, or society to anticipate and prepare for major stressors or calamities and then to absorb, adapt to, recover from, and restore normal functions in the wake of such events when they occur. A nation’s dependence on its Critical Infrastructure systems, and the resilience of those systems, are therefore major components of national and societal resilience. There are a variety of events that could deal crippling blows to a nation’s Grid, Critical Infrastructure, and social fabric. The types of catastrophes under consideration here are “very bad day” scenarios that might result from severe GMDs induced by solar CMEs, HEMP attacks, cyber attacks, etc.5 As briefly discussed in Sec. III.C, the probability of a GMD of the magnitude of the 1859 Carrington Event is now believed to be on the order of 1%/year. The Earth narrowly missed (by only several days) intercepting a CME stream in July 2012 that would have created a GMD equal to or larger than the Carrington Event.41 Lloyd’s, in its 2013 report, “Solar Storm Risk to the North American Electric Grid,” 42 stated the following: “A Carrington-level, extreme geomagnetic storm is almost inevitable in the future…The total U.S. population at risk of extended power outage from a Carrington-level storm is between 20-40 million, with durations of 16 days to 1-2 years…The total economic cost for such a scenario is estimated at $0.6-2.6 trillion USD.” Analyses conducted subsequent to the Lloyd’s assessment indicated the geographical area impacted by the CME would be larger than that estimated in Lloyd’s analysis (extending farther northward along the New England coast of the United States and in the state of Minnesota),43 and that the actual consequences of such an event could actually be greater than estimated by Lloyd’s. Based on “Report of the Commission to Assess the Threat to the United States from Electromagnetic Pulse (EMP) Attack: Critical National Infrastructures” to Congress in 2008 (Ref. 39), a HEMP attack over the Central U.S. could impact virtually the entire North American continent. The consequences of such an event are difficult to quantify with confidence. Experts affiliated with the aforementioned Commission and others familiar with the details of the Commission’s work have stated in Congressional testimony that such an event could “kill up to 90 percent of the national populationthrough starvation, disease, and societal collapse.” 44,45 Most of these consequences are either direct or indirect impacts of the predicted collapse of virtually the entire U.S. Critical Infrastructure system in the wake of the attack. Last, recent analyses by both the U.S. Department of Energy46 and the U.S. National Academies of Sciences, Engineering, and Medicine47 have concluded that cyber threats to the U.S. Grid from both state-level and substatelevel entities are likely to grow in number and sophistication in the coming years, posing a growing threat to the U.S. Grid. These three “very bad day” scenarios are not creations of overzealous science fiction writers. A variety of mitigating actions to reduce both the vulnerability and the consequences of these events has been identified, and some are being implemented. However, the fact remains that events such as those described here have the potential to change life as we know it in the United States and other developed nations in the 21st century, whether the events occur individually, or simultaneously, and with or without coordinated physical attacks on Critical Infrastructure assets.

# Case

## Adv 1

### 1NC Enforcement Fails

#### US enforcement abroad fails—jurisdictional clashes

Bradshaw et al 17 (Ben Bradshaw is a partner and Julia Schiller a counsel in the Washington, DC office of O’Melveny & Myers LLP, Remi Moncel is an associate in O’Melveny’s San Francisco office, "International Comity in the Enforcement of U.S. Antitrust Law in the Wake of in Re Vitamin C," Antitrust 31, no. 2 (Spring 2017): 87-93)

Having found that Chinese law required defendants to violate U.S. antitrust law, the Second Circuit went on to consider whether the remaining factors in the Timberlane/ Mannington Mills balancing test weighed in favor of dismissal. The court concluded that they did.32 Of particular note, the court found that while the plaintiffs may have been unable to obtain a Sherman Act remedy in another forum, complaints as to China’s export policies could be adequately addressed through diplomatic channels and the World Trade Organization, of which both the United States and China are members.33 The court found it significant that there was no evidence that the defendants acted with the express purpose or intent to affect U.S. commerce or harm businesses in particular. Moreover, the regulations at issue were intended to assist China in its transition from a staterun economy and to remain a competitive participant in the global Vitamin C market.34 Finally, the court recognized that according to MOFCOM the exercise of jurisdiction had already negatively affected U.S.-China relations, and it would be unlikely that the injunctive relief obtained by the plaintiffs in the district court would be enforceable in China, just as a similar injunction issued in China against a U.S. company would be difficult to enforce in the United States.35 Upon consideration of all of these factors, the court concluded that exercising jurisdiction was inappropriate and dismissed the case.

### 1NC---!D---Economy

#### No correlation between economic decline and war.

Walt 20, Robert and Renée Belfer professor of international relations at Harvard University. (Stephen M., 5/13/20, “Will a Global Depression Trigger Another World War?”, *Foreign Policy*, https://foreignpolicy.com/2020/05/13/coronavirus-pandemic-depression-economy-world-war/)

On balance, however, I do not think that even the extraordinary economic conditions we are witnessing today are going to have much impact on the likelihood of war. Why? First of all, if depressions were a powerful cause of war, there would be a lot more of the latter. To take one example, the United States has suffered 40 or more recessions since the country was founded, yet it has fought perhaps 20 interstate wars, most of them unrelated to the state of the economy. To paraphrase the economist Paul Samuelson’s famous quip about the stock market, if recessions were a powerful cause of war, they would have predicted “nine out of the last five (or fewer).”   
Second, states do not start wars unless they believe they will win a quick and relatively cheap victory. As John Mearsheimer showed in his classic book Conventional Deterrence, national leaders avoid war when they are convinced it will be long, bloody, costly, and uncertain. To choose war, political leaders have to convince themselves they can either win a quick, cheap, and decisive victory or achieve some limited objective at low cost. Europe went to war in 1914 with each side believing it would win a rapid and easy victory, and Nazi Germany developed the strategy of blitzkrieg in order to subdue its foes as quickly and cheaply as possible. Iraq attacked Iran in 1980 because Saddam believed the Islamic Republic was in disarray and would be easy to defeat, and George W. Bush invaded Iraq in 2003 convinced the war would be short, successful, and pay for itself.

The fact that each of these leaders miscalculated badly does not alter the main point: No matter what a country’s economic condition might be, its leaders will not go to war unless they think they can do so quickly, cheaply, and with a reasonable probability of success.

Third, and most important, the primary motivation for most wars is the desire for security, not economic gain. For this reason, the odds of war increase when states believe the long-term balance of power may be shifting against them, when they are convinced that adversaries are unalterably hostile and cannot be accommodated, and when they are confident they can reverse the unfavorable trends and establish a secure position if they act now. The historian A.J.P. Taylor once observed that “every war between Great Powers [between 1848 and 1918] … started as a preventive war, not as a war of conquest,” and that remains true of most wars fought since then.

The bottom line: Economic conditions (i.e., a depression) may affect the broader political environment in which decisions for war or peace are made, but they are only one factor among many and rarely the most significant. Even if the COVID-19 pandemic has large, lasting, and negative effects on the world economy—as seems quite likely—it is not likely to affect the probability of war very much, especially in the short term.

### ---AT: LIO

#### U.S. relative decline doesn’t cause war---answers LIO.

Mousseau 19, PhD, Professor @ the University of Central Florida. (Michael, 7/29/19, “The End of War: How a Robust Marketplace and Liberal Hegemony Are Leading to Perpetual World Peace”, *International Security*, Volume 44, Issue 1, <https://www.mitpressjournals.org/doi/full/10.1162/isec_a_00352?mobileUi=0&amp>) \*Contractualist societies = system in which individuals normally obtain securities, including incomes and financial securities, through contracts with strangers in a market; i.e. liberalism

Fourth, even if the U.S. economy were to collapse and the United States became an axial or a status power, the combined economic might of all the other contractualist countries in the world is nearly twice that of the United States. The soft power of the United States in world politics lies not in its power to persuade, but in it being the largest of the contractualist states, and in its willingness to provide the public good of global security since the collapse of the pound sterling in late 1946. If the United States withdrew from its leadership role, the remaining contractualist powers would fill the vacuum. None of them has an economy relatively large enough to enable it to act as a natural leader and principal provider of global security, but it is the temperament of these states that they can easily form an international organization to coordinate and act on their shared security interests, even if some may choose to free ride. Fifth, current events need to be viewed within a larger context. Fernand Braudel pinpoints the rise of the modern world economy as starting around the year 1450 in northwestern Europe.86 The first contractualist economy emerged more than two centuries ago. Since then, contractualist states have confronted numerous shocks and threats to their systems, including the American Civil War, the Great Depression, two world wars, and the Cold War. The present populist mini-wave and pathologies in U.S. democracy are mere trifling episodes in a larger historical frame.

### 1NC---!D---Hypersonics Impossible

#### Hypersonics are impossible---physics.

Broad 21, Citing David Wright, a physicist at the Massachusetts Institute of Technology and Cameron L. Tracy, a materials scientist at the Union of Concerned Scientists. (William J., 1-15-2021, "Hypersonic Superweapons Are a Mirage, New Analysis Says", *New York Times*, https://www.nytimes.com/2021/01/15/science/hypersonic-missile-weapons.html)

Military experts call hypersonic warheads the next big thing in intercontinental warfare. They see the emerging arms, which can deliver nuclear or conventional munitions, as zipping along at up to five miles a second while zigzagging through the atmosphere to outwit early-warning satellites and some interceptors. The superfast weapons, experts say, lend themselves to surprise attacks. President Trump has bragged about his “super-dupers,” even referring to the planned weapon as “hydrosonic,” a brand of electric toothbrush. Last year, his budget asked the Pentagon to spend $3.2 billion on hypersonic arms research, up $600 million from the previous year’s request. And as President-elect Joseph R. Biden Jr. takes command of the nation’s military, he will have to consider whether to sustain the defense work undertaken in the Trump years. Now, independent experts have studied the technical performance of the planned weapon and concluded that its advertised features are more illusory than real. Their analysis is to be published this week in Science & Global Security. In an interview, David Wright, a physicist at the Massachusetts Institute of Technology and an author of the new analysis, called the superweapon a mirage. “There’re lots of claims and not many numbers,” he said. “If you put in the numbers, you find that the claims are nonsense.” Military officials called the paper insubstantial, saying it was based on outdated data. But they declined to disclose new findings. “Due to the classified nature of hypersonics technologies, we are not at liberty to publicly discuss current capabilities,” Jared Adams, chief spokesman for the Defense Advanced Research Projects Agency, or Darpa, said in an email. Richard L. Garwin, a physicist and longtime adviser to the federal government, called the paper “very good and important.” He added that he had provided his own similar criticisms of hypersonic warheads to defense officials. James M. Acton, a nuclear analyst at the Carnegie Endowment for International Peace, called the paper “a serious, credible and important piece of work.” Dr. Wright is affiliated with M.I.T.’s Laboratory for Nuclear Security and Policy and did the analysis with Cameron L. Tracy, a materials scientist at the Union of Concerned Scientists, a private group based in Cambridge, Mass., that often backs arms control. By definition, hypersonic vehicles fly at more than five times the speed of sound — or up to dozens of times faster than jetliners. The warheads rise into space atop a traditional long-range missile but then descend quickly into the atmosphere to bank, careen and otherwise maneuver. They’re basically stubby gliders. The curved upper surfaces of their wedge-shaped bodies give them some of the lifting power of an airplane wing. Dr. Wright and Dr. Tracy based their analysis on the Hypersonic Technology Vehicle 2 — an experimental warhead developed by the Air Force and Darpa. Their findings, they say, also apply to other American prototypes, as well as devices being developed by China, Russia and other countries. The computer simulations drew on the physics of moving bodies and public disclosures about the Hypersonic Technology Vehicle 2 in order to model its most plausible flight paths. The team zeroed in on signature phases of hypersonic flight — when the vehicle zooms through the atmosphere and then plunges to hit a target. The two experts say their computer modeling fills in public gaps on the weapon’s overall performance as well as its potential interactions with existing military systems for detecting and defeating weapons launched from distant sites. In their paper, they see the weapon as essentially failing to outwit early-warning satellites and interceptors. For instance, current generations of space-based sensors, they report, will be able to track the weapon’s fiery twists and turns during most of its flight through the atmosphere. And surprisingly, given the weapon’s speedy reputation, they say their analysis shows it will fly intercontinental distances more slowly than ballistic missiles and warheads fired on low flight paths known as depressed trajectories. In war, such tactics are seen as a good way for attackers to evade interceptors and lessen warning time. Dr. Wright and Dr. Tracy conclude that the envisioned new weapon is, at best, “evolutionary — not revolutionary.” In their paper, the authors contrast their findings with military claims. For instance, they quote the 2019 Senate testimony of Gen. John E. Hyten, the Air Force officer then in charge of U.S. Strategic Command, which controls the nation’s nuclear missiles. The time it would take a hypersonic warhead to complete an attack, General Hyten said, “could be half” that of a standard missile. “It could be even less,” he added. The clashes between public views of hypersonic warheads and their actual abilities, the two experts conclude, arise from overstated official claims meant “to justify the expenditure necessary” for their development and deployment. The American military is currently researching a half dozen hypersonic arms. Dr. Wright said the limited amount of public information on their workings and flight data made the better-known Hypersonic Technology Vehicle the best available window into the current status and future potential of the prototype arms. The team’s analysis, he noted, focuses on an underlying issue of physics that he said casts doubt on the new class of weapons in general. It’s what aeronautical engineers call the lift-to-drag ratio. The esoteric term is a measure of lifting power versus drag. Lift pushes a speeding aerodynamic body up and atmospheric drag tries to counteract the forward motion, at worst prompting a stall. Dr. Wright said the team’s analysis of the hypersonic vehicle used a lift-to-drag ratio of 2.6. In contrast, jetliners and some birds have a ratio approximately eight times higher. In other words, the warheads at best are unimpressive fliers. The limited power of the curved, blistering hot surfaces to generate a substantial lifting force without also producing lots of drag undermined claims that the weapon can fly long distances on complex trajectories, he said. “Unless they’ve found some magical way to keep these systems up,”

### 1NC---!D---US-NoKo War

#### No Korea war---mutual vulnerability.

Post 21, Commander, U.S. Navy, Ph.D. candidate studying international relations at Brown University. His research centers on nuclear deterrence strategy, policy, and the role of nuclear weapons in international relations, with a focus on the concept of limited nuclear war. He is currently serving in his 20th year of active duty naval service and is assigned to the Permanent Military Professor Program at the U.S. Naval War College in Newport, Rhode Island. (Daniel, 1-29-2021, "Deterring North Korea", *War on the Rocks*, <https://warontherocks.com/2021/01/deterring-north-korea/>)

Do These Principles Apply to North Korea?

With these principles in mind, can deterrence continue to work vis-a-vis North Korea? In short, yes. Throughout the evolution of the U.S-North Korean deterrence relationship, vulnerability has played an important role in the nuclear strategies and policies of both sides. The vulnerability of U.S. allies and assets in the region to North Korea’s intermediate-range missile and artillery barrages has almost certainly been a check on a more aggressive U.S. strategy, whether geared toward nonproliferation or regime change. It is certainly plausible that in the absence of this vulnerability the chances of the U.S. preventively attacking North during the Trump administration would have been higher, especially considering the extremely hawkish views of his national security adviser in 2017. As a result of this vulnerability, the U.S. routinely demonstrates its dedication to security agreements with allies in word and deed. Strategic bomber flights and military exercises, for example, demonstrate to North Korea their own vulnerability to U.S. and allied power in the region. Conversely, although the Kim regime would like nothing more than to unify the Korean Peninsula under North Korean leadership (dubbed the “holy grail of North Korean statecraft” in a recent report), it has refrained from overt and aggressive military action in pursuit of this goal. There is no doubt that Kim, like his predecessors, is wary of such behavior in the face of U.S. and allied military capabilities. Today, North Korea remains vulnerable to U.S. nuclear attacks, while the United States and its regional partners remain vulnerable to nuclear attack or retaliation from North Korea. This mutual vulnerability necessitates caution on both sides.

Recent progress in North Korean missile technology have made portions of the U.S. mainland vulnerable, giving the U.S. further reason to avoid unnecessary provocation. In 2017, North Korea conducted several tests of intercontinental ballistic missiles, two of which demonstrated the capability to potentially reach the continental United States. More recently, North Korea has successfully tested a submarine-launched ballistic missile and has showcased a new and larger submarine-launched ballistic missile at a recent parade. As a result, the United States continues to invest significantly in homeland missile defense, as well as to deploy missile defenses to defend allies and assets in the region. Missile defenses likely contribute to increased feelings of vulnerability among Kim’s regime, which may see the build-up as a prelude to a military offensive. Though imperfect, these attempts to reduce vulnerability enhance deterrence by potentially denying North Korea the expected military gains from a limited missile attack, even as fully effective missile defenses might contribute to strategic instability. Regardless of their effectiveness, Kim will have to factor in these defensive capabilities when assessing the success of engaging in conflict and will question the ability to achieve even limited goals through limited means. For example, in order to ensure the success of a missile attack, Kim would have to increase the size of the salvo in order to compensate for missiles likely to be shot down by U.S. and allied defenses. But knowing that a larger initial attack would be perceived as particularly aggressive and would likely invite a larger counter-attack, he might be deterred from pursuing whatever limited gains a smaller attack might have achieved. From Kim’s perspective, U.S. military capabilities are more than sufficient to make military success for North Korea in any conflict appear difficult and costly. Vulnerability to severe retaliation and punishment from U.S. strategic forces is also currently unavoidable for Kim. In fact, this very vulnerability has driven the North Korean nuclear program toward a capability to directly threaten the U.S., thereby demonstrating its own acknowledgement of vulnerability. In sum, both sides are vulnerable to each other. Most importantly for U.S. decision-makers, there is no likely development in the near to medium term that might remove this sense of vulnerability from Kim’s mind.

## Adv 2

### 1NC- Turn

#### Turn---Sovereignty Disputes---the plan causes them.

Murray 17, J.D., 2017, and Stein Scholar, Fordham University School of Law; B.A., 2010, Vassar College (Sean, “With a Little Help from my Friends: How a US Judicial International Comity Balancing Test Can Foster Global Antitrust Redress,” <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2690&context=ilj>)

With nowhere else to go, private litigants have naturally flocked to the United States for remedial assistance, creating an issue for developing antitrust regimes.12 Several implications attend foreign plaintiffs seeking recovery in the United States. American courts have recognized the importance of allowing foreign plaintiffs to bring claims in the United States under the Sherman Act.13 Before 2004, there was a significant chance that parties injured abroad by global cartels that directly harmed the United States would be able to sue in US courts to recover their losses.14 But, as illustrated above, private litigants applying US antitrust law for redressing harm that occurred abroad create tensions over sovereignty with other countries.

Start FN 15

15. See, e.g., Joseph P. Griffin, Extraterritoriality in U.S. and EU Antitrust Enforcement, 67 ANTITRUST L.J. 159, 160-61 (1999) (discussing that aggressive extraterritorial application of the Sherman Act brought “considerable backlash from foreign governments”); Mark S. Popofsky, Extraterritoriality in U.S. Jurisprudence, in 3 ISSUES IN COMPETITION LAW AND POLICY 2417, 2423 (2008) (describing the controversy associated with US antitrust law extraterritoriality with US trading partners). See also infra § III

End FN 15

### 1NC---!D---Prolif

#### No prolif---EVEN IF, no impact.

Mueller 20, senior fellow at the Cato Institute, member of the political science department and senior research scientist with the Mershon Center for International Security Studies at Ohio State University. (John, 06/24/20, “Nuclear Alarmism: Proliferation and Terrorism”, *Cato Institute*, <https://www.cato.org/publications/publications/nuclear-alarmism-proliferation-terrorism>)

Nuclear Proliferation

In an influential book, Graham Allison argues that “no new nuclear weapons states” should be a prime foreign policy principle, and analyst Joseph Cirincione very much agrees, insisting that nonproliferation should be “our number one national‐​security priority.”5

There are good reasons to avoid alarmism in this area, however. First, the pace of nuclear proliferation has been far slower than has been commonly predicted primarily because the weapons convey little advantage to their possessor. Second, the consequences of such proliferation that has taken place have been substantially benign: those who have acquired the weapons have “used” them simply to stoke their egos or to deter real or imagined threats.6

And thirdly, the costs of anti‐​proliferation policy have been very substantial: the number of people who have died as a consequence of dedicated efforts to contain nuclear proliferation runs well into six figures.

Pace

Alarmists have been wrong for decades about the pace of nuclear proliferation. Dozens of technologically capable countries have considered obtaining nuclear arsenals, but very few have done so. Indeed, as Jacques Hymans has pointed out, even supposedly optimistic forecasts about nuclear dispersion have proved to be too pessimistic.7 Thus, in 1958, the National Planning Association predicted “a rapid rise in the number of atomic powers … by the mid‐​1960s.”8 A few years later, C. P. Snow sagely predicted, “Within, at the most, six years, China and several other states [will] have a stock of nuclear bombs,” and John Kennedy observed that there might be “ten, fifteen, twenty” countries with a nuclear capacity by 1964.9

As part of that forecasting, it has generally been assumed that nuclear weapons would be important status — or virility — symbols; therefore, all advanced countries would want to have them in order to show how “powerful” they were. Thus, France’s de Gaulle opined in the 1960s, “No country without an atom bomb could properly consider itself independent,” and Robert Gilpin concluded that “the possession of nuclear weapons largely determines a nation’s rank in the hierarchy of international prestige.”10 In Gilpinian tradition, some analysts who describe themselves as “realists” have insisted for years that Germany and Japan must soon come to their senses and quest after nuclear weapons.11 Such punditry has gone astray in part because the pundits insist on extrapolating from the wrong cases. A more pertinent prototype would have been Canada, a country that could easily have had nuclear weapons by the 1960s but declined to make the effort.12 In fact, over the decades, a huge number of countries capable of developing nuclear weapons have neglected even to consider the opportunity — for example, Canada, Italy, and Norway — even as Argentina, Brazil, Libya, South Korea, and Taiwan have backed away from or reversed nuclear weapons programs, and Belarus, Kazakhstan, South Africa, and Ukraine have actually surrendered or dismantled an existing nuclear arsenal.13 Some of that reduction is no doubt due to the hostility of the nuclear nations, but even without that, the Canadian case seems to have proved to have rather general relevance.

To begin with, as Stephen Meyer has shown, there is no “technological imperative” for countries to obtain nuclear weapons once they have achieved the technical capacity to do so.14 Moreover, like military prowess in general, the weapons have not proved to be crucial status symbols. As Robert Jervis has observed, “India, China, and Israel may have decreased the chance of direct attack by developing nuclear weapons, but it is hard to argue that they have increased their general prestige or influence.”15 How much more status would Japan have if it possessed nuclear weapons? Would anybody pay a great deal more attention to Britain or France if their arsenals held 5,000 nuclear weapons, or would anybody pay much less if they had none? Did China need nuclear weapons to impress the world with its economic growth? Or with its Olympics? As Jennifer Mackby and Walter Slocombe observe, “Germany, like its erstwhile Axis ally, Japan, has become powerful because of its economic might rather than its military might, and its renunciation of nuclear weapons may even have reinforced its prestige.”16

Decades of alarmist predictions about proliferation chains, cascades, dominoes, waves, avalanches, epidemics, and points of no return have proved to be faulty. The proliferation of nuclear weapons has been far slower than routinely expected because, insofar as most leaders of most countries (even rogue ones) have considered acquiring the weapons, they have come to appreciate several defects: the weapons are dangerous, distasteful, costly, and likely to rile the neighbors. Moreover, as Jacques Hymans has demonstrated, the weapons have also been exceedingly difficult to obtain for administratively dysfunctional countries like Iran.17

Consequences

Although we have now suffered through two‐​thirds of a century during which there has been great hysteria about the disasters inherent in nuclear proliferation, the consequences of the proliferation that has occurred have been substantially benign. The few countries to which the weapons have proliferated have quietly kept them in storage and haven’t even found much benefit in rattling them from time to time. And even the deterrence value of the weapons has been questionable — the major Cold War participants, for example, scarcely needed visions of mushroom clouds to conclude that any replication of World War II, with or without nuclear weapons, was a decidedly bad idea.18

Moreover, there has never been a militarily compelling — or even minimally sensible — reason to use the weapons, particularly because of an inability to identify suitable targets or ones that could not be attacked about as effectively by conventional munitions. And it is difficult to see how nuclear weapons benefited their possessors in specific military ventures. Israel’s presumed nuclear weapons did not restrain the Arabs from attacking in 1973, nor did Britain’s prevent Argentina’s seizure of the Falklands in 1982. Similarly, the tens of thousands of nuclear weapons in the arsenals of the enveloping allied forces did not cause Saddam Hussein to order his occupying forces out of Kuwait in 1990. Nor did possession of the bomb benefit America in Korea, Vietnam, Iraq, or Afghanistan; France in Algeria; or the Soviet Union in Afghanistan.

### 1NC---!D---Nuclear Terrorism

#### No nuclear terrorism answers O-Crime.

Ward 18, analyst on the Defence, Security, and Infrastructure team at RAND Europe. Citing Dr Beyza Unal, a research fellow in nuclear policy at think tank Chatham House. (Antonia, 7/27/18, "Is Nuclear Terrorism Distracting Attention from More Realistic Threats?", *RAND*, https://www.rand.org/blog/2018/07/is-the-threat-of-nuclear-terrorism-distracting-attention.html)

Despite Obama's remarks in 2016 and these two incidents, experts and officials contest the viability of the nuclear terrorism threat. Dr Beyza Unal, a research fellow in nuclear policy at think tank Chatham House, argued there is currently no evidence that terrorist groups could build a nuclear weapon. Similarly, a report by the Council on Foreign Relations in 2006 emphasized how building a nuclear bomb is a difficult task for states, let alone terrorists. This is because of the issues involved in accessing uranium and creating and maintaining it at the correct grade (enriched uranium).

While nuclear terrorism is a concern, the majority of terrorist attacks are conducted with conventional explosives. The 2017 Europol Terrorism Situation and Trend Report states that 40 percent of terrorist attacks used explosives. These explosives originate from a wide variety of countries across the world. According to a study by Conflict Armament Research, large quantities of explosive precursor chemicals used to make bombs as seen in the 7/7 attack in London in 2005 and the 2017 Manchester Arena attack, have been linked to supply chains in the United States, Europe, and Asia via Turkey. The threat from the spread of chemical precursors prompted the EU to begin looking at ways to tighten the regulations of these chemicals (PDF).

A nuclear terrorist attack would have grave consequences, but it is currently not a realistic or viable threat given that it would require a level of sophistication from terrorists that has not yet been witnessed. The recent focus of terrorist groups has been on simplistic strikes, such as knife and vehicular attacks. If countries are concerned about nuclear terrorism, the best way to mitigate this risk could be to tighten security at civilian and government nuclear sites. But governments would be better off focusing their efforts on combatting the spread and use of conventional weapons.

# 2NC

## K

### 2NC- ! overview

#### You should actively flip the script

Jackson 12, Professor of Peace Studies and the Director of the National Peace and Conflict Studies Centre at the University of Otago, New Zealand (Richard, August 5th, “The Great Con of National Security,” <https://richardjacksonterrorismblog.wordpress.com/2012/08/05/the-great-con-of-national-security/>, Accessed 09-22-2021)

It may have once been the case that being attacked by another country was a major threat to the lives of ordinary people. It may also be true that there are still some pretty serious dangers out there associated with the spread of nuclear weapons. For the most part, however, most of what you’ve been told about national security and all the big threats which can supposedly kill you is one big con designed to distract you from the things that can really hurt you, such as the poverty, inequality and structural violence of capitalism, global warming, and the manufacture and proliferation of weapons – among others.

The facts are simple and irrefutable: you’re far more likely to die from lack of health care provision than you are from terrorism; from stress and overwork than Iranian or North Korean nuclear missiles; from lack of road safety than from illegal immigrants; from mental illness and suicide than from computer hackers; from domestic violence than from asylum seekers; from the misuse of legal medicines and alcohol abuse than from international drug lords. And yet, politicians and the servile media spend most of their time talking about the threats posed by terrorism, immigration, asylum seekers, the international drug trade, the nuclear programmes of Iran and North Korea, computer hackers, animal rights activism, the threat of China, and a host of other issues which are all about as equally unlikely to affect the health and well-being of you and your family. Along with this obsessive and perennial discussion of so-called ‘national security issues’, the state spends truly vast sums on security measures which have virtually no impact on the actual risk of dying from these threats, and then engages in massive displays of ‘security theatre’ designed to show just how seriously the state takes these threats – such as the x-ray machines and security measures in every public building, surveillance cameras everywhere, missile launchers in urban areas, drones in Afghanistan, armed police in airports, and a thousand other things. This display is meant to convince you that these threats are really, really serious.

And while all this is going on, the rulers of society are hoping that you won’t notice that increasing social and economic inequality in society leads to increased ill health for a growing underclass; that suicide and crime always rise when unemployment rises; that workplaces remain highly dangerous and kill and maim hundreds of people per year; that there are preventable diseases which plague the poorer sections of society; that domestic violence kills and injures thousands of women and children annually; and that globally, poverty and preventable disease kills tens of millions of people needlessly every year. In other words, they are hoping that you won’t notice how much structural violence there is in the world.

More than this, they are hoping that you won’t notice that while literally trillions of dollars are spent on military weapons, foreign wars and security theatre (which also arguably do nothing to make any us any safer, and may even make us marginally less safe), that domestic violence programmes struggle to provide even minimal support for women and children at risk of serious harm from their partners; that underfunded mental health programmes mean long waiting lists to receive basic care for at-risk individuals; that drug and alcohol rehabilitation programmes lack the funding to match the demand for help; that welfare measures aimed at reducing inequality have been inadequate for decades; that health and safety measures at many workplaces remain insufficiently resourced; and that measures to tackle global warming and developing alternative energy remain hopelessly inadequate.

Of course, none of this is surprising. Politicians are a part of the system; they don’t want to change it. For them, all the insecurity, death and ill-health caused by capitalist inequality are a price worth paying to keep the basic social structures as they are. A more egalitarian society based on equality, solidarity, and other non-materialist values would not suit their interests, or the special interests of the lobby groups they are indebted to. It is also true that dealing with economic and social inequality, improving public health, changing international structures of inequality, restructuring the military-industrial complex, and making the necessary economic and political changes to deal with global warming will be extremely difficult and will require long-term commitment and determination. For politicians looking towards the next election, it is clearly much easier to paint immigrants as a threat to social order or pontificate about the ongoing danger of terrorists. It is also more exciting for the media than stories about how poor people and people of colour are discriminated against and suffer worse health as a consequence.

Viewed from this vantage point, national security is one massive confidence trick – misdirection on an epic scale. Its primary function is to distract you from the structures and inequalities in society which are the real threat to the health and wellbeing of you and your family, and to convince you to be permanently afraid so that you will acquiesce to all the security measures which keep you under state control and keep the military-industrial complex ticking along.

#### It’s a better frame

Kaczmarek 17 – Patrick Kaczmarek, PhD at the University of Glasgow, a Senior Researcher at Effective Giving, Visiting Researcher at the Future of Humanity Institute at the University of Oxford and a Visiting Scholar at the Department of Philosophy at the University of Pittsburgh. [How Much is Rule-Consequentialism Really Willing to Give Up to Save the Future of Humanity? Utilitas, 29(2), https://www.cambridge.org/core/journals/utilitas/article/how-much-is-ruleconsequentialism-really-willing-to-give-up-to-save-the-future-of-humanity/F867301151A79F7DA566A14DF71749B3]//BPS

Notice, the problem can be cast two different ways. First, the loss associated with humanity's premature extinction is so great that even if the probability of a catastrophic event is very low, an expected value calculation suggests that we should strive to prevent its possible occurrence. And yet, there is something deeply puzzling about ruining the lives of all actual persons for the sake of humanity eking out a longer stay in the universe.

Second, you may have realized that the above implication bears close resemblance to the dreaded Repugnant Conclusion. The Repugnant Conclusion states that for any population, all with a very high quality of life, there must be some larger imaginable population whose existence, all else being equal, would be better despite their lives being barely worth living.19The mistake, as countless critics have noted, is that quantity (that is, size of population) should not be able to compensate for a stark reduction to their average quality of life.

I'm inclined to agree that this looks worrisome. For some, if this were the end of the story, it would surely act as a reductio ad absurdum of the view. But this is not the full story.

AN INDIRECT APPROACH TO LOWERING THE THREAT OF EXTINCTION

In setting out our earlier comparison of the two populations it was assumed that only costs go up, never benefits. That is to say, A was fixed and the total sum of goods went up merely because the size of the population grew, despite internalization costs reducing average quality of life. Colouring in the picture, this corresponds to the scenario where, all else being equal, existential threats are directly targeted. To illustrate, this could amount to putting a lot of resources towards asteroid deflection programmes.20

I now wish to argue that we could instead reduce existential risk by indirect means, and in so doing make the world in two ways go better. As noted earlier, we would prolong humanity's place in the cosmos. Furthermore, an indirect approach improves the average welfare of persons, particularly the worse-off in our population.

Certainly, it would be a mistake to concentrate exclusively on indirectly lowering the probability of doomsday. Returning to our earlier example, reducing global poverty cannot prevent an Earth-bound asteroid the size of Texas from making impact. Nevertheless, if we were also to adopt an indirect approach, then this would contribute to existential risk reduction by curbing the negative ripple effects of readily preventable illnesses, global hunger, and so forth.

Ripple effects are a class of phenomena that affect the far future in significant ways, shaping how our history unfolds over time.21A ripple effect is initiated by a particular event that has some causal influence on the course of events that follow it. These events, in turn, may have their own impact on how further events play out. And so on it goes, reaching wider and wider as time passes.

#### Accumulation outweighs extinction under UTIL

Povinelli 19 (Elizabeth A. prof of anthrology at Columbia. The Urban Intensions of Geontopower)

Thegreat cities of Europe are technological condensations and displacements of countless despoiled and depopulated spaces—what have become the rural and wasteland areas along and beyond their peripheries. The minerals dug out of Congo, South Africa, Australia, and Canada went somewhere. In other words, they are not merely accumulation of an abstraction (surplus value) or a double abstraction (surplus value of surplus value), but a material redistribution and transformation: the shapes of European cities that were taken from colonized landscapes and the tailings of toxins, the rivers of poison, and the mountains of mudslides engulfing entire communities that came with them. As Europeans crossed and recrossed the globe pulling out what they needed and leaving what was superfluous to them behind, it created a new hegemonic order of things: an emergent andexploitative **western classification of existence**, or in other words, what was what and how each related to each other. The hegemonic force of this order of things was secreted in the emerging routes such that things could be used and moved only if they appeared as one kind of thing. **These different logics of use and abuse certainly included what was grievable, what was killable, and what could be destroyed in order to enhance someone else somewhere else.** If you are the subject of capitalist extraction (which everyone is but not qualitatively or quantitatively equally) and you wish to eke out an existence, then the everyday ethical, social, and political hierarchies and differences of things have to be treated as if their materialities do not matter. At this point in time, the dynamic of colonial and postcolonial accumulation seems much messier than promised by the crisp dialectics of Hegel and Marx and out of which Césaire and Fanon originally built their critique. **Accumulation has less the look of a precisely rendered logic and more of a harvesting machine worthy of science fiction: a massive earth-destroying Death Star ripping and gutting a million worlds and then returning to re-ravage them as many times as it can find new forms of extracting profit from existence** (or in the language of capitalist disavowal, “creative destruction”). The wheels of the machine do not go forward, they go backward, side-to-side, and around-and-around. Capitalism as such emerged from a mad circle of primitive accumulation: scraping value out of the bodies of enslaved west Africans, pulling nutrients from Caribbean soil, and casting gunpowder recipes from Chinese knowledge.7 But this primitive accumulation, Glen Coulthard has argued, depended on an originary accumulation of Native American lands—a Caribbean rid of Caribs, an American South without the Caddo, Seminole, Catawba, Cherokee, Shawnee and hundreds of others. Coulthard insist that David Harvey’s understanding of capitalism as accumulation by dispossession depended on an initial dispossession.8 Forward into visions of semiotechno-capitalist solutions and industrial climate toxicity: as TJ Demos, Bron Szerszinsky, and others have discussed, numerous such liberal, neoliberal, and libertarian geo-engineering projects figure the anthropos “as ultimate self-creator, for whom no challenge—climate change, agricultural failure, artificial intelligence, planetary hunger, even death and extinction—will be beyond technological overcoming, especially when matched to Silicon Valley capital.”9 Lifted up, lifted out, anthropos was claimed to be different from and superior to all other forms of existence. But this anthropos is not Man. It is a toxic imaginary brewed out of specific colonial and capitalist sociality. **Great cities rose from the smolder; and within these cities new topologies of glistening paving stones and stinking alleyways. As human and nonhuman worlds were ripped from one place to produce wealth in another, the great harvester would return, digging deeper into previously ravaged spaces,** this time with imperial and corporate armies to reorganize “free” African labor for mines, plantations, and the construction of new megalopolises in the global south. The interior contours of these new cities have been understood and documented ever since Engels’s The Condition of the Working Class in England, continuing on through Mike Davis’s The Planet of Slums. Likewise, countless studies have detailed the dynamics that drain human and nonhuman materials and values from outside the city, accelerating the process by which urban centers grow and rural areas become vast reservoirs of toxicity. **This is what Du Bois saw: material and social space being bent to distortedly sculpt routes and worlds, including the means of connecting by differentiating between the urban and rural and the city and its slum. Human and nonhuman existence was forced into specific forms as the condition for movement** (what roads demanded; ocean-ways allowed; undersea cables provided; low-earth, mid-earth, and geostationary space satellite networks oversaw). **The conditions of existence in one place stretched way beyond its location**, but in ways that seemed disfigured only to some. (Rising rents in renewed American cities condemn the precariat to lives lived on buses commuting to low wage work from new suburban ghettos.) But this idea that toxicity could be kept at a distance was always a fantasy. This fantasy has now been punctured. The toxic waterways they sealed far away from their view or right below their own feet are now overflowing. Critical indigenous theory has long argued that **colonialism did not merely destroy people and their lands, but attempted to destroy myriad non-Western understandings of the irreducible entanglement of human and nonhuman existences** that challenge the toxic imaginary of colonial and capitalist extraction. In colonial conditions, the bargain between colonial invaders and indigenous peoples was never for either your goods or your life, but was always both your modes of life and your goods. Thus, at the heart of Coulthard’s analysis of originary dispossession is this aspect of the harvesting machine: If we base our understanding of originary dispossession from an indigenous standpoint, it’s the theft not only of the material of land itself, but also a destruction of the social relationships that existed prior to capitalism violently sedimenting itself on indigenous territories. And those social relations are often not only based on principles of egalitarianism but also deep reciprocity between people and with the other-than-human world.10 Countless deeply reflexive practices of how one belongs across and in existence were disrupted, dug up, and run over as Europeans went southward and westward to make their cities, neighborhoods, and livelihoods. Coulthard is not arguing that settler colonialism burnt these worlds down to their root, nor that the effect of this destruction flowed in only one direction. Rather, the harm had different forms and temporalities. The gangrene took root in colonizers as soon as they began treating the Americas as something to be conquered, but the gangrene was slow-acting. They could postpone the effects of the poisons they were creating by moving away from or exporting the poisons they wrought. At some point there would be no further, no behind, no over there. Today may be that day. Peer down into the gutters, follow the flows of water, of metals, and the pollutants they carry and disperse.

### AT: McAffee — T/L

#### McAfee uses faulty data that ignores globalization.

Hickel 20, Economic anthropologist at Goldsmiths University of London (Jason, October 14th, “A response to McAfee: No, the “Environmental Kuznets Curve” won’t save us,” *MROnline*, https://mronline.org/2020/10/14/a-response-to-mcafee-no-the-environmental-kuznets-curve-wont-save-us/)

There’s only one problem: McAfee’s argument is based on a fundamental accounting error. McAfee uses data on domestic material consumption, which tallies up the resources that a nation extracts and consumes each year. But this metric ignores a crucial piece of the puzzle. While it includes the imported goods a country consumes, it does not include the resources involved in extracting, producing, and transporting those goods. Because the United States and other rich countries have offshored so much of their production to poorer countries over the past 40 years, that side of resource use has been conveniently shifted off their books.

In other words, what looks like “green growth” is really just an artifact of globalization. Given how much the U.S. economy relies on offshored production, McAfee’s data cannot be legitimately compared to U.S. GDP, and cannot be used to make claims about dematerialization.

Ecological economists have been aware of this problem for a long time. To correct for it, they use a more holistic metric called “raw material consumption,” which fully accounts for trade. When we look at this data, which is readily available from the United Nations, the story changes completely. We see that total resource use in the United States hasn’t been falling at all; in fact, it has been rising more or less exactly in line with GDP. The same is true of all other major industrial economies, including the European Union, and the OECD as a group. There has been zero dematerialization. No green growth. It was all an illusion of accounting.

### AT: Cap Solves Environment

#### 1- decoupling — data that accounts for offshoring and rebound effects prove energy efficiency is getting worse. Staying below 1.5° is biophysically impossible under capitalism.

Albert 20, M.D. @ John Hopkins. BA in Evolutionary Biology (Michael, April, The Dangers of Decoupling: Earth System Crisis and the ‘Fourth Industrial Revolution’, *Global Policy*, Volume 11, Issue 2, DOI: 10.1111/1758-5899.12791)

Unfortunately for the ecomodernists, degrowth scholars and ecological economists have begun to poke holes in their optimistic assessments. Their response can be summarized according to three key counter-arguments: (1) the evidence that ecomodernists provide for relative decoupling is flawed and limited at best; (2) their evidence for the possibility of absolute decoupling is even weaker; and (3) even if absolute decoupling was possible in principle, there is even weaker evidence that this could occur with the necessary speed to stabilize the earth system before reaching irreversible tipping points. First, claims that rich countries have seen relative or even absolute decoupling of economic growth from domestic material consumption have been shown to focus solely on correlations between national GDP and material throughput while ignoring the material-energetic costs embodied in imported consumer goods. For example, Thomas Wiedmann and colleagues show that while the EU, the US, and Japan have grown economically while stabilizing or even reducing domestic material consumption, a broader analysis of their material footprint embedded in their imports shows that it has kept pace with GDP growth. They conclude that ‘no decoupling has taken place over the past two decades for this group of developed countries’ (Wiedmann et al., 2015, p. 6273). Focusing on the global economy as a whole, Krausmann et al. show that its resource intensity improved over the course of the 20th century, though the early 21st century has seen a faster rate of growing resource consumption than global economic growth (cited in Hickel and Kallis, 2019). Thus, as Kallis and Hickel (Kallis and Hickel, 2019, p. 4; italics added) explain: ‘Global historical trends show relative decoupling but no evidence of absolute decoupling, and twenty-first century trends show not greater efficiency but rather worse efficiency, with re-coupling occurring’. Second, given the limited evidence for even relative decoupling, it is little surprise that the evidential basis on which claims for the possibility of absolute decoupling rest is even flimsier. In the most comprehensive summary of the modeling evidence to date, Hickel and Kallis (2019) show that even the most optimistic scenarios fail to prove the possibility of absolute decoupling. For example, a modeling study by Schandl et al. (2016) shows that in a ‘high efficiency’ scenario, one that combines a high and rising carbon price plus a doubling in the rate of material efficiency improvement, global resource use grows more slowly (about a quarter the rate of GDP growth) but steadily to reach 95 billion tons in 2050, while global energy use grows from 14,253 million tons of oil equivalent in 2010 to 26, 932 million in 2050. The authors therefore conclude: ‘While some relative decoupling can be achieved in some scenarios, none would lead to an absolute reduction in ... materials footprint’ (Schandl et al., 2016, p. 8). A high efficiency scenario modeled by the UNEP comes to even less optimistic conclusions (with global resource use rising to 132 billion tons in 2050), since it incorporates the ‘rebound effect’ in which efficiency improvements lead to increased consumption due to resulting price reductions (Hickel and Kallis, 2019). In short, as they conclude, these ‘models suggest that absolute decoupling is not feasible on a global scale in the context of continued economic growth’ (Hickel and Kallis, 2019, p. 6). Third, the critics show that even if absolute decoupling (from both emissions and total environmental impact) were possible in principle, this would need to occur fast enough to prevent transgression of ecological tipping points. Just focusing on the climate problem, the 2018 IPCC report claims that emissions must be reduced 7 per cent annually to reach net zero by 2050 in order to achieve the 1.5 C target, whereas they must reduce 4 per cent annually to reach net zero by 2075 for a shot at the 2 degree target (IPCC, 2018, p. 15). However, even under optimistic assumptions (e.g. a near-term implementation of a high and rising carbon price, alongside heroic carbon intensity improvements), studies suggest that annual declines of 3–4 per cent might be the fastest rate possible assuming continued economic growth (Hickel, 2019). Thus, it would most likely be impossible to meet the 1.5 C target in a context of continuous compound growth. While the 2 degree target might be feasible in this context (assuming implementation of a globally coordinated program starting in 2020), many argue that the IPCC’s estimates downplay the existence of positive feedbacks in the earth system (e.g. Steffen et al., 2018), and thus more rapid emissions cuts might be needed even for 2 degrees. On top of this, economic growth must also be decoupled from impacts on other ‘planetary boundaries’ that may have already been overshot, especially land-use change and biodiversity loss (Raworth, 2017). A number of ecologists believe that to bring humanity back into a ‘safe operating space’, total resource consumption should be reduced from roughly 70 to 50 gigatons per year (Hoekstra and Wiedmann, 2014), while a ‘half earth strategy’ should be implemented that protects 50 per cent of the planet’s surface from direct human interference (up from roughly 18 per cent today) (Wilson, 2017), possibly by 2050 to prevent tipping points in biodiversity loss and land-use change (Hickel and Kallis, 2019). Even if these claims are exaggerated, the magnitude of the overall decoupling challenge remains clear. It would mean that total resource consumption and land use needs to shrink, remain stable, or only increase moderately (depending on our assumptions regarding the further stress (if any) that planetary boundaries can handle) even as the total output of the global economy triples by 2060. It is thus not hyperbole to say, as Boris Frankel puts it, that this goal of absolute decoupling is ‘overwhelmingly staggering in its ambition and historical novelty’ (Frankel, 2018, p. 127).

#### Tech fails — doesn’t displace fossil fuels and increased consumption offsets efficiency gains.

Parrique et al. 19, Centre for Studies and Research in International Development (CERDI), University of Clermont Auvergne, France; Stockholm Resilience Centre (SRC), Stockholm University, Sweden, Barth J., Briens F., C. Kerschner, Kraus-Polk A., Kuokkanen A., Spangenberg J.H. (Timothee, July, Decoupling Debunked: Evidence and arguments against green growth as a sole strategy for sustainability, *European Environmental Bureau*, https://mk0eeborgicuypctuf7e.kinstacdn.com/wp-content/uploads/2019/07/Decoupling-Debunked.pdf)

Not leading to relevant innovations

Innovation is not in and of itself a good thing for ecological sustainability. The desirable type of innovation is eco-innovation or one that results “in a reduction of environmental risk, pollution and other negative impacts of resources use compared to relevant alternatives” (Kemp and Pearson, 2008, p.5). But this is only one type among several. In general, firms have an incentive to innovate to economise on the most expensive factors of production to maximise profits. Because labour and capital are usually relatively more expensive than natural resources, more technological progress will likely continue to be directed towards labour- and capital-saving innovations, with limited benefits, if any, for resource productivity and a potential rise in absolute impacts due to more production. But decoupling will not occur if technological innovations contribute to saving labour and capital while leaving resource use and environmental degradation unchanged. Another issue is that technologies do not only solve environmental problems but also tend to create new ones. Assuming that resource productivity becomes a priority over labour and capital productivity, there is still nothing preventing technological innovations from creating more damage. For example, research into processes of extractions can lead to better ways to locate resources (imaging technologies and data analytics), to extract them (horizontal drilling, hydraulic fracturing, and automated drilling operations), and to transport them (Arctic shipping routes). These innovations may target resource use but with a result opposite to the objective of decoupling, that is more extraction. And this is not even considering unintended side-effects, which often accompany the development of new technologies (Grunwald, 2018). Not disruptive enough Another problem has to do with the replacement of harmful technologies. Indeed, it is not enough for new technologies to emerge (innovation), they must also come to replace the old ones in a process of “exnovation” (Kimberly, 1981). What is required is a “push and pull strategy” (Rockström et al., 2017): pushing environmentally-friendly technologies into society and pulling harmful ones, like fossil-based infrastructure, out of it. First, in reality, such a process is slow and difficult to trigger. Most polluting infrastructures (power plants, buildings and city structures, transport systems) require large investments, which then creates inertia and lock-in (Antal and van den Bergh, 2014, p. 3). Let us, for instance, consider the energy, buildings, and transport sectors, which account for the large majority of world energy consumption and greenhouse gas emissions. Initial lifetime for a nuclear or a coal power plant is about 40 years. Buildings can last at least as much. The average lifetime for a car is 12-15 years, and this is about what it takes for an innovation to spread in the vehicle fleet. The wide availability of petrol refuelling stations gives an infrastructural advantage to petrol-based cars, whereas this is the opposite situation for electric, gas, or hydrogen vehicles that would require different and new supporting infrastructures. Building a highway or a nuclear plant is a commitment to emit for at least as long as these infrastructures will last – Davis and Socolow (2014) speak of “committed emissions.” Energy is a good case in point: using more renewable energy is not the same as using less fossil fuels. The history of energy use is not one of substitutions but rather of successive additions of new sources of energy. As new energy sources are discovered, developed, and deployed, the old sources do not decline, instead, total energy use grows with additional layers on the energy mix cake. York (2012) finds that each unit of energy use from non-fossil fuel sources displaced less than one-quarter of a unit of its fossil-fuel counterpart, showing empirical support for the claim that expanding renewable energies is far from enough to curb fossil fuel consumption. The relative part of coal in the global energy mix has been reduced since the advent of petroleum but this occurred in spite of absolute growth in the use of coal (Krausmann et al., 2009).

#### ‘Green growth’ relies on unsustainable colonial exploitation of the Global South — maintaining colonial mindsets makes solving warming impossible.

Kolinjivadi & Kothari 20, Vijay Kolinjivadi: Post-doctoral researcher at the Institute of Development Policy, University of Antwerp in Belgium. Ashish Kothari: Global Tapestry of Alternatives in India (May 20th, “No Harm Here is Still Harm There: The Green New Deal and the Global South (I),” *Jamhoor*, https://www.jamhoor.org/read/2020/5/20/no-harm-here-is-still-harm-there-looking-at-the-green-new-deal-from-the-global-south, Accessed 07-13-2021)

Additional crucial flaws would also severely hamper the GND’s potential for real change. Foremost, current variants of the GND retain a significant dependence on technological solutions to problems that are not necessarily technological in nature. They also say nothing about the need to reduce material consumption or energy demand overall (except ‘weatherization’ to reduce domestic consumption). Thus for example, they fail to acknowledge that even if the US transitioned completely to renewable energy and technologies like electric cars, it would still be engaging in unsustainable exploitation of nature and natural resources.

Moreover, by focusing heavily on carbon reductions, the GND ignores other major ecological crises, including those of biodiversity and ecosystem loss, driven by uncontrolled consumption in the Global North. Finally, while it commits to holding corporations accountable to domestic climate goals and labour standards, it does not ensure that they will also be held accountable globally (beyond carbon emissions). Similarly, while Bernie’s proposals were committed to ending rising inequality within the US, through taxes on fossil fuel billionaires and “green jobs” for low-income sectors, it is not clear how this inequality would be addressed in a way that does not just shift it outside the US.

As such, the GND cannot adequately challenge the structures of capitalism and patriarchy, and from a global perspective remains rooted in “green” colonialism. It effectively perpetuates the quest for cheap raw materials and black and brown labouring bodies to achieve “green” growth.

In the context of the Global South, then, the GND has failed to illustrate what is “new” about it. Put differently, it is simply inadequate, and indeed unjust, in our current hyper-connected world (laid bare by COVID-19) to limit a GND to the national policy of Global North countries. For instance, if a GND for Europe promises to be “climate neutral,” whose resources and labour will be deployed to power Europe’s unrestrained energy and consumption demands?

This is an especially salient question given how renewable technologies for “cleaner,” “greener” economies depend on the same socially and ecologically degrading land and labour practices as traditional energy sources. They are also conveniently located in countries of the Global South, such as Bolivia and DR Congo, where regulatory safeguards are more lax. The uneven playing field of resources and regulatory frameworks works in the favour of those who have not only historically usurped resources and labouring bodies around the world but also currently dictate the modus operandi of development, including its “greener and eco-friendly” varieties. What is easily forgotten in “eco-friendly” talk is just how development models of the Global North are structurally founded on dehumanization, in which hundreds of millions across the globe are seduced and stripped of their diverse ways of knowing the world, and dumbed down into passive consumerist onlookers and screen junkies, unable or unwilling to acknowledge (much less act upon) the consequences of their consumption patterns.

### AT: State Crushes Movements

#### “Elites will crush the movement” accepts failure before trying — multiple examples prove global movements are possible and coming now.

Tavan '21 [Luca; 3/7/21; writer for Red Flag; "Worldwide revolution is possible and necessary," <https://redflag.org.au/article/worldwide-revolution-possible-and-necessary/>]

In 2011, a poor Tunisian street vendor set himself alight to protest against police harassment. Within days, his act had inspired anti-government protests across the country. Within weeks, the protests escalated into a regional revolt that challenged regimes across the Arab world. One small act tapped into resentment against inequality, unemployment and state violence that engulfed an entire region. The radical wave spread even further: at a massive demonstration against an anti-union bill in the US city of Madison, Wisconsin, a man held up a poster with a picture of Egyptian dictator Hosni Mubarak beside Republican Governor Scott Walker. The caption read: “One dictator down. One to go”. The Arab revolutions went on to inspire the Occupy movement, which spread to more than 80 countries.

Today, more than ever, insurgent social movements and working-class uprisings are spurring action in other parts of the world—from Hong Kong to Chile, from Lebanon to France. One placard at a memorial for protesters murdered while resisting the military coup in Myanmar took up Marx’s incitement: “Workers of the world unite, you have nothing to lose but your chains”.

While the Russian Revolution is cynically held up by capitalist ideologists as the ultimate argument against international revolution, it actually proves the opposite. It shows that the goal is not only necessary, but also that it’s possible. The news of workers seizing power in Russia, overthrowing their capitalist government and declaring their withdrawal from WWI, created shock waves across the planet. Workers in Germany rose in revolt a year later, ending the war for good and building soviets, a form of radical working-class democracy inspired by the Russian example. This was followed by uprisings in France, Italy and Hungary.

The revolutionary wave spread further. A classified British government report from 1919 noted a “very widespread feeling among workers that thrones have become anachronisms, and that the Soviet may be the best form of Government for a democracy”.

The rising tide of radicalism had an impact in Australia too. Meatworkers in the Queensland city of Townsville donned red jumpers, stormed the local police station to free jailed unionists, and placed the city under workers’ control. The editor of the conservative Townsville Daily Bulletin lamented: “Townsville for the last year or so has been developing Bolshevism ... the mob management of affairs in this city, differs very little, from the Petrograd and Moscow brand”.

The Russian Bolsheviks, the revolutionary working-class party that led the revolution to victory in 1917, didn’t just passively wait for revolutions elsewhere. They actively organised to spread the revolt. In 1919, they established the Communist International, an organisation for debate, discussion and coordination between different revolutionary workers’ parties. Revolutionaries in Russia, Italy, France, Germany, the US, Australia and elsewhere attempted to clarify and develop a strategy for overthrowing capitalism everywhere. In none of these countries was there a party like the Bolsheviks, steeled in years of organising working-class struggle to overthrow the state, and capable of leading a revolution. But for a number of years, workers came close to overthrowing capitalism in several countries.

In periods of stability, when social conservatism dominates, international revolution can seem like a pipe dream. Defenders of the status quo actively work to reinforce this illusion. But history proves that the crises that the system generates are international, and that they will inevitably provoke international resistance.

Capitalism is a global system. It requires a global movement to tear it up, root and branch. But it also makes global revolution more possible, and more likely. The most important thing that socialists can do, whether you live in Hong Kong or France, Myanmar or Australia, is to get stuck into organising for it today.

### AT: Transition Wars

#### Reject transition wars arguments

Glaser 12 (John Glaser, Director of Foreign Policy Studies at the Cato Institute, “American Decline: What the Foreign Policy Elite Really Fear,” April 17, 2012, https://www.antiwar.com/blog/2012/04/17/american-decline-what-the-foreign-policy-elite-really-fear/)

There is a fixation in elite foreign policy circles these days to speculate on the impending decline of America’s global economic and military hegemony and to lament that decline as the dangerous end to international order. Without global American dominance, goes the thinking, lawless competition and chaos will rule. Former Carter administration national security advisor Zbigniew Brzezinski’s latest book Strategic Vision goes through this lament. He worries that, absent U.S. hegemony, regional powers will be less restrained. Russia will bully tiny Caucasian states like Georgia; China will bully Taiwan; North Korea will threaten South Korea; diminished unilateral support for Israel would destabilize the Middle East; et cetera. Thomas P.M. Barnett in World Politics Review takes a look at Ian Bremmer’s forthcoming book Every Nation for Itself, another lament of American decline. Post-hegemony, states will be “superseded by a generalized anarchy” in “an era [that] begets a ‘free for all'” and witnesses Asia’s rise, or even more ominously, China’s rise. Bremmer fears a world without the “global leadership” of America to “keep the peace.” Indeed, this is the most interesting insight I drew from Bremmer’s book: The real danger of a G-Zero world is not the accelerated decline of the West but the unbridled — and unpoliced — appetites of the East. As Bremmer points out repeatedly, Western states need not fear a “world of regions,” his term for an era of pronounced regionalism. By and large, their national structures are more than robust for that scenario. But if it’s regionalism run amuck, the clash of civilizations most unlikely to unfold is not East versus West or West versus South, but East versus South — without a West as referee. To buy into this is to have very little ability to self-criticize. This line of thinking assumes that the West, and America specifically, has acted like an impartial referee over the international system, which is really an absurd suggestion. What people like Brzezinski and Bremmer and Barnett really fear is not that the Benevolent Empire and the “global order” it preserves will be no more. Rather, the fear is that the selfish, unscrupulous, hypocritical, coercive disposition of other states will prevail instead of the U.S. government’s selfish, unscrupulous, hypocritical, coercive behavior. Other states will get to do the horrible things that only we’ve been able to do for decades. Overthrowing governments that threaten the state’s supremacy, supporting the world’s worst dictators, committing the supreme international crime of unprovoked war, military bases spanning the globe…these things will no longer be solely American prerogatives. “The concern over “’decline,'” writes Nikolas Gvosdev, ” is not that the U.S. is about to stop being a superpower; it is that future likely adversaries are not going to be the pushovers the U.S. has gotten used to for the past 20 years.” Daniel Larison comments: What doesn’t make much sense about “anti-declinist” fearmongering along these lines is that relative decline isn’t something that the U.S. can avoid by making certain policy choices rather than others. It’s certainly possible to sap and exhaust U.S. resources in the fruitless quest to reclaim an unsustainable position. We have spent the last decade doing just that. The U.S. can react to a multipolar world by demonizing and vilifying other major powers and by punishing them when they fail to fall in line on every international issue, which seems to be the preferred response of the most vocal “anti-declinist” presidential candidate, or it can attempt to find common interests with these other powers. The latter seems advisable, not least because a multipolar world is one in which the demands on and costs to the U.S. are fewer.

### 2NC- Lithium Link

#### Lithiumism Link

Katwala 18 (Amit Katwala is a senior editor at WIRED UK. “The spiralling environmental cost of our lithium battery addiction” , <https://www.wired.co.uk/article/lithium-batteries-environment-impact> , 05.08.2018, date accessed 10/3/21)

But there’s a problem. As the world scrambles to replace fossil fuels with clean energy, the environmental impact of finding all the lithium required to enable that transformation could become a serious issue in its own right. “One of the biggest environmental problems caused by our endless hunger for the latest and smartest devices is a growing mineral crisis, particularly those needed to make our batteries,” says Christina Valimaki an analyst at Elsevier. In South America, the biggest problem is water. The continent’s Lithium Triangle, which covers parts of Argentina, Bolivia and Chile, holds more than half the world’s supply of the metal beneath its otherworldly salt flats. It’s also one of the driest places on earth. That’s a real issue, because to extract lithium, miners start by drilling a hole in the salt flats and pumping salty, mineral-rich brine to the surface. Then they leave it to evaporate for months at a time, first creating a mixture of manganese, potassium, borax and lithium salts which is then filtered and placed into another evaporation pool, and so on. After between 12 and 18 months, the mixture has been filtered enough that lithium carbonate – white gold – can be extracted. It’s a relatively cheap and effective process, but it uses a lot of water – approximately 500,000 gallons per tonne of lithium. In Chile’s Salar de Atacama, mining activities consumed 65 per cent of the region’s water. That is having a big impact on local farmers – who grow quinoa and herd llamas – in an area where some communities already have to get water driven in from elsewhere. There’s also the potential – as occurred in Tibet – for toxic chemicals to leak from the evaporation pools into the water supply. These include chemicals, including hydrochloric acid, which are used in the processing of lithium into a form that can be sold, as well as those waste products that are filtered out of the brine at each stage. In Australia and North America, lithium is mined from rock using more traditional methods, but still requires the use of chemicals in order to extract it in a useful form. Research in Nevada found impacts on fish as far as 150 miles downstream from a lithium processing operation. According to a report by Friends of the Earth, lithium extraction inevitably harms the soil and causes air contamination. In Argentina’s Salar de Hombre Muerto, locals claim that lithium operations have contaminated streams used by humans and livestock, and for crop irrigation. In Chile, there have been clashes between mining companies and local communities, who say that lithium mining is leaving the landscape marred by mountains of discarded salt and canals filled with contaminated water with an unnatural blue hue. “Like any mining process, it is invasive, it scars the landscape, it destroys the water table and it pollutes the earth and the local wells,” said Guillermo Gonzalez, a lithium battery expert from the University of Chile, in a 2009 interview. “This isn’t a green solution – it’s not a solution at all.” But lithium may not be the most problematic ingredient of modern rechargeable batteries. It is relatively abundant, and could in theory be generated from seawater in future, albeit through a very energy-intensive process. Two other key ingredients, cobalt and nickel, are more in danger of creating a bottleneck in the move towards electric vehicles, and at a potentially huge environmental cost. Cobalt is found in huge quantities right across the Democratic Republic of Congo and central Africa, and hardly anywhere else. The price has quadrupled in the last two years. Unlike most metals, which are not toxic when they’re pulled from the ground as metal ores, cobalt is “uniquely terrible,” according to Gleb Yushin, chief technical officer and founder of battery materials company Sila Nanotechnologies. “One of the biggest challenges with cobalt is that it’s located in one country,” he adds. You can literally just dig up the land and find cobalt, so there’s a very strong motivation to dig it up and sell it, and a a result there’s a lot of motivation for unsafe and unethical behaviour.” The Congo is home to ‘artisanal mines’, where cobalt is extracted from the ground by hand, often using child labour, without protective equipment.

### 2NC- SDG Link

#### It’s true of SDG

Saldinger 19, Senior Reporter at Devex, where she covers the intersection of business and international development, as well as U.S. foreign aid policy. From partnerships to trade and social entrepreneurship to impact investing, Adva explores the role the private sector and private capital play in development. A journalist with more than 10 years of experience, she has worked at several newspapers in the U.S. and lived in both Ghana and South Africa (Adva, April 5th, “UN report: Financial systems must change or SDGs will fail,” *Devex*, https://www.devex.com/news/un-report-financial-systems-must-change-or-sdgs-will-fail-94605)

WASHINGTON — If national and international financial systems don’t change, the Sustainable Development Goals will not be achieved, according to a new report out from the United Nations on Thursday. “The world cannot achieve the SDGs without a fundamental shift in the international financial system to address urgent global threats,” U.N. Deputy Secretary-General Amina Mohammed said in a press conference Thursday. The 2019 “Financing for Sustainable Development Report,” a project of more than 60 agencies in the U.N. system along with partner organizations, sounds the alarm and outlines some recommendations for a path forward. Despite some progress on poverty reduction, the picture the report paints is bleak. World economic growth is holding at about 3 percent and unlikely to rise, seven times more dollars’ worth of goods are subject to trade restrictions compared to a year ago, and about 30 least-developed or vulnerable countries are in, or at high risk of, debt distress.

## Adv 1

### 2NC/1NR Enforcement Fail

#### Significant hurdles to enforcement

A.E. Rodriguez & Ashok Menon 16, Success And Limits Of Competition Law And Policy In Developing Countries: The Causes Of Competition Agency Ineffectiveness In Developing Countries, 79 Law & Contemp. Prob. 37, Nexis Uni

VI The Tyranny Of Best Practices And Other Concluding Comments

The underwhelming performance of the highly heralded competition policy programs in developing countries may be a result of the perplexing deployment of programs that are best at focusing on violations of narrow horizontal proscriptions - that is, violations by naked, private cartels. In developing economies this is a target that is hardly ever present. However, if antitrust is to ascend in influence over time, it should nonetheless, tenaciously continue to focus solely on horizontal, per se proscriptions. Deployed in its full majesty, antitrust can be counterproductive and impair growth.

The model that has been adopted by many economies alongside pro-market liberalization and reform is a program based on the economic efficiency, consumer-welfare maximizing approach common to western economies. 79 This "best practices" approach may recognize - and expect - that powerful industry [\*62] groups, which stand in opposition to reform, do so out of a natural desire to protect their historical monopoly rents. But it fails to recognize that these groups also constitute surviving institutional organizations capable of overcoming historical resource limits and institutional constraints. These are entities that convey substantive, and often pro-competitive, benefits to the proper functioning and stability of the state.

The competition agencies' conventional analytical tool box is incapable of understanding the role and relevance of the array of historical transactions costs and other difficulties that led to the formation of groups. And it is hard-pressed to appraise their value, let alone the tradeoffs incurred in the removal of anti-competitive costs against the historical pro-competitive benefits.

The dual contribution imparted by interest groups and the ability and ease of substitution between private cartels and state-backed protective measures suggest the following hypothesis: the equilibrium level of antitrust enforcement in developing economies is likely to be much more modest than those in developed economies. Relatedly, the equilibrium level of antitrust enforcement is likely lower in nations where the influence of immigrant, political, regional, or ethnic group-controlled businesses looms large.

### 2NC---!D---Economy

#### Empirics prove---downturn causes threat deflation.

Clary 15, PhD, Assistant Professor of Political Science @ the U of Albany. (Christopher, 04/21/15, “Economic Stress and International Cooperation: Evidence from International Rivalries”, *Massachusetts Institute of Technology Political Science Department*, Research Paper No. 2015-8; pg. 4)

Why Might Economic Crisis Cause Rivalry Termination?

Economic crises lead to conciliatory behavior through five primary channels. (1) Economic crises lead to austerity pressures, which in turn incent leaders to search for ways to cut defense expenditures. (2) Economic crises also encourage strategic reassessment, so that leaders can argue to their peers and their publics that defense spending can be arrested without endangering the state. This can lead to threat deflation, where elites attempt to downplay the seriousness of the threat posed by a former rival. (3) If a state faces multiple threats, economic crises provoke elites to consider threat prioritization, a process that is postponed during periods of economic normalcy. (4) Economic crises increase the political and economic benefit from international economic cooperation. Leaders seek foreign aid, enhanced trade, and increased investment from abroad during periods of economic trouble. This search is made easier if tensions are reduced with historic rivals. (5) Finally, during crises, elites are more prone to select leaders who are perceived as capable of resolving economic difficulties, permitting the emergence of leaders who hold heterodox foreign policy views. Collectively, these mechanisms make it much more likely that a leader will prefer conciliatory policies compared to during periods of economic normalcy. This section reviews this causal logic in greater detail, while also providing historical examples that these mechanisms recur in practice.

#### Interdependence causes war---empirics and asymmetry---can’t overcome fundamental disagreements.

van de Haar 20 (Edwin, independent scholar specializing in the liberal tradition in international political thought. He has lectured in international relations and political theory at Brown University, PhD from Maastricht University (2008), a MSc in International Relations from the London School of Economics and Political Science (1997) and a MA in Political Science from Leiden University (1996), “Free trade does not foster peace,” 2020, DOI: 10.1111/ecaf.12405, DOA: 1-5-2020) //Snowball //strikethrough of rhetoric

The most obvious rebuttal of these arguments is empirical. It just did not happen. Countries trading with each other, all around the globe, have fought wars with one another, over and over again. Some recent examples are Russia and Georgia, Russia and Ukraine, and Saudi Arabia and Yemen. As Smith predicted, human nature is an important factor in the explanation. People will quarrel and fight: ultimately emotions rule reason. In the domestic situation, there is hardly anyone who thinks that people can do without police and judiciary, because some people simply will not obey the rules. The international system is without a court with enforcement powers. There are some structural constraints, but it remains a human affair. The fundamental insights of Smith and his contemporaries into human behaviour do not amount to some oldfashioned idea, long refuted by modern science. They are confirmed not only by modern economists such as Kahneman (2011) and international relations specialists such as Waltz (1954, pp. 16–79) and Donelan (2007), but also by theorists working on the border between evolutionary psychology and international affairs (Rosen, 2005; Rubin, 2002; Thayer, 2004).

The relationship between trade and economic interdependence is also far more complex. Economic interdependence matters sometimes, but it cannot trump power politics. As Copeland (2015, pp. 1–50, 428–46) makes clear, economic interdependence is sometimes a constraint on violent action by a state. Yet it could just as well be a cause of violent action, especially of a pre-emptive nature in the event that actors expect to be cut off from trade and other economic resources in the near future. In this way, the benefits of continued trade lose out against the expected economic vulnerability. Sobek (2009, pp. 107–27) adds that trade relations might lead to uneven power relationships, which may be a cause of war as well.

Also relevant here is the fact that free trade does not normally result in bilateral interdependence, except for trade in the rarest goods. Free trade leads to multilateral trade relations, and consequently there may be more than one country where particular goods can be bought. Therefore, in times of war, it is relatively easy to switch to suppliers from country A to country B or C. In this way warfare may be a less costly option than is assumed by the idea of economic interdependence.

Public opinion is not automatically opposed to war, as Cobden painfully found out during the Crimean War (1853–56). This has been evident many times since, not least in the two world wars. So the idea of public opinion as a pacifying factor influencing decision-makers must be discarded. It must also be noted that the public in any case hardly ever influences foreign policy decisions on war and peace (Hill, 2003, pp. 250–82).

Trade is unable to foster peace, because it is unable to overcome many causes of war. Think about cultural and religious differences, geopolitical causes such as the fight for natural resources, including increasingly rare raw materials, or more traditional wars between great powers or their proxies over a border dispute. States may also act against their economic interest for some perceived higher goal (Coker, 2014). The causes of war are often multifaceted and complex. Wars happen because people have reasons to fight, in the form of goals and grievances, and possess enough resources and resolve (Ohlson, 2009). Trade relations are just one factor in the mix of causes of war, which include such coincidental factors as chance, luck, or reckless behaviour by individuals who happen to influence public policy. International commerce is simply not a “perfectly effective antiwar device” (Suganami, 1996, pp. 153–210). The best one can say is that the protection of trade relations is sometimes one of the factors in the decision not to wage war. Nothing less, nothing more.

To sum up, many of Adam Smith's arguments still stand, and are confirmed or complemented by modern research. There is no solid ground for the expectation that trade promotes, fosters, or leads to peace. Generally, international economic interests are not the crucial factors in decisions over war and peace. Too many other factors come into play. To believe that trade fosters peace was folly even hundreds of years ago. To still think so is to believe in fairy tales, to be ~~blinded~~ [confused] by the correlates computed by limited yet available datasets, or both.

### 2NC---!D---Hypersonics Impossible

#### Drag and extreme heating undermine performance.

Tracy & Wright 2-5-2021, \*Cameron L., Kendall Fellow in the Global Security Program at the Union of Concerned Scientists. He has a PhD in materials science. \*\*David, research associate in the Laboratory for Nuclear Security and Policy in the Department of Nuclear Science and Engineering at the Massachusetts Institute of Technology. He has a PhD in physics. ("Don't Believe the Hype About Hypersonic Missiles", *IEEE Spectrum*, https://spectrum.ieee.org/tech-talk/aerospace/military/hypersonic-missiles-are-being-hyped)

Technical reassessment

First, consider the claim that hypersonic weapons can reach their targets faster than existing ballistic missiles. The fastest hypersonic vehicles are launched on rocket boosters, like those that launch intercontinental-range ballistic missiles. Thus, both types of missile reach the same initial speeds. But hypersonic weapons fly through the atmosphere where they are subjected to substantial drag forces. Ballistic missiles, on the other hand, fly high into outer space where they are free from these drag effects. Thus, while hypersonic weapons fly a more direct path to their targets, they lose much of their speed throughout flight, ultimately taking longer to reach their targets than comparable ballistic missiles.

Gliding through the dense atmosphere at hypersonic speeds subjects these gliders to more than just drag forces. As they slow down, hypersonic vehicles deposit large quantities of energy to the surrounding air, a portion of which is transferred back to the vehicle as thermal energy. Their surfaces commonly reach temperatures of thousands of degrees Celsius.

This extreme heating limits performance in two ways. First, it constrains glider geometry, as features like sharp noses and wings may be unable to withstand aerothermal heating. Because sharp leading edges decrease drag, these constraints degrade glider aerodynamics.

Second, this heating renders hypersonic missiles vulnerable to detection by the satellite-mounted sensors that the United States and Russia currently possess, and that China is reportedly developing. Hot objects emit light in proportion to their temperature. These satellites watch for light in the infrared band to warn of missile strikes. Ballistic missiles are visible to them during launch, when fiery rocket plumes emit a great deal of infrared light, but become harder to see after rocket burn-out, when the warhead arcs through outer space. Hypersonic missiles, on the other hand, stay hot throughout most of their glide. Our calculations indicate that incoming gliders would remain visible to existing space-based sensors not only during launch, but for nearly their entire flight.

Finally, it is often claimed that hypersonic weapons will upend the strategic balance between adversaries because they can bypass missile defenses. The reality is more complex. As discussed, the effects of atmospheric drag and heating mean that hypersonic weapons will have few, if any, advantages over existing missiles when it comes to outpacing interceptors or evading detection. Still, their low-altitude flight would allow them to fly under the reach of defenses designed to intercept ballistic missiles in outer space. Their maneuverability could also allow them to dodge interceptors in the atmosphere.

Yet the performance of hypersonic weapons against missile defenses is strategically meaningful only if it offers a new capability (i.e., if these weapons do something existing missiles cannot). This is not the case. Existing long-range missiles could easily overcome defensive systems by fairly simple means, such as firing more missiles than the adversary has interceptors, or by using countermeasures, like decoys.

# 1NR

## T---Per Se

### 1NR Overview

#### It’s a distinction with a difference---‘rule of reason’ and ‘per se’ have precise meanings AND access literature with completely different base assumptions.

Beschle 87 (Donald L. Beschle- Associate Professor of Law, The John Marshall School of Law. B.A., 1973, Fordham University; J.D., 1976, New York University School of Law; LL.M., 1983, Temple University School of Law. March. CURRENT TOPIC IN ANTITRUST: "What, Never? Well, Hardly Ever": Strict Antitrust Scrutiny as an Alternative to Per Se Antitrust Illegality., 38 Hastings L.J. 471)

In response to recent attacks on per se rules, courts have clung to the term and to its absolutism by steadily narrowing the definitions of the types of behavior subject to those rules. The result has been not only much confusion, with words being used to designate things far narrower than their commonly understood meanings, but also the application of permissive rule of reason treatment to some behavior which, while not meriting absolute prohibition, clearly deserves careful antitrust analysis.

The proper response to this confusion is to retain the valid insight of per se jurisprudence, that certain types of behavior should be treated as more suspect than others, while abandoning the indefensible absolutism of the term "per se." However, since terms carry with them not only precise meanings, but also more general attitudes, "per se" must be replaced with a term which does not carry the permissive connotations which have become associated with the "rule of reason."

The best available term for this new test is strict antitrust scrutiny. The use of such a term, and the type of analysis it suggests, is well known in constitutional law, where it by no means is associated with leniency. When faced with conduct which would traditionally be labelled per se illegal under the antitrust laws, courts should apply strict antitrust scrutiny. They should ask whether the defendant can carry the heavy burden of demonstrating that its conduct is narrowly tailored to achieve a procompetitive end. By replacing a system which places absolute prohibitions on types of conduct which can be defined so narrowly as to be irrelevant with a system which places, not absolute prohibitions, but heavy negative presumptions, on a larger set of behaviors, strict scrutiny should, on the whole, lead to more vigorous antitrust enforcement.

#### “

### 1NR---AT 2AC 1

#### These are the two poles of antitrust

Kovacic 21, \*Global Competition Professor of Law and Policy, George Washington University Law School; Visiting Professor, Dickson Poon School of Law, King’s College London; Non-Executive Director, United Kingdom Competition and Markets Authority (William, “THE FUTURE ADAPTATION OF THE PER SE RULE OF ILLEGALITY IN U.S. ANTITRUST LAW,” Columbia Business Law Review, Lexis)

Judicial interpretation of the U.S. antitrust statutes can be seen as a struggle to resolve the tension between achieving accuracy through the application of standards and gaining, where appropriate, the clarity and predictability associated with rules.

Start FN 31

See PolyGram Holding, Inc., 136 F.T.C. 310, 326 (2003) (Muris, Chairman) (“[A]djudicatory tribunals have struggled to attain an appropriate balance between achieving accuracy in individual cases, which generally requires fuller inquiry, and streamlining the law’s administration, which usually involves making simplifying assumptions and foregoing elaborate analysis when the conduct at issue ordinarily poses grave competitive dangers.”); Crane, supra note 21, at 52 n.11; Leon B. Greenfield & Daniel J. Matheson, Rules Versus Standards and the Antitrust Jurisprudence of Justice Breyer, ANTITRUST, Summer 2009, at 87, 87 (reviewing the rules versus standards debate in analyzing the opinions of a jurist who has focused on tradeoffs between the two approaches to formulating legal commands); Antitrust Section, MONOGRAPH NO. 12, supra note 21, at 50–55 (in context of formulation of rules for merger policy, discussing efforts to balance costs of flexibility and simplicity); see also generally Wolfgang Kerber, ‘Rules vs. Standards’ or Standards as Delegation of Authority for Making (Optimally Differentiated) Rules, in INTERNATIONALISIERUNG DES RECHTS UND SEINE ÖKONOMISCHE ANALYSE [INTERNATIONALIZATION OF THE LAW AND ITS ECONOMIC ANALYSIS] 489 (Thomas Eger et al. eds., 2008)

End FN 31

The discussion below sets out highlights in the evolution of Supreme Court § 1 jurisprudence and variations in its reliance over time on rules or standards. As reflected in modern decisions, U.S. doctrine has recognized an analytical continuum whose boundaries are set by a rule of categorical condemnation (per se illegality) and an elaborate, factintensive assessment of reasonableness.32 Within these boundaries operate intermediate tests that employ hybrid adaptations of per se rules and more elaborate analytical methods. Although scholars have identified antecedents for the modern continuum model across 130 years of Sherman Act jurisprudence, Supreme Court decisions sometimes have wanted for nuance and precision in setting out the content of the rule of reason and its abbreviated treatment: rules of per se illegality for conduct that tends in most instances to destroy competition.33

#### The distinction between rules and standards is meaningful

Crane 7 Daniel A. Crane is Assistant Professor, Benjamin N. Cardozo School of Law, Yeshiva University, Rules Versus Standards in Antitrust Adjudication, 64 Wash. & Lee L. Rev. 49 (2007), https://scholarlycommons.law.wlu.edu/wlulr/vol64/iss1/3

But although rules may not be as neatly confined as they sometimes appear to be, it would be wrong to suppose that the specification of antitrust law as either rule or standard has no practical consequences. Even if seasoned lawyers can sometimes manipulate seemingly iron-clad rules to their clients' advantage, the expression of law as rule or standard affects the attitude that judges bring to their adjudicatory roles. The choice between rules and standards has important legal-cultural implications in antitrust adjudication.

#### The distinction between rules and standards is important in antitrust

Crane 7 Daniel A. Crane is Assistant Professor, Benjamin N. Cardozo School of Law, Yeshiva University, Rules Versus Standards in Antitrust Adjudication, 64 Wash. & Lee L. Rev. 49 (2007), https://scholarlycommons.law.wlu.edu/wlulr/vol64/iss1/3

The choice between rules and standards matters in antitrust. As an expression of legal culture, articulation of antitrust law as rule prejudges many outcomes, pushes ultimate decision-making up the legal hierarchy, encourages judges to play a stronger gate-keeping role, and widens the scope of allowable economic testimony and other evidence. Even if it turns out that the "rules" governing these practices are as indeterminate and malleable as Hart and Wittgenstein's comments on language would suggest, 30 antitrust judges perform their legal-cultural roles differently when the liability determinant is framed as a rule than when it is framed as a standard.

### 1NR---AT 2AC 3

#### “By At least” DOES NOT IMPLY that the following action is SUFFICIENT

Longman Dictionary (of Contemporary English, <https://www.ldoceonline.com/dictionary/at-least>) //Snowball

at least

a) not less than a particular number or amount

It will take you at least 20 minutes to get there.

He had at least £100,000 in savings.

at the (very) least (=not less than and probably much more than)

It would cost $1 million at the very least.

b) even if something better is not true or is not done

At least he didn’t lie to me.

I don’t expect you to pay me, but you could at least cover my expenses.

The house still needed a lot of work, but at least the kitchen was finished.

#### “At least” implies NECESSITY, but not SUFFICIENCY.

Hanks no date (Craig, Chair of Philosophy at Texas State University, “Confusion of Necessary with a Sufficient Condition,” <https://www.txstate.edu/philosophy/resources/fallacy-definitions/Confusion-of-Necessary.html>) //Snowball

Confusion of Necessary with a Sufficient Condition

A causal fallacy you commit this fallacy when you assume that a necessary condition of an event is sufficient for the event to occur. A necessary condition is a condition that must be present for an event to occur. A sufficient condition is a condition or set of conditions that will produce the event. A necessary condition must be there, but it alone does not provide sufficient cause for the occurrence of the event. Only the sufficient grounds can do this. In other words, all of the necessary elements must be there.

Examples:

Juan: "How do you think you'll do on our philosophy exam tomorrow?" Monique: "Great, I read all the books." Juan: "Yeah but do you understand this stuff?" Monique: "I said I read all the books, didn't I?"

Don't let all the talk about the necessity of exercise to a long life mislead you. Jim was a jock all his very short life.

Who said food keeps us alive? Tom died a few days ago and he was not short of good food.

I don't know why the car won't run; I just filled the gas tank.

Why don't you want to spend your life with me? I love you, and am I not good to you?

The counselor told me that if I wanted to graduate I must have at least 128 credit hours. Well, I've got that, but they're saying I won't walk this semester. How misleading!

#### That means meeting “expand the scope” DOES NOT PROVE “increase prohibitions.

Dul 15 (Jan, Rotterdam School of Management, Erasmus University Rotterdam, Necessary Condition Analysis (NCA): Logic and Methodology of “Necessary but Not Sufficient” Causality, 15 July 2015, <https://doi.org/10.1177/1094428115584005>) //Snowball

Although scholars often confuse necessity and sufficiency (Chung, 1969; Goertz & Starr, 2003), the two are totally different.1 A necessary cause allows an outcome to exist; without the necessary cause, the outcome will not exist. A sufficient cause ensures that the outcome exists; it produces the outcome. A student who wants to be admitted to a U.S. graduate school (the outcome) needs to have a high score on the Graduate Record Examinations (GRE) test: An adequate GRE score is necessary for the outcome. Necessary causes are not automatically sufficient. An adequate GRE score is not sufficient for admission because also other admission requirements play a role (e.g., the student’s motivation letter, a good TOEFL score, reputation of the student’s bachelor program, recommendation letter). However, if the student’s GRE score is too low, there is guaranteed failure, independently of the student’s performance on the other requirements. Therefore, a necessary cause is a constraint, a barrier, an obstacle, a bottleneck that must be managed to allow a desired outcome to exist. Each single necessary cause must be in place, as there is no additive causality that can compensate for the absence of the necessary cause. Prevention of guaranteed failure and increased probability of success are core constituents of the “necessary but not sufficient” logic of “X causes Y.”2