# 1AC

## 1AC — Shipping (KU HW, Shirley)

### 1AC — Mega Ships

#### Advantage 1 is Mega Ships —

#### The international shipping industry is immune from antitrust suits

O’Shea 17, an attorney who works on transportation and infrastructure issues, (Sean, October 3, 2017, Congress Must Stop Foreign Ocean Carriers From Harming U.S. Economy, https://morningconsult.com/opinions/congress-must-stop-foreign-ocean-carriers-from-harming-u-s-economy/)

Currently, U.S. ports and shippers are exposed to foreign ocean carrier cartels that band together to protect their financial interests while squashing port profits and stifling competition. Over the past several years, these ocean carriers have largely consolidated into three alliances that represent such a large share of the market that they can threaten to steer substantial amounts of cargo away from U.S. ports that balk at fees the alliance offers. Under normal circumstances, the whole scheme likely would run afoul of the Sherman Anti-Trust Act, which Congress adopted at the end of the 19th century in response to oil, steel and sugar trusts that attempted this same kind of market manipulation. But in the Shipping Act of 1916, Congress created an exemption from antitrust laws for alliances approved by the Federal Maritime Commission. When Congress revisited the law in 1984, it added a provision that allows a carrier alliance to go into effect automatically, providing antitrust immunity to its member lines, unless the FMC obtains a court injunction within 45 days. Even then, the only acceptable grounds for issuing an injunction are when a proposed alliance will impair shippers. The court cannot consider the potential harm to ports, dock workers or other waterfront service providers. The law further says that only the FMC, and not the Department of Justice, may file such lawsuits, and private parties are expressly barred from intervening in any case the FMC does bring. This special treatment in the current law gives foreign containership lines a virtual antitrust immunity when dealing with U.S. marine terminals, stevedores, tug and towing companies, and other equipment and service providers. This has created an environment in which U.S. laws favor the interests of big foreign vessel operators at the expense of American port terminal companies, shippers and workers. Today, exactly zero U.S. ship owners participate in the three ocean carrier alliances recognized by the FMC. This means our laws now do more to shield foreign carriers from being sued for antitrust violations than it does to promote the domestic shipping industry.

#### The container shipping industry is increasing use of mega ships driving out those who want to operate smaller ships

Murray 16, Midshipman in United States Merchant Marine Academy, (William, “Economies of Scale in Container Ship Costs” https://www.usmma.edu/sites/usmma.dot.gov/files/docs/CMA%20Paper%20Murray%201%20%282%29.pdf)

On the extreme end of this increase in ship size is the development of mega container ships. These ships, capable of carrying 10000 TEU or more, have become a facet of the container shipping industry. While there are undeniably more ships on the low capacity end of the spectrum than on the high capacity end, mega ships are being built a staggering rate. In 2014 there were 196 vessels over 10000 TEU, with 66 of those being larger than 13300 TEU. In 2015, there were 265 ships over 10000 TEU, with 96 larger than 13300 TEU. This represents a 35% increase in the number of vessels over 10000 TEU, and a 45% increase in those greater than 13300 TEU. Ultra large container ships are undoubtedly in vogue. It is not difficult to determine why ship owners are building more ships; it is in response to the demand for containerized freight. To meet this demand, more capacity must be available. This can only be accomplished by either building more ships or by increasing the size of those already built. While some owners have undertaken jumboizations in order to increase existing vessels’ capacities, the majority prefer to build new ships. In efforts to capture as large a market share as possible, these ships are built to carry as many containers as possible. Competing carriers have few ways to differentiate themselves. While on time performance and customer service are important, there is a distinct lowest cost advantage. That carrier which can offer the lowest freight rates is better positioned than its competitors. Ship owners believe that these mega ships offer a cost advantage, although it is worth noting that the costs associated with these vessels are vast. Owners must weigh the costs of these larger ships against the potential economic benefits they offer.

#### The acquisition and use of megaships are anticompetitive practices that drive out smaller ships

Veitch 16, Head of Policy for the Global Shipping Foundation, (Alex, Nov 2016, Report by Global Shipping Foundation, “The Implications of Mega-Ships and Alliances for Competition and Total Supply Chain Efficiency: An Economic Perspective”, <https://paperzz.com/doc/9427398/the-implications-of-mega-ships-and-alliances-for-competit>...)

The container shipping Market is undergoing considerable change. The development of the mega ship has had a profound impact. They have led to the creation of new strategic Global alliances and quickened the pace of consolidation in the industry. This paper analyzes the impacts for shippers, the customers of container ship operators, and in particular the Wider supply chain implications of Mega ships and the potential impact on competition between competitors and their shipper customers. This paper comes in two parts: the first provides an economic assessment of megaships, alliances and consolidation of the container ship industry; the second part, in the form of an Annex (Annex 1) takes a competition policy analysis of megaships, strategic alliances in the impacts of consolidation in the industry. the paper draws on various detailed studies and sources, including the recent Organization for Economic Cooperation and Development (OECD) International Transport Forum report on Mega ships and the oecd competition committee report on competition issues in liner shipping , but it also provides its own independent economic and competition assessments. The following key findings, conclusions, and recommendations for carriers, regulators and competition authorities, and shippers are summarized below. Economic Issues: Mega ships and the associated commercial practices of strategic alliances and mergers are driving consolidation in the container shipping sector. This is harmful to shippers because megaships and strategic alliances reduce supply chain efficiency and rivalry unimportant parameters of competition, including capacity, sailing frequency, de transit times, ports of call and Associated service quality. The higher economies of scale associated with megaships mean that fewer ships can operate in a market of a given size. Higher barriers-to-entry are likely to reinforce the trend towards fewer independent operators, with smaller operators being driven out of the major trades into niche markets faced with a trend towards consolidation and cooperation due to Mega vessels. It is unlikely competition problems associated with consolidation and megaships will be solved by new entrance into liner shipping. The report asks whether the time is right to question the received wisdom that shipping alliances and Consortium are preferable to consolidation between carriers because Shipping Lines operating common capacity cannot compete amongst themselves with regards to the Consortium has agreed capacity, sailing frequency, transit times, ports of call and Associated service quality.

#### The size of those megaships are about to explode, drastically shaking up the entire industry

Fickling 21, Reporter for The Print. (David, March 30, 2021, Get ready for future, giant next-gen cargo vessels will make ‘Ever Given’ look like bath toy, <https://theprint.in/opinion/get-ready-for-future-giant-next-gen-cargo-vessels-will-make-ever-given-look-like-bath-toy/630839/>)

If you think the ultimate reason the Suez Canal got blocked last week is because container ships are getting too big, get ready for the future. The next few generations of cargo vessels are going to make the Ever Given look like a bath toy. Big enough to carry 20,124 twenty-foot equivalent units, or TEUs — the standard measure for cargo, representing a single shipping container — the Ever Given was one of the world’s largest such vessels when it was launched in 2018. The first container ship to break the 20,000 TEU mark had been at sea for less than a year. One famed 1999 study, written at a time when the largest boats carried less than 8,000 TEUs, argued it would prove impossible to build craft bigger than 18,000 TEUs. The Ever Given, finally floating on its way again, is now distinctly in the second class of mega freighters. There are nearly 100 ships carrying more than 20,000 TEUs on the seas or under construction, and the bigger vessels being assembled in Chinese and South Korean shipyards are mostly around the 24,000 TEU mark. A quarter of the capacity moved by the world’s largest container line, AP Moller-Maersk A/S, is on boats above the 17,500 TEU mark. That’s unlikely to be the end of it. Chinese shipyard Hudong-Zhonghua Shipbuilding Group Co. has already registered designs for a 25,000 TEU vessel, and it has become relatively commonplace to predict that 30,000 TEU monsters will be plowing the oceans before the decade is out. Such enormous hulls may cause problems that will put the Ever Given’s mishap into the shade. At Rotterdam, the largest ships already have to arrive at high tide to ensure there’s enough clearance for them to get through the channel, according to a 2019 study by Nam Kyu Park of South Korea’s Tongmyong University. Larger vessels will soon be unable to berth at Shanghai, Busan and Hong Kong even at high tide, unless channels are dredged out further, Park wrote. There are similar problems with infrastructure on dry land. Modern ports are astonishingly efficient at unloading, and can turn around a fully laden 20,000 TEU vessel in a couple of days. But the time spent waiting for a berth can cut deep into the wafer-thin economics of a container line. Longer quays may have to be built to accommodate the larger ships, as well as cranes that can reach across wider decks, larger loading yards for tens of thousands of containers, and faster rail and road terminals to take cargo to its next destination. Current vessels are already at the limits of what can fit along major shipping lanes. The Ever Given is too bulky to squeeze through the Panama Canal, where boats must be lifted over its mountainous spine with massive lock gates. At 24 meters (79 feet) deep, the Suez Canal has more capacity — but it’s roughly as deep as the Straits of Malacca and Singapore, so dredging it further to accommodate bigger ships won’t help much. The binding constraint on East-West trade at this point isn’t engineering, but geology. Extending 15.7 meters below the water line, the Ever Given shouldn’t, on paper, have trouble making it through any of those channels, which typically require 3.5 meters of clearance from the bottom. Next-generation ships with a 20-meter draught, on the other hand, would be at constant risk of grounding. How have container ships managed to defy expectations that their size would hit fundamental limits? A large part of it is because the economies of scale are so compelling. Bigger vessels use more fuel, but relative to the number of boxes stacked on their decks they’re far more efficient. They can also turn around a larger number of containers at a time and serve a wider array of feeder ports, ensuring they can defray their massive capital costs quicker. There’s little sign that this is about to change. New International Maritime Organization regulations against the burning of sulfur-intensive fuel oil introduced last year mean current ships are using costlier diesel, putting more pressure on naval architects to come up with yet more efficient designs. Beyond that, the IMO now has plans to reduce carbon dioxide emissions by 40% in 2030 compared with 2008, and by 70% by 2050. Even with a switch to cheaper, less polluting liquefied natural gas as the main fuel, that’s going to mean further drastic improvements in efficiency, not to mention propulsion technologies that don’t exist yet. To date, the best way to chip away at fuel consumption and emissions is by increasing size. It’s hard to know how the industry is going to cope with this. Perhaps Suez, Malacca and Singapore can be dredged to accommodate even bigger vessels. Perhaps shipyards will find ways to squeeze a few more inches out of existing channels. If not, alternative routes around the Cape of Good Hope and through the deeper Straits of Sunda and Lombok between Indonesia’s islands may prove the only viable way to accommodate such massive boats. Should that happen, those economies of scale will have to be drastically larger to make up for the longer sailing time. We’ve seen container ships leap from 10,000 TEUs to 24,000 TEUs. Don’t be shocked to see 50,000 TEU vessels plying the sea in your lifetime.

#### That forces massive, unwanted port expansions that ensures constant environmental destruction around the world

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According to (Baik, 2017), mega ships can impact the port infrastructure in many ways. As a brief example: The berth of a port determines what vessels can dock, larger vessels require larger berths and quays to support the length, weight, and height of the vessels. Large vessels also require larger gantry cranes to support the loading and unloading of cargo in large volumes. The cranes are required to be large and therefore are heavy with longer reach but this then requires the piers to be reinforced and expanded in order to support the weight and size. Yap & Loh (2019) informs that all these changes are caused by the size and length of a vessel which goes to show the vast amount of investment that is needed to make the port accessible to mega ships. “The bigger the ship is, the larger the risk is”, larger vessels also add a lot of risk regarding port congestion and can have heavy impacts on the environment if an accident were to occur in the port (Baik, 2017). According to Park & Suh (2019), if in the future a mega container ship with a volume capacity of 30,000 TEU is in operation then ports need to dredge and increase the water depth by more than 20 m and that will have to be the new standard for ports and container terminals.

#### Those port expansions destroy global biodiversity and entire ecosystems — ports are the lynchpin

Chua 21, Charmaine Chua is Assistant Professor of Global Studies at the University of California, Santa Barbara. (Charmaine, The Ever Given and the Monstrosity of Maritime Capitalism, Boston Review, <https://bostonreview.net/class-inequality-politics/charmaine-chua-ever-given-and-monstrosity-maritime-capitalism>)

From Megaships to Megaports These monstrous ships are perhaps most perverse in the way they meet their victims on shore. As more and more megaships lumber through the world’s oceans, more infrastructure is required to cope with mounting cargo on land. When companies such as Evergreen make new megaship orders, they rarely consult with port authorities, rail carriers, or other actors along the supply chain. Terminals originally built to discharge cargo from an earlier era of ship sizes (5,000 TEUs and under) now struggle to handle cargo with capacities five times as large. Shippers used to select ports on the basis of their strategic geographical location (as was the case in the establishment of the port of Aden, Malta, and other colonial entrêpots at key points in imperial trade routes). But ports today increasingly act as substitutes for each other, pawns in a game of commerce that is global in scale. All ports fear being replaced by the quicker, more efficient passage, so they invest heavily in upgrading their fixed infrastructure. Building a megaport is a mammoth task, both financially and spatially. Construction requires empty, flat land and expensive outlays of public finance. Channels must be dredged to make way for a deepwater harbor—not only once, but endlessly, to counter the tides and currents. Cranes must be raised or replaced by larger ones altogether. Dockyards must expand to support the higher volumes of containers. In the hinterland, highways and railroad corridors must support the concentration of cargo entering the city. These infrastructural modifications, made repeatedly as megaships have continued to grow, require the massive dispossession and manipulation of environments and ecologies. As Khalili details, there is something “extravagantly modernist” about shaping the ecologies and geologies of land and sea to suit the circuits of market exchange. The god-like desire to manipulate space, to extract and excavate without regard to geological impediments, reflect what Alfred Sohn-Rethel calls the “absolute historical timelessness and universality” of exchange, according to which “the entire empirical reality . . . by which one moment and locality of time and space is distinguishable from one another is wiped out.” Khalili recalls visiting the port of Khor Fakkan and talking to a British terminal manager. Pointing to a hill in the distance, he said plaintively that he could “move that mountain” if he needed. For him, Khalili reflects, “shaping the land, reclaiming it or flattening it, or whittling away at it, was no matter.” The ecological effects of such human hubris have been devastating. When the Suez Canal joined the Red Sea to the Mediterranean in 1869, marine species migrated along the waterway, allowing invasive species from venomous jellyfish to rabbitfish to make their way north, causing untold damage to biodiverse eco-systems. So significant were these effects that they have been termed “Lessepsian” after the developer of the canal, Ferdinand de Lesseps. As massive infrastructural developments chase giant ships, they destroy entire ecosystems, and ports and canals have come to epitomize the intensification and expansion of capital’s supply lines, cutting gashes across the earth to chase supply chain profits.

#### Biodiversity loss causes extinction

Joe McCarthy 18, a Staff Writer at Global Citizen, Nov 8 2018, "Humans Could Face Extinction if We Don't Protect Biodiversity: UN", Global Citizen, <https://www.globalcitizen.org/en/content/biodiversity-loss-human-extinction/>

As the sixth mass extinction event accelerates around the world, engulfing thousands of animal and plant species, humans risk facing a similar fate unless drastic interventions are made, according to Cristiana Pașca Palmer, the United Nations biodiversity chief, who recently spoke with the Guardian.

Palmer said that within the next two years, countries have to develop an ambitious plan to conserve land, protect animals, and stop practices that are harming wildlife. This effort is equally as urgent as the Paris climate agreement’s goal of mitigating climate change, she said.

“The loss of biodiversity is a silent killer,” she told the Guardian. “It’s different from climate change, where people feel the impact in everyday life. With biodiversity, it is not so clear but by the time you feel what is happening, it may be too late.”

Next month, countries will meet in Sharm el Sheikh, Egypt, to begin mapping out what such a plan would like. Palmer hopes that a final version will be formalized in Beijing in 2020.

If a binding global treaty fails to materialize, then humanity faces an uncertain future, she said. Past efforts to stop the loss of biodiversity have not proved successful, according to the Guardian.

In recent years, evidence of this staggering loss has begun accumulating.

Wild animal populations have declined by 60% since 1970, more than 26,000 plants and animals are close to extinction, nearly two-thirds of the world’s wetlands and half of all rainforests have been destroyed, more than 87% of the world’s ocean area is dying, and the planet needs an estimated 5 million years to recover from the biodiversity loss it has already sustained.

“We are sleepwalking towards the edge of a cliff,” Mike Barrett, executive director of science and conservation at WWF, recently told the Guardian. “If there was a 60% decline in the human population, that would be equivalent to emptying North America, South America, Africa, Europe, China, and Oceania. That is the scale of what we have done.”

“This is far more than just being about losing the wonders of nature, desperately sad though that is,” he said. “This is actually now jeopardising the future of people. Nature is not a ‘nice to have’ — it is our life-support system.”

The benefits of biodiversity are hard to overstate. The food chain, climate systems, atmospheric conditions, natural resources, and much more depend on the delicately structured interactions of ecosystems around the world.

The truly wild places in the world, meanwhile, are crucial to generating, cleaning, and distributing water around the world, and could help to mitigate the looming water crisis. These landscapes and marine environments also clean the air and act as carbon sinks, stabilize the global environment, and protect countries from natural disasters.

#### The expansion of mega ships produces structural violence on vulnerable populations

Chua 18, Phd Dissertation in Political Science University of Minnesota. (Charmaine, Containing the Ship of State: Managing Mobility in an Age of Logistics, <https://conservancy.umn.edu/bitstream/handle/11299/200214/Chua_umn_0130E_19452.pdf?sequence=1&isAllowed=y>}

“It’s a self-made crisis, really”, says the captain, shaking his head. The more megaships grow, the more megaports must be built to service them. In the fifty years since the world’s first container ship Encounter Bay (1,500+ TEU) set sail from Rotterdam in 1968, container-carrying capacities have increased by 1200%, and in the last ten years alone, by 80%. Megaships of 18,000 TEU and above have come to dominate the shipping industry with a startling rapidity. While the economies of scale provided by larger ships seem obviously beneficial from the perspective of an individual company seeking to lower its costs, this is much less the case for the industry as a whole: as the rush of megaships bloat the global shipping fleet, they exacerbate overcapacity, where the total cargo space available on all the world’s ships far exceeds the trade volumes they would help transport. In addition, ports are frequently confronted with the need to make heavy infrastructural adaptation to support the new peaks in volume that come in ever-larger waves to the container yard. None of these factors seem to deter shipping companies: the race to build the largest ship continues, exacerbating the problem of overcapacity as it does so. In this chapter the question I seek to ask is not primarily a causal one, such as ‘why does the shipping industry seems to be shooting itself in the foot by building bigger and bigger ships?’ Rather, this chapter poses a question more attentive to the spatial scale and scope of dispossession entailed by such large-scale infrastructural expansion: What are the spatial, social, and political effects of the monstrous scale of infrastructural expansion? And what does the scale of these projects tell us about capital’s imperative to expand value accumulation through the construction of a global logistics space? Although providing an account of the logics underpinning ship expansion is part of the chapter’s aim, neither neoclassical theories of a self-adjusting universal market mechanism, nor Marxian theories that focus exclusively on the operations of capital, adequately explain the paradox of megaship overcapacity, where firm-level decisions to capture economies of scale produce industry-wide infrastructural problems that impact the state, displacing the risks of over-expansion onto vulnerable populations. As corporations over-invest in the expansion of their shipping fleet carrying capacities, another form of infrastructural expansion is also demanded in the adaptation of port infrastructures, which are often funded by federal and municipal taxes. This means that while the ownership of the means of circulation are privatized, the risks of over-investment are socialized, and come to be borne by society at large in contested and uneven ways. Rather than follow the neoclassic economic logic that megaship expansions are built on the logic of economies of scale, this chapter suggests that private infrastructure expansion cannot be explained in isolation from broader shifts in the way the logistics economy is organized, and in the way the state participates in facilitating the circulation, production, and consumption of commercial capital. As such, I propose the following argument: Both state and corporate projects to expand the scale of logistics infrastructure are materialized bets on the durability of capital accumulation. As the state-capital nexus seeks to build this durable future, facilitating the expanded reproduction of capital through the growth of global logistics space, these infrastructures become burdens on the public that spatially fix concrete spaces of transit through contested and uneven processes of rescaling and dispossession. As such, it becomes important to understand the expansion of logistical infrastructure not only in terms of the physical system of circulation it enables, but also in terms of the irrational rationalities that these obsessions with monstrous expansion entail. Interrogating the interface between massive expansion of both megaships and megaports, I argue that the material systems of global supply can be understand not only as durable infrastructure - public works that stimulate local and global economic growth - but as unendurable monstrosities that imprint the violence of global circulation onto the lived spaces of populations vulnerable or precarious to the displacements and dispossession that such infrastructural expansion produce in their wake. The co-dependency of one monstrous infrastructure (the megaship) on another (the megaport) unevenly distributes violent political effects beyond the port itself, especially into spaces and populations in the global South who supply the raw materials and cheap labor for such undertakings. In this chapter, I use the term “vulnerable populations” as a way to refer to the diverse working classes, precarious lives, racialized populations, and ordinary people whose spatial and social mobility become subject to the demands of logistical flow. I choose the term to connote a general condition of susceptibility to harm under logistics, not because I wish to avoid specificity, but precisely because this chapter proposes that the interdependence of contemporary capitalist economies extend logistics’ effects beyond specific sectors of the transportation working classes and beyond demarcated geographies. Vulnerable populations do not lack agency. However, they are subject to uneven power relations that are intensified by the networked structure of logistics. In this sense, I think of vulnerability not in existential terms but through a materialist lens, where, following Judith Butler, (2012, 141) I understand vulnerability to be to a large extent “dependent upon the organization of economic and social relationships, the presence or absence of sustaining infrastructures and social and political institutions.” In expanding the networked infrastructures of commerce globally, logistics is an arrangement and mobilization of infrastructural violence that exacerbates and reproduces uneven relations of power.

#### Mega ship driven port expansions are an enactment of colonial violence

Chua 18, Phd Dissertation in Political Science University of Minnesota. (Charmaine, Containing the Ship of State: Managing Mobility in an Age of Logistics, <https://conservancy.umn.edu/bitstream/handle/11299/200214/Chua_umn_0130E_19452.pdf?sequence=1&isAllowed=y>}

In chapter three, I examine how the imperatives for capital to expand its circulatory capacities produce its own irrational rationalities. The increasing demands of just-in-time logistics require fixed forms of infrastructure that are constantly superseded by the demand for ever larger (and thus more efficient) transport systems. In the past decade, container ships have more than doubled in size as shipping carriers have sought to capture economies of scale in transportation, fuel and crew costs. The rise of megaships has placed new demands on global shipping infrastructure, requiring ports to make perpetual and capital-intensive adaptations to their infrastructure, placing heavy demands on logistics labor, and generating a global shipping crisis of overcapacity. As ships keep getting bigger, I examine the effects of this expansion as ports struggle to catch up. This need to expand port capacities has resulted in large-scale experiments with geo-engineering, from reclamation and dredging to island removal. By juxtaposing megaship construction with the destructive processes of infrastructural expansion they demand, I argue that the material systems of global supply should be understood not as durable infrastructure — public works that stimulate local economic development — but as unendurable monstrosities that imprint the colonial violence of global circulation onto the lived spaces of vulnerable urban populations.

#### Megaships independently cause port access disparities and expansions that triggers Southeast Asian conflict

Iyer 19, Fellow with the ORF Maritime Policy Initiative. She tracks ocean governance policies and international maritime trade sustainability for global development. (Gayathri, Mega-ships in the Indian Ocean: Evaluating the impact and exploring littoral cooperation, https://www.orfonline.org/research/mega-ships-in-the-indian-ocean-evaluating-the-impact-and-exploring-littoral-cooperation-53235/)

The emergence of mega-ships and mega-ports necessitates that governments respond to several traditional and non-traditional maritime security threats and vulnerabilities. Securing maritime supply chains against disruption presents an enormous challenge. The increased size of ships increases the safety, security and rescue concerns at ports proportionally as mega-ships generate larger and more concentrated flows of containers in docks, stores and the hinterland. Mega-ships also increase the concentration of risk in the transit choke points that can have severe global food and energy security implications.[41] While more cargo on ships implies less number of ships, the supply chain becomes less resilient due to the large volume of goods on decreasing number of vessels.[42] The potential threat to international commerce by naval mines makes mega-ships most vulnerable near geographical bottlenecks, especially on routes that carry large oil and food supply. Destabilising any one choke point could not only lead to massive losses of goods, it may have considerable economic and even life-safety repercussions around the globe. Experts have already identified the growing threat of naval mines in the Strait of Mandeb that ties the Red Sea to the Gulf of Aden.[43] The joint naval mine countermeasure and clearing exercise off the coast of Bahrain in 2012—which saw participation from 30 states from six continents—[44] drew attention to the need for greater clarity on the law governing the use of naval mines in times of both peace and war. The 1907 Hague VIII Convention, which is the only treaty that expressly governs naval mines in international law, is expressly limited to contact mines.[3] Since larger container vessels can ply only in limited sea-lanes of communications and dock only in a few mega-ports, they are aggravating the disparity among maritime trade regions and stakeholders. There are inequalities arising in some littorals because of being left out of the direct port calls and the changes in the traditional sea-lanes of communication. These rapid changes in sea-lanes of communication can catalyse conditions for the rise of non-state actors. They can disrupt maritime supply chains and threaten the global economy. Unplanned port expansion activities impact urban crime and human rights violation patterns. With the exception of India, the bulk of Asia’s population of 3.5 billion is coastal or near-coastal. Over 60 percent — 2.1 billion people — live within 400 kilometres of a coast. Such population clusters along coasts commonly results in serious conflicts over shared resources including water and land, unplanned urbanisation, and continued pollution of coastal waters.[45] The current coastal population growth is not being managed equitably, reflecting these concerns.[46] Port developments may also produce tensions based on historical development and socio-cultural composition. The social composition of most ports has been influenced by centuries of migration. Ports serve as entry and exit points for migration and act as employment hubs; as a result, port demographics change continually over time. This has given them distinct advantages in promoting social interaction, intellectual tolerance, and religious exchanges. At the same time, however, the complex distribution of communities that has developed as a result of successive phases of migration can lead to security threats in locations where human development is compromised. Mega-port development and expansion represents an unprecedented scale of intervention in an otherwise organically constituted settlement. This in turn can lead to the relocation of people, or trigger tribal, cultural, economic, and even religious conflict.[47] Since the Indian Ocean littoral has always been vulnerable to criminals and anti-national activities[48]—some internal and localised[49] and others of global significance[50]— state policies need to move towards balancing development of human capital with physical capital to create sustainable solutions. The expansions required to accommodate mega-ships are problematic for other reasons. They are mostly unplanned—with short-term gains in mind—aggravating existing issues of urban congestion and related crime. Karachi seaport in Pakistan is cited as a prime example of a well-located international trading port asset that grapples with unplanned port expansions, population overflow, complex urban demography, urban poverty, and violent crime.[51] It is a key geopolitical asset in South Asian international trades as the largest warm water deep-seaport in South Asia, and owing to its proximity to the Strait of Hormuz. Singapore, by contrast, has been able to leverage its human capital to create wider economic benefits for its people by planning its port expansion activities. Successfully planned port development has played a significant role in the country’s development and trade competitiveness.[[52]](https://www.orfonline.org/research/mega-ships-in-the-indian-ocean-evaluating-the-impact-and-exploring-littoral-cooperation-53235/" \l "_edn52),[[4]](https://www.orfonline.org/research/mega-ships-in-the-indian-ocean-evaluating-the-impact-and-exploring-littoral-cooperation-53235/" \l "_ftn4) As the example of Karachi shows (and inversely, Singapore implies), most of developing Asia lacks the political motivation, expertise, or money to introduce comprehensive coastal management plans at individual country level. It is thus important for these countries to select best practices and introduce joint policies for port expansion and development that examine ways of permitting economic growth while ensuring a better quality of life for all coastal dwellers. The highest rate of urban land conversion (increased urban extension) in the coastal zone, is taking place in China and Southwest Asia.[[53]](https://www.orfonline.org/research/mega-ships-in-the-indian-ocean-evaluating-the-impact-and-exploring-littoral-cooperation-53235/" \l "_edn53) Trade flows between the two regions through the Indian Ocean account for almost 30 percent of world trade. The trends of urban land and population expansion rates in these and Southeast Asian coastal zones is expected to continue or even increase into the future if countries are pushed into expanding ports rapidly to accommodate mega-ships. Since littorals support intricate maritime infrastructure including ports, harbours, oil and gas terminals, and rail/road systems, they can create favourable conditions for illegal activities. Their governance can be a major challenge for civil security agencies if they are socially dysfunctional due to economic or resource disparities. It is therefore important to consider policy frameworks that examine port expansion plans taking into account not only economic development but the planning required to address issues including increasing crime, human rights violations, ethnic conflicts, and the dislocation of people.

**Instability escalates---Southeast Asia is a flashpoint.**

Ei Sun **Oh 16**, Senior Fellow, Singapore Institute of International Affairs / Principal Adviser, Pacific Research Center, Malaysia, 9-20-17, Say ‘No’ To Balkanization – The Manila Times, Manila Times, https://www.manilatimes.net/2017/09/20/opinion/analysis/say-no-balkanization/351621/351621/

There are those who bluntly question what is the point of having Asean (Association of South East Asian Nations) at all if it were not to take a proactive role in regional matters, especially those of strategic importance? The answer to this question is, alas, perhaps an existentialist one. For indeed what would Southeast Asia be if we do not at least have a regional organization in the form of Asean? Well, one possible outlook would be that we are Balkanized. And what does that mean? The Balkan Peninsula, which roughly comprises the former Yugoslavia and Albania, has been one of the world’s most ethnically and religiously diverse and thus tense regions. Within a small confine of rather rugged terrain, there live side by side Orthodox Serbs, Muslim Bosnians and Catholic Croats, to name but a few of the Balkan tribes. Their incessant bickering led to the assassination of the Austro-Hungarian heir to the throne and thus the onset of the First World War a century ago. Yugoslavians were ruled with an iron fist under the communist dictator Tito for nearly half a century after the Second World War and thus maintained a forced peace. But all hell broke loose in the 1990s, with the various former component republics of Yugoslavia at war with each other and often within themselves too, culminating in many different horrible tales of genocide, war crimes and crimes against humanity. The relative peace there now can at best be described as temporary. And at least in theory we the various nations in Southeast Asia have the comparable “ingredients” that could have led to the same, if not higher degree of havoc, as the Balkans. There are Muslims, Christians and Buddhists (and even some Hindus) among us, and we are each fiercely proud of our respective ethnic backgrounds. So, we could have each staked our claim to our pride and “greatness” and assumed a rival posture to our neighbors, instigating war at the first hint of insult. Even just as an individual commentator on regional affairs, I myself have not immune to attack but subject to that sort of war cry from a neighboring country due only to a well-meaning media comment of mine, albeit at a civil-society level. So, things could have gone the Balkan way from way back during the early days of our independence from our respective colonial yokes. And we were almost there. Right before and after Malaysia’s formation, for example, the so-called “Confrontation” was launched to oppose it, with skirmishes taking place for a few years. But wiser heads prevailed, and all our former leaders decided not to go down that mutually destructive path toward total annihilation. Instead, we decided to set aside or overlook our cultural and political differences, great that they may be, and form Asean to bring us closer together, but only to a degree of closeness that we are all comfortable with. And that degree of comfort is essential for Asean’s long-term survival as a regional platform for peace and hopefully also security, but peace with each other first and foremost. In the early days of Asean, when the Vietnam War was raging, there was a perceived “common enemy” in the likelihood of communist insurgency flipping many Southeast Asian countries red in a domino effect, so the founding members of Asean understandably came very close together in security concerns, although even then there was not an explicit military alliance forged. As the Vietnam War receded, Asean members felt that it was time to focus on their collective and respective economic development, and so the whole focus of Asean switched to that of promoting economic cooperation and coordination. Ambitious socioeconomic frameworks were envisioned and enacted, such as the various Asean free trade agreements with the major trading powers of the world, culminating in Asean’s own free-trade-plus framework, the Asean Economic Community which is supposed to promote the free flow of goods, services and many more across Asean members’ boundaries. We live in very turbulent and dangerous times, with nationalism and its attendant jingoistic sentiments on the rise across the globe, including in some of the most advanced countries. My own personal negative experience above, although only encountered online, has persuaded me that if left unchecked, such negative trends would only serve to destroy ourselves and our neighbors. Therefore, I think that while we should not presume Asean to force its member states to abandon their various nationalistic characteristics in favor of a common Southeast Asian one, as some accuse the European Union of accentuating the European nature of its various members in lieu of their various national ones, we should nevertheless wait for Asean to take the lead in promoting further, deeper and broader understanding of each other’s history, needs and even fears. There are no significantly entrenched misunderstandings among us, so there is nothing to paper over. But sometimes it is very important for all of us to listen to each other’s aspirations in a peaceful manner.

### 1AC — Alliances

#### Advantage 2 is Alliances —

#### Mega-Shipping causes alliances

Veitch 16, Head of Policy for the Global Shipping Foundation, (Alex, Nov 2016, Report by Global Shipping Foundation, “The Implications of Mega-Ships and Alliances for Competition and Total Supply Chain Efficiency: An Economic Perspective”, <https://paperzz.com/doc/9427398/the-implications-of-mega-ships-and-alliances-for-competit>...)

The introduction of ultra large container vessels was the key driver behind the move to Mega Global alliances ( see the main body of the report- Mega ships and alliances: economic perspective) until only 4 Global alliances ( now reduced to three main alliances with the CMA-CGM acquisition of NOL subject to regulatory approval) and 50% of capacity to and from EU is provided by consortia in under 2 years, the number of big alliances doubled with 16 of world's top 20 carriers in one of four Mega Global alliances: CKYHE, G6, 2M and Ocean Three (this likely to be reduced to three main alliances).

#### The shipping alliances are artificially restricting supply and jacking up prices — class action suits can solve but current law prohibits those suits

Savvides 21, Reporter for The Loadstar. (Nick, Jan 8, 2021, Box lines ignore contracts and 'collude' to force shippers onto inflated spot market, https://theloadstar.com/colluding-box-lines-are-exploiting-shippers-claims-bco-in-formal-complaint/)

MCS argues that “foreign-owned” shipping lines have: “Unjustly and unreasonably exploited customers, vastly increasing their profitability at the expense of shippers and the US public generally, which bears increased freight cost in the form of inflation.” According to the suit, beneficial cargo owners (BCOs) operating to and from the US ordinarily pay for the shipments of cargo through bilaterally negotiated contracts with shipping lines, while spot rates are reserved for smaller shippers or one-time cargo movements. However, MCS claims that, with the onset of the Covid-19 pandemic, shipping lines began to collude to manipulate the market. The shipper told the FMC: “Global ocean carriers began taking parallel and strikingly similar actions to prop up ocean carriage pricing and improve their profitability at the expense of shippers and the public.” These actions, it added, included blanking sailings, which had the effect of reducing capacity by creating an “artificial scarcity and boosting prices on the spot market” as demand increased. Moreover, MCS claims that even as demand returned, the carriers did not return to pre-pandemic methods of working, but rather “doubled down” on the “manipulation” of the market, artificially keeping prices high. A container load shipped from China to the US west coast in 2019 would have cost $2,700, but today that same container voyage would be priced in excess of $15,000, said MCS. The shipper alleges it has first-hand experience of carrier “misconduct”, with the lines refusing to discuss these issues when approached by MCS. The filing claims: “In a stark break from pre-pandemic practice, several ocean carriers refused to negotiate or provide service contracts to MCS, and those that did provide such service contracts, including the respondents named herein, refused to provide more than a fraction of the cargo capacity that MCS requested and needs, despite the fact that the respondents overall have continued to operate at or near pre-pandemic capacity.” According to MCS, Cosco offered just 1.6% of the capacity it was contractually obliged to make available, while MSC fared better, offering 35% of contracted cargo space. “By definition, the service contracts required respondents to “commit to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features,” says the complaint. And, in an alleged escalation of their failure to meet their contractual obligations, the shipping lines, including Cosco and MSC, then “forced” MCS to buy space on the vastly inflated spot market. The carriers were able to renege on their contracts, claims MCS, because the lines were able to organise themselves into alliances which control 90% of the transpacific trade, and it is this alliance structure which allowed carriers to act in unison, forcing shippers onto more expensive spot rates, rather than transporting cargo at much lower, contracted rates. According to MCS the shipping lines have “obliterated” the stable structure of the ocean freight transport industry. In a first reaction to the news that MCS had filed a formal complaint, Global Shippers’ Forum executive James Hookham said the organisation would be “watching the developments closely”, and the case would “test the mettle” of the FMC and the regulatory structure in the US. He went on to say that parties would consider whether the action revealed any gaps in proposed amendments to the Shipping Act. In addition, the fact that MCS would have to act alone in the bringing of this case would also come under scrutiny. According to Mr Hookham, current legislation prevents shippers from entering into a powerful class action agreement that would bring in other complainants.

#### That artificial price inflation creates fake container shortages

Maritime Gateway 9/7/21, (Sept 7, 2021, Exporters complain on shipping companies forming cartels, <https://www.maritimegateway.com/exporters-complain-on-shipping-companies-forming-cartels/>

A crisis is staring exporters in the face with high freight rates and few ships and containers. These two factors are expected to spoil the upcoming Christmas season. Alleging that shipping companies are forming cartels, various industry players have approached the government, seeking its intervention and the setting up of a large shipping company under its guidance to break the international monopoly. A major point the exporters are raising as proof of this is the performance of the top 10 shipping companies in the world in the past one year. For these top 10 companies (no Indian companies on the list), the average operating profit increased 12-fold, revenue 66 per cent, the margin 27 per cent, and net profit 19,754 per cent in 2021, against 2020. This was on account of a low base, rise in volumes, and increase in freight rates. This is likely to go up this financial year. In a meeting with the Ministry of Shipping last week, representatives of the spices exports sector had highlighted that at least six of the top 10 shipping lines posted a net profit of over 30-fold in the past one year. “The top shipping lines seem to have formed a cartel and are controlling freight rates as they know this shortage and crisis will continue until the first quarter of 2023. We want the government to form a big shipping company or scale up the Shipping Corporation of India, or maybe even join hands with private sector players like Essar and Great Eastern Shipping. This will ensure ship availability for India,” Hitesh Gutka, president of the Indian Spices and Foodstuff Exporters’ Association, told Business Standard.

#### That artificial inflation massively drives up food prices

BMPA 20, British Meat Processors Association, (May 13, 2020, Spiraling freight costs threaten global food prices, <https://britishmeatindustry.org/industry-news/spiraling-freight-costs-threaten-global-food-prices/>

Evidence of a doubling and in some cases nearly tripling of maritime freight costs over the last month from exporters across the food supply chain has raised a red flag for food prices. The British Meat Processors Association, along with other food industry bodies, have been receiving alarming reports showing costs of a refrigerated shipping container to China, in the worst cases, rocketing almost 200% from £1200 to £3500, often with a new £500 ‘fuel surcharge’ included. We’ve also heard of new $1000+ ‘congestion taxes’ now being levied at ports in China and the Philippines. While some increase may be understandable due to difficulty filling ships for return journeys, the current price hikes which have persisted from early March are starting to look like opportunistic exploitation by a small group of large global companies which control that market. As early as mid March, reports were coming in that the congestion in Chinese ports had eased, with terminal operations returning to more normal working conditions. Indeed Shanghai, the world’s largest container port by volume had expanded its capacity for handling and storage of refrigerated containers by 40%. Back in early March, Frank Madsen from Danish freight forwarder Blue Water Shipping was quoted as saying: ‘There’s both a space and equipment issue that we think could continue for four to eight weeks’, however, the return to more normal volumes of activity in China hasn’t yet been reflected in the spot freight cost. Instead, shipping companies are somehow managing to maintain prices at hugely inflated levels. While one might think this is just affecting big businesses, the reality is that these price hikes will end up being passed on to consumers who can least afford it, both here in the UK and in poorer countries like the Philippines.

#### That drives massive food shortages

Murray et al 21, reporters for Bloomberg. (Brendon, with Isis Almeida, Ann Koh and Michael Hirtzer, Feb 3, 2021, Container crunch upends global food trade while ships queue at U.S. ports, https://www.japantimes.co.jp/news/2021/02/03/world/food-shipping-global-economy-covid-19-u-s-china/)

Food is piling up in all the wrong places, thanks to carriers hauling empty shipping containers. Global competition for the ribbed steel containers means that Thailand can’t ship its rice, Canada is stuck with peas and India can’t offload its mountain of sugar. Shipping empty boxes back to China has become so profitable that even some American soybean shippers are having to fight for containers to supply hungry Asian buyers. Strikes in Argentina have also boosted Asian demand for U.S. agriculture products, adding to competition for boxes. “People aren’t getting their goods where they need them,” said Steve Kranig, director of logistics at IM-EX Global Inc., a freight forwarder that handles cargoes including rice, bananas and dumplings from Asia to the U.S. “One of my customers ships 8 to 10 containers of rice every week from Thailand to Los Angeles. But he can only ship 2 to 3 containers a week right now.” China has recovered faster from COVID-19, so has revved up its export economy and is paying huge premiums for containers — making it far more profitable to send them back empty than to refill them. There are also signs the soaring freight rates are boosting the cost of some foods. White sugar prices surged to a three-year high last month, and delays in food-grade soybean shipments from the U.S. could mean higher tofu and soy milk costs for consumers in Asia, said Eric Wenberg, executive director of the Specialty Soya and Grains Alliance. While it’s not entirely uncommon for containers to transit back empty after a voyage, carriers usually try to backfill them to profit from shipping rates in both directions. But the cost of carrying goods from China to the U.S. is almost 10 times higher than the opposite journey, prompting liners to favor empty boxes instead of loading them, Freightos data showed. ‘Shortage of everything’ At the port of Los Angeles, the U.S.’s biggest for container cargo, three in every four boxes going back to Asia are traveling empty compared with the normal 50% rate, said Executive Director Gene Seroka. In Vancouver, terminals have shortened the time to transport the stuffed boxes onto ships from three days to as little as seven hours, said Jordan Atkins, vice president of WTC Group. “It’s not possible to get the amount of volume we have here in Vancouver to return containers in those tight windows,” said Atkins. “Pulses in general are struggling getting on the ships,” he said, referring to crops like peas and lentils. Canada is the world’s second-largest producer of pulses. India, the world’s second-largest sugar producer, exported only 70,000 metric tons in January, less than a fifth of the volume shipped a year earlier, said Ravi Gupta, president of Shree Renuka Sugars Ltd., the nation’s top refiner. Vietnam, the largest producer of the robusta coffee beans used to make instant drinks and espresso, is also struggling to export. Shipments dropped more than 20% in November and December, said Le Tien Hung, chairman of Simexco Dak Lak, Vietnam’s No. 2 exporter. Around the world, some foodstuff buyers are waiting while others have halted purchases altogether, traders say. “It’s been like that since December,” said Kranig of IM-EX Global. “You’re going to get not only a shortage of food but a shortage of everything. I would not be surprised to hear some beneficial cargo owners’ freight rates for 2021-2022 shipping season double from previous years.” If that prediction bears out, once the bulk of North Americans and Europeans are vaccinated, some of those high freight rates could be passed on to them as they return to cafes, restaurants and office towers. The container crunch comes just as American shippers are trying to boost exports of everything from soybeans to grain meals to Asia. China is scooping up American crops to feed a hog herd that’s recovering from a deadly pig disease faster than most expected. The situation is so dire that some buyers are canceling contracts, opting for bulk shipping methods, the most common for feed products, or delaying purchases to avoid high freight costs.

#### Rising food prices will devastate 100 million people

Gold 21, is a Senior Reporter based in Washington. (Shabtai, June 10, 2021, Low-income countries hit hardest by spike in global food prices <https://www.devex.com/news/low-income-countries-hit-hardest-by-spike-in-global-food-prices-100119>)

Global food prices have been sharply rising as part of a broader increase in commodity prices, and the inflationary pressures could have serious consequences for the world’s poor, according to data from the World Bank and the United Nations. In the latest edition of its biannual “Global Economic Prospects” report, released Tuesday, the World Bank said low-income countries are likely to be hit hardest by higher food prices for the remainder of this year. “The [COVID-19] pandemic not only reversed gains in global poverty reduction for the first time in a generation but also deepened the challenges of food insecurity and rising food prices for many millions of people,” the report said. “This is particularly prevalent among the poorest countries and populations, where higher prices of food can devastate discretionary incomes.” By the end of the year, some 100 million people in emerging market and developing economies “will have fallen back into extreme poverty,” the report said, warning that income losses in three-quarters of fragile and conflict-affected low-income countries will not be fully recovered by next year. Global food prices in May spiked the most in over a decade, according to the Food and Agriculture Organization. The 40% year-on-year jump is causing alarm that inflation will have further devastating impacts on the world’s poorest, as staple food costs soar.

#### The risk is higher now

AFP 21, Agence France Press. (Feb 7, 2021Rising food prices deepen the woes of world's poorest, https://www.france24.com/en/live-news/20210702-rising-food-prices-deepen-the-woes-of-world-s-poorest)

Global food prices are rising at their fastest rate in a decade, exacerbating the troubles of the world's most vulnerable nations as they struggle with the fallout from the coronavirus pandemic. The United Nations' Food and Agriculture Organization (FAO) is worried that soaring prices could foment further social unrest in countries already mired in political turmoil. Here is a look at the situation worldwide: - Where are food prices headed? - According to the FAO, food prices were nearly 40 percent higher in May than a year ago, the sharpest increase since September 2011. On a 12-month basis, the price of corn has skyrocketed by 88 percent, soybean by 73 percent, grain and dairy products by 38 percent, sugar by 34 percent and meat by 10 percent. "Obviously, it's very concerning," said Arif Husain, chief economist of the World Food Programme. In 2007-2008, brutal increases in the price of basic foodstuffs sparked riots in a number of cities around the world. Peaking in 2010-2011, the price rises acted as a harbinger for the Arab Spring uprisings.

#### Food insecurity drives inter-state conflict, political instability, and repression

Martin-Shields and Stojetz, 19 PhD at the School for Conflict Analysis and Resolution at George Mason University, and currently a researcher at the German Development Institute. Wolfgang is a Senior Researcher at ISDC and a Postdoctoral Research Fellow in the Department of Economics at Humboldt-University of Berlin. (Charles P.Martin-Shields and Wolfgang Stojetz. “Food security and conflict: Empirical challenges and future opportunities for research and policy making on food security and conflict” accessed online 8/27/19 <https://doi.org/10.1016/j.worlddev.2018.07.011>. World Development Volume 119, July 2019, Pages 150-164)

The broad field of food security and its consequences has attracted wide attention by academics and practitioners recently. Analyses have predominately focused on a conceptual understanding of food insecurity, such as the lack of dietary energy availability and nutrient deficiencies, and how to alleviate these concerns. While a large body of literature has studied the impact of broad categories of economic and ethnic differences, such as in growth or religion (for a recent review see Ray and Esteban (2017)), researchers and practitioners have only recently started to study the consequential impacts of food insecurity on conflict comparatively and rigorously (for a broad overview and excellent analysis on the effects on the occurrence of conflict see, e.g., Koren and Bagozzi (2016)). Two important points are obvious. First, food security aspects relevant for conflict zones and societies may be very diverse and vary substantially across different types and intensities of armed conflict and income levels. Second, impacts originate from and operate at very different levels. At the individual and household levels, factors such as nutrition and economic opportunity may directly affect participation in virtually any form of anti-social behavior. A range of additional mechanisms may originate at more aggregate levels, including global food prices and policies as well as domestic and local wartime institutions, markets, governance and climatic conditions. 3.2.1. The impacts of food insecurity on anti-social behavior At the individual level, food insecurity – or the threat thereof – may create both material and non-material incentives for individuals to engage in some form of behavior that threatens peace (to which this section will refer to as ‘anti-social behavior’). Pinning down a single channel empirically is extremely difficult, however, and rigorous empirical evidence at the individual level is therefore markedly thin. Two key challenges are that these motives are a) in and of itself very complex and hence difficult to measure and b) empirically extremely difficult to untangle from alternative mechanisms that are often credibly not directly related to food insecurity, such as abduction, peer-pressure, ideology, and emotions. The pioneering studies of ex-combatants by Humphreys and Weinstein (2008) provide perhaps the most compelling empirical evidence. Based on original survey data they show that armed groups sometimes target recruits via basic needs, by providing food, shelter and physical security. More recently, a growing number of qualitative accounts have emerged that document how civilians survive and protect their livelihoods and food security through forms of support for armed groups, which may be voluntary or involuntary. These processes are endogenous to ‘wartime governance’ by local ruling groups and underline the centrality of shelter, food and information to the fate of armed groups (Arjona et al., 2015; Justino & Stojetz, 2018; Kalyvas, 2006; Wood, 2003). However, it is apparent that rigorous evidence beyond descriptive and qualitative analyses is very scarce. 3.2.2. The impacts of food prices shocks on violent conflict Historical accounts are replete with descriptions of how rising food prices breed violent conflict, including insurgencies, wars and revolutions (Diamond, 2005; Goldstone, 1991; Rudé, 1964). There is now a growing body of econometric evidence – broadly in the vein of Hendrix, Haggard, and Magaloni (2009) – that supports this conjecture for the incidence of very different forms of social unrest, such as protests, riots, violence and war, with most studies relying on the FAO price index of food commodities. Most evidence exists for urban social unrest in contemporary Africa (e.g. Berazneva & Lee, 2013; Smith, 2014), which includes studies linking the ‘Arab Spring’ uprisings to international food price shocks (e.g. Johnstone & Mazo, 2011; Maystadt, Trinh Tan, & Breisinger, 2014). More recent findings suggest global relevance (Bellemare 2015; Cadoret, Hubert, & Thelen, 2015). Studies of the intensive margin of violent conflict are more scarce, but point to broadly similar, positive relationships with increasing food prices (see e.g. Breisinger, Ecker, & Trinh Tan, 2015; Maystadt & Ecker, 2014). By contrast, much less is known on how and how much food prices drive violent conflict. Among the most fundamental unsettled questions is whether and when it is the level versus the volatility of food prices that breeds conflict. In this regard, the most convincing evidence is provided by Bellemare (2015), who forcefully argues that increases in food price levels cause urban unrest, while those in food price volatility do not. The dominant explanation for the food price-conflict link are consumer grievances; higher prices essentially create or increase economic constraints and/or sentiments of perceived relative deprivation, which activates grievances that in turn lead to conflict. This causal chain is very difficult to both measure and isolate empirically, for reasons already noted above, which is why it is usually assumed rather than tested directly. In addition, most contributions have looked at the impact of international food prices on conflict at the national level, which is reasonable in principle, as many fragile and conflict-affected countries are net importers of food. However, a few recent studies emphasize the need to use country-specific food price indexes to better understand the consumption patterns and constraints faced by vulnerable populations (e.g. Arezki & Brueckner, 2014; Cadoret et al., 2015; Weinberg & Bakker, 2015). In an innovative study using such an approach based on a country’s food import pattern, Van Weezel (2016) provides three statistically robust and important findings: The (previously documented) relationship between food prices and urban conflict is driven mainly by the prices of basic staples like wheat; It is also predominantly supported for high-intensity conflict; Interestingly, however, the magnitude of the effect as well as the predictive power of food prices are both notably moderate. A second set of explanations for the food price-conflict link emphasizes breakdowns of state authority and legitimacy, when the state fails to provide food security, i.e. activating grievances against the state (e.g. Lagi, Bertrand, & Bar-Yam, 2011). A few recent analyses have sought to document the related impact on state-level correlates of conflict. For instance, Arezki and Brueckner (2014) argue that the cohesiveness of political institutions in low-income countries deteriorates significantly when international food prices increase, while Berazneva and Lee (2013) show that rising food prices and riots in Africa are associated with more political repression. 3.2.3. The impacts of food production on violent conflict While many developing countries – especially in Africa – increasingly rely on food imports for domestic consumption, agriculture often remains the largest economic sector, delivering labor opportunities and sustaining livelihoods. A third large strand of literature thus focuses on the role of variation in food production on violent conflict. As food production is strongly dependent on climatic conditions in many developing countries, new evidence is emerging on food production variation induced by climatic fluctuations, which is reviewed separately in the next section.7 Decreases in labor demand due to shifts in agricultural production may directly lower the opportunity cost of engaging in antisocial behavior (Miguel, Satyanath, & Sergenti, 2004). For instance, Guardado and Pennings (2017) show that conflict intensity in Iraq and Pakistan is higher outside the harvest season, when demand for labor in agriculture is lower. More generally, decreases in agricultural productivity may directly activate societal grievances due to increasing destitution, famine, distress, migration or aggravated social inequalities (Barnett & Neil Adger, 2007; Kelley, Mohtadi, Cane, Seager, & Kushnir, 2015; Raleigh & Kniveton, 2012; Reuveny, 2007; Raleigh, 2010). A third source of violent conflict discussed in the literature are increased grievances against the state, when agricultural deficits at the state level result in losses of tax revenues and higher food prices, as discussed above (HomerDixon, 1999; Kim, 2016). In this case, associated forms of maldistribution, patronage, corruption and embezzlement of aid may then also activate or exacerbate existing grievances against the state (Benjaminsen, 2008; Hendrix & Brinkman, 2013; Nunn & Qian, 2014). From a production point of view, increased international commodity prices – including agricultural commodities – could benefit domestic producers of the commodity and reduce conflict, for instance by an increase in opportunity costs (see e.g. Bazzi & Blattman, 2014). On the other hand, conflict could also become more likely, when, for instance, economic pay-offs to violent capture of agricultural revenues rise (see e.g. Fjelde, 2015). These basic considerations suggest that fluctuations in commodity prices may affect subpopulations and sub-regions in conflict zones very differently. While of paramount importance, researchers have just begun to develop rigorous studies and frameworks to analyze these processes empirically. A few recent contributions provide initial but statistically very sound insights. McGuirk and Burke (2017), for instance, demonstrate empirically that increases in world commodity prices can reduce the incidence of large-scale conflict over land and the control of territory (‘factor conflict’) for African food-producing grid-cells. Conversely, higher prices can increase the incidence of (small-scale) conflict over the appropriation of surplus (‘output conflict’). The innovative study by Crost and Felter (2016) combines global market prices with spatial variation in crop intensity in the Philippines to show that increases in major export crop can causally exacerbate violence. The effects are driven by insurgents gaining strength by extorting agricultural exporters. Related, Wright (2016) shows how Colombian rebel tactics respond to fluctuations in world coffee and coca prices. Drops in coffee prices allow and cause rebels to use more intense conventional fighting (as economic opportunities outside of rebellion are argued to be low), while dropping returns to coca production lead to irregular rebel attacks (as rebels are argued to be more resource constrained). Finally, concerns of securing local food access and smoothing food security of its members can also make armed groups more likely to perpetrate violence against civilians when intergroup conflict activity is high (Koren & Bagozzi, 2017).

#### Food shortages lead to nuclear war

FDI 12 - a Research institute providing strategic analysis of Australia’s global interests; citing Lindsay Falvery, PhD in Agricultural Science and former Professor at the University of Melbourne’s Institute of Land and Environment (Future Directions International, , “Food and Water Insecurity: International Conflict Triggers & Potential Conflict Points,” <http://www.futuredirections.org.au/workshop-papers/537-international-conflict-triggers-and-potential-conflict-points-resulting-from-food-and-water-insecurity.html>)

There is a **growing appreciation** that the conflicts in the next century will **most likely** be fought over a lack of resources. Yet, in a sense, this is not new. Researchers point to the French and Russian revolutions as conflicts induced by a lack of food. More recently, **Germany’s World War Two** efforts are said to have been inspired, at least in part, by its perceived need to gain access to more food. Yet the general sense among those that attended FDI’s recent workshops, was that the scale of the problem in the future could be **significantly greater** as a result of population pressures, changing weather, urbanisation, migration, loss of arable land and other farm inputs, and increased affluence in the developing world. In his book, Small Farmers Secure Food, Lindsay Falvey, a participant in FDI’s March 2012 workshop on the issue of food and conflict, clearly expresses the problem and why countries across the globe are starting to take note. . He writes (p.36), “…if people are hungry, especially in cities, **the state is not stable** – riots, violence, breakdown of law and order and migration result.” “Hunger feeds anarchy.” This view is also shared by Julian Cribb, who in his book, The Coming Famine, writes that if “large regions of the world run short of food, land or water in the decades that lie ahead, then **wholesale, bloody wars are liable to follow**.” He continues: “An increasingly credible scenario for **World War 3** is not so much a confrontation of super powers and their allies, as a **festering, self-perpetuating chain of resource conflicts**.” He also says: “The wars of the 21st Century are less likely to be global conflicts with sharply defined sides and huge armies, than a scrappy mass of failed states, rebellions, civil strife, insurgencies, terrorism and genocides, sparked by bloody competition over dwindling resources.” As another workshop participant put it, people do not go to war to kill; they go to war over resources, either to protect or to gain the resources for themselves. Another observed that hunger results in passivity not conflict. Conflict is over resources, not because people are going hungry. A **study** by **the I**nternational **P**eace **R**esearch **I**nstitute indicates that where food security is an issue, it is more likely to result in some form of conflict. **Darfur, Rwanda, Eritrea and the Balkans** experienced such wars. Governments, especially in developed countries, are increasingly aware of this phenomenon. The UK Ministry of Defence, the CIA, the US **C**enter for **S**trategic and **I**nternational **S**tudies and the Oslo Peace Research Institute, **all identify** famine as a potential trigger for conflicts and possibly even **nuclear war**.

### 1AC — Plan

#### The United States federal government should increase prohibitions on anticompetitive practices including the acquisition, use, and sharing of mega-ships above 10,000 TEU capacity in container shipping expanding the authority of the Federal Maritime Commission and maritime industry to pursue legal remedies.

### 1AC — Solvency

#### Finally, Solvency —

#### Removing immunity from international shipping is key

O’Shea 17, an attorney who works on transportation and infrastructure issues, (Sean, October 3, 2017, Congress Must Stop Foreign Ocean Carriers From Harming U.S. Economy, https://morningconsult.com/opinions/congress-must-stop-foreign-ocean-carriers-from-harming-u-s-economy/)

It is long past time for Congress to update the Shipping Act to give the FMC the power it needs to bring lawsuits to block foreign carriers from colluding to set unfair prices and service terms. At the same time, lawmakers also must allow U.S. port service providers to demonstrate in court how these anticompetitive practices by the foreign cartels are harming their businesses and workers. Currently, their interests are barred from being considered in antitrust actions against foreign ocean carriers. Absent reform of this outdated regulatory environment, ports will be unable to make critical infrastructure upgrades that will allow the U.S. maritime industry to continue serving as vital economic engine for the country. Ports currently support 23 million jobs and generate more than $320 billion in tax revenue each year. And if current growth projections hold, they will become even more indispensable. By 2030, America’s trade volume is expected to quadruple, including tremendous growth in the amount of freight bound for export. Within 20 years, 60 percent of the U.S. economy is expected to depend upon port-related activity. But America’s maritime industry will not be able to continue to attract private investors and lenders to build infrastructure to meet this future economic demand unless Congress takes action now to end price-fixing and other anticompetitive practices by foreign ocean carriers that stifle industry profits, put jobs at risk and stifle private investment in much-needed port infrastructure upgrades. In particular, carriers immunized from antitrust regulation are also ordering enormous, new 22,000-container ships that will require new cranes and shore facilities, but they will not provide long-term volume guarantees necessary for ports to finance these capital improvements through regular commercial markets. Aside from this obvious legislative restoration of reasonable balance to enable private industry to meet demands, the two equally unacceptable outcomes are to do without the infrastructure and pay the economic penalty when bottlenecks occur, or look to taxpayer-funded solutions. Many lawmakers in Congress have talked about the need for modernizing regulations that constrain U.S. economic and job growth. They now have the perfect opportunity to reform U.S. maritime laws so they protect America’s shipping industry and port workers instead of lining the wallets of foreign competitors. And these reforms must begin with giving the FMC and the American maritime industry the power to take legal action to block unfair, anticompetitive actions by foreign cartels.

#### Competition law should focus on prohibiting future mega ships

Veitch 16, Head of Policy for the Global Shipping Foundation, (Alex, Nov 2016, Report by Global Shipping Foundation, “The Implications of Mega-Ships and Alliances for Competition and Total Supply Chain Efficiency: An Economic Perspective”, <https://paperzz.com/doc/9427398/the-implications-of-mega-ships-and-alliances-for-competit>...)

One key question, therefore, is whether competition law will preclude further investment in ever larger ships? This question arises, by the OECD, because that investment will increase carriers fixed and variable (bunker fuel) costs, without any benefit to shippers through reduced Freight rates since the potential economies of scale are exhausted. On the contrary, the investment will create higher cost externalities for other market players, and in particular higher risk of lower quality services for shippers operating just-in-time delivery businesses.

#### private antitrust action is necessary to deter international collusion

Lande 16, Professor of Law at the University of Baltimore School of Law, Director of the American Antitrust Institute. {Robert; Spring 2016; Antitrust, “Class Warfare: Why Antitrust Class Actions Are Essential for Compensation and Deterrence,” <https://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=2019&context=all_fac>)

OUR RECENT EMPIRICAL STUDIES demonstrate five reasons why antitrust class action cases are essential: (1) class actions are virtually the only way for most victims of antitrust violations to receive compensation; (2) most successful class actions involve collusion that was anticompetitive; (3) class victims’ compensation has been modest, generally less than their damages; (4) class actions deter significant amounts of collusion and other anticompetitive behavior; and (5) anticompetitive collusion is underdeterred, a problem that would be exacerbated without class actions. Recent court decisions undermine class action cases, thus preventing much effective and important antitrust enforcement.1 Class Actions Are Virtually the Only Way for Most Victims of Federal Antitrust Violations to Receive Compensation The antitrust statutes provide that violations result in automatic treble damages for the victims.2 The legislative history 3 and case law indicate that compensation of victims is a goal, perhaps the dominant goal, of antitrust law’s damages remedy.4 Class actions play an essential role in ensuring that the treble damages remedy serves its intended function of “protecting consumers from overcharges resulting from price fixing.”5 As the Supreme Court noted, “[C]lass actions . . . may enhance the efficacy of private [antitrust] actions by permitting citizens to combine their limited resources to achieve a more powerful litigation posture.”6 Accordingly, “courts have repeatedly found antitrust claims to be particularly well suited for class actions . . . .”7 Without class actions, cartels and other antitrust violators that inflict widespread economic harm would have little to fear from the treble damages remedy. This is because, as a practical matter, class action cases are virtually the only way for most victims of anticompetitive behavior to receive compensation.8 A 2013 study that Professor Joshua Davis and I conducted documents the benefits of private enforcement by analyzing 60 of the largest recent successful private U.S. antitrust cases (defined as suits resolved since 1990 that recovered at least $50 million in cash for the victims9 ). These actions returned a total of $33.8–$35.8 billion in cash to victims of anticompetitive behavior.10 These figures do not include products, discounts, coupons, or the value of injunctive relief or precedent—only cash.11 Consequently, these totals significantly understate the actual benefits of this litigation to the victims involved. And, of course, this study covered only 60 suits (albeit 60 of the largest private recoveries) out of the many hundreds of private cases filed in the United States during this period. Of these 60 large private cases, 49 were class action suits.12 These cases recovered a total of $19.4–$21.0 billion—the majority of the amount analyzed in our study.13 Since these were among the largest private actions ever filed, specific conclusions based upon these results may not generalize perfectly to all class action cases. They do suggest, however, that without class action cases, effective and significant victim compensation would be reduced dramatically. Most Successful Class Actions Involve Collusion that Was Anticompetitive Almost every private antitrust case that results in a remedy does so through a settlement,14 so the underlying merits of the plaintiffs’ claims usually have not been definitively assessed by a court or jury. Critics sometimes use this fact to support assertions that class actions usually are meritless, that plaintiffs often receive huge sums from cases not involving anticompetitive conduct, and that private antitrust actions often amount to legalized blackmail or extortion.15 Antitrust class actions arise in widely varied market and factual settings, and views about the merits of specific cases and the litigation risks involved vary as well. This makes it extremely difficult to draw objective conclusions about the merits of settlements. Nevertheless, there are good reasons to believe that the vast majority of class action cases in the Davis/Lande study involved legitimate claims. Forty-one of the 49 class actions involved allegations of collusion,16 and the same conduct supporting the settlements gave rise to criminal penalties in 20 cases; to civil relief by the FTC or DOJ in 8 cases; to civil relief by a state or other governmental unit in 9 cases; to a trial that the defendants lost and that was not overturned on appeal in 7 cases; to a class being certified in 22 cases; and to plaintiffs surviving or prevailing at summary judgment in 12 cases.17 Overall, 44 of the 49 class action suits (90 percent) exhibited at least one of these forms of legal validation as to their merits. (The 5 actions that did not have at least one of these indicia settled too early for a substantive evaluation of their merits).18 These results are broadly consistent with a finding that Professor John Connor derived from an analysis of 130 private recoveries worldwide in international cartel cases for which he could obtain the necessary data.19 He found that of the 50 largest worldwide settlements, measured by their monetary recoveries in constant dollars, 49 had been filed against international cartels.20 Of these, 51 percent were follow-ups to successful DOJ prosecutions, and another 8 percent were filed after fines by the EC or other non-U.S. antitrust authorities.21 Using a different data set, Connor and I found that 36 of 71 (also 51 percent) successful U.S. class action recoveries followed successful DOJ criminal cases.22 This data does not prove that these or any other specific class action cases involved anticompetitive conduct. But critics who assert that most antitrust class actions are little more than legalized blackmail rely only on anecdotes, hypotheticals, and opinions (often of defendants in the cases), without support from studies, and with no reliable empirical evidence that the actions lack merit or that settlement amounts are excessive compared to the anticompetitive harm.23 To be fair, one should compare the above indicia of validity to the absence of any systematic evidence underpinning the critics’ charges. Critics also sometimes assert that remedies typically secured in class action settlements are at best dubious and often are completely worthless, consisting of useless coupons, meaningless discounts, and obsolete products. They argue with regard to cash payments (without providing even a single anecdote) that “issuing [class members] a check is often so expensive that administrative costs swallow the entire recovery.”24 According to many critics the only ones to benefit from private enforcement are the attorneys involved.25 The critics who make these charges, however, never offer evidence beyond opinions, hypotheticals, and occasional anecdotes. Indeed, for the 49 antitrust class action cases that Davis and I studied, the data show that, overall, only a total of approximately 20 percent of the recoveries went for attorney fees (14.3 percent) or claims administration expenses (4.1 percent).26 The rest was returned to the victims. This result is consistent with older estimates of legal fees in antitrust class action cases in the 6.5 to 21 percent range.27 Critics also sometimes examine what happened in other areas of law and assert that these outcomes occur in contemporary antitrust class action suits as well. But they never offer systematic evidence from antitrust cases to support their opinions.28 Interestingly, only one of the lawsuits in the Davis/Lande study involved a coupon remedy—the Auction Houses cases. However, those coupons were fully redeemable for cash if they were not used for five years.29 The actions Davis and I studied were among the largest antitrust class actions ever brought and therefore might not be representative of class action cases in general. Abuses surely occur from time to time in class action cases, as they do almost everywhere in the legal system. But a majority of the critics’ most egregious examples are from other areas of law or are quite old.30 No one has ever presented reliable evidence showing that such examples occur frequently or are typical of contemporary antitrust class action cases.31 Class Victims’ Compensation Has Been Modest, Generally Less than Their Damages Even though the $19.4–$21.0 billion that Davis and I showed had been returned to victims in 49 class action cases is a significant figure when viewed in absolute terms, it probably was not nearly enough to fully compensate all of the victims involved. To ascertain “Recovery Ratios” (the percentage of the illegal overcharges that was obtained in the form of monetary payments to victims in private actions), Professor Connor and I assembled a sample consisting of every completed private case against cartels discovered from 1990 to mid-2014 for which we could find the necessary information. For each of these 71 cases we assembled neutral scholarly estimates of affected commerce and overcharges and compared these estimates to the damages secured in the private actions filed against these cartels.32 The victims of only 14 of the 71 cartels (20 percent) recovered their damages (or more) in settlement. Only seven (10 percent) received more than double damages. The rest— the victims in 57 cases—received less than their damages. In four cases, the victims received less than 1 percent of damages, and in 12 cases they received less than 10 percent of damages. Overall, the median average settlement was 37 percent of single damages. The unweighted mean settlement (a figure that gives equal weights to the cartels that operated in large and small markets) was 66 percent. The mean and median average Recovery Ratios are higher (81 percent and 52 percent, respectively), for the 36 cases that were follow-ups to DOJ prosecutions that imposed criminal sanctions.33 Because these Recovery Ratios do not include any valuations of products, discounts, coupons, or the value of injunctive relief or precedent, the actual worth of these remedies to the victims is greater than the figures reported above. Nevertheless, it fairly can be concluded that antitrust class action cases often return important recoveries to victims that are significant in absolute terms, but usually are modest when measured against the sizes of the overcharges involved. Class Actions Deter Significant Amounts of Collusion and Other Anticompetitive Behavior Private class action cases serve to deter a substantial amount of anticompetitive activity, perhaps even more than the highly acclaimed anti-cartel program of the U.S. Department of Justice, which often results in prison sentences for cartel participants.34 Virtually every contemporary analysis of antitrust enforcement assumes that deterrence is an important purpose of the private treble damages remedy provision.35 The Supreme Court has underscored this point. For example, in Reiter v. Sonotone Corp., the Court explained: Congress created the treble-damages remedy of § 4 precisely for the purpose of encouraging private challenges to antitrust violations. These private suits provide a significant supplement to the limited resources available to the Department of Justice for enforcing the antitrust laws and deterring violations.36 The government, however, cannot be expected to do all of the necessary enforcement for a number of reasons, including budgetary constraints, “undue fear of losing cases; lack of awareness of industry conditions; overly suspicious views about complaints by ‘losers’ that they were in fact victims of anticompetitive behavior; higher turnover among government attorneys; and the unfortunate, but undeniable, reality that government enforcement (or non-enforcement) decisions are, at times, politically motivated.”37 A recent study highlights the deterrence benefits of private enforcement by comparing the likely deterrent effects of private antitrust enforcement to that of criminal anti-cartel enforcement by the Antitrust Division.38The surprising result is that private enforcement—and even just antitrust class action cases considered separately—probably deters more anticompetitive behavior. From 1990 through 2011 the total of DOJ corporate antitrust fines, individual fines, and restitution payments totaled $8.2 billion. (Dis)valuing a year of prison or house arrest at $6 million39 adds another $3.6 billion in total deterrence from the DOJ’s anti-cartel cases, yielding a total of approximately $11.8 billion. This is a substantial figure, and the possibility of incurring such sanctions surely has deterred a significant number of would-be antitrust violators.40 Nevertheless, these penalties amount to approximately 50 percent of the $19.4–$21.0 billion in cash alone (not including products, etc.) secured by just the 49 studied class cases that were completed during the same period.41 These private cases were only a portion of the hundreds of successful class action cases completed during this period (albeit they were many of the largest).42 The total amount of payouts in class action cases is so high that it probably deters more anticompetitive conduct than even the DOJ’s anti-cartel enforcement efforts.

#### Those cases force a reduction in ship size, improvement in services, and lower costs

Haralambides 19, Professor of Maritime Economics and Logistics at Erasmus University Rotterdam. (Hercules, 2019, Gigantism in container shipping, ports and global logistics: a time-lapse into the future Maritime Economics & Logistics volume 21, pages1–60, https://link.springer.com/article/10.1057/s41278-018-00116-0)

Such consolidation in an industry that is already highly concentrated is bound to take place under the increasing scrutiny of the regulator who, with the final consumer in mind, is likely to encourage more competition rather than further consolidation. If the liner shipping market thus becomes more open and competitive in the future, i.e. if alliance agreements regarding vessel sharing, investment planning, etc. are scrutinized more closely for their compatibility with competition law, as I expect, the joint filling of the ship will become more difficult and ship sizes shall by necessity decrease, together with an increase in the number of ports of call. Low prices would then be achieved through higher competition rather than big ship sizes. In such a scenario, shipping companies will be forced to provide the services their customers want, rather than the ones they find it convenient to offer. Shippers do not like too much transshipment and, if they could help it, they would like their container as close to them as possible. Reduction in ship size and more direct calls could thus follow the example of the air-transport industry. The most common jet flying across the Atlantic is not the 420-seat 747 jumbo but the 200 plus-seat Boeing 767. Eight out of 10 transatlantic planes are twin-engine craft such as the 767, its bigger brother the 777, or the various airbuses. This taste for smaller international jets reflects the fact that travellers now like to shun big international hubs such as London and New York and fly directly to their destinations. This is changing the international market into a web of direct intercontinental flights rather than one big air-bridge between London and New York.

#### Only antitrust can reduce the size of mega ships

Haralambides 19, Professor of Maritime Economics and Logistics at Erasmus University Rotterdam. (Hercules, 2019, Gigantism in container shipping, ports and global logistics: a time-lapse into the future Maritime Economics & Logistics volume 21, pages1–60, https://link.springer.com/article/10.1057/s41278-018-00116-0)

The impact of alliances on container shipping and ports I just stated that the gigantism in shipping has been induced by both port competition and shipping alliances. Indeed, without the ability to use each other’s ships, no carrier alone would be able to achieve a capacity utilization high enough to justify the use of present day mega-ships, while at the same time offering the frequency that shippers demand. But carriers have gone a step too far: At the time of writing, three alliances carry 80% of global trade. Such consolidation, in an industry that is already highly concentrated, is bound to take place under the increasing scrutiny of the regulator who, with the final consumer in mind, is likely to encourage more competition rather than further consolidation. If this happens, i.e., if container shipping becomes more open and competitive in the future, and alliance agreements regarding vessel sharing, investment planning, etc. are scrutinized more closely for their compatibility with competition law, as I expect, the joint filling of the ship will become more difficult and ship sizes shall by necessity decrease, together with an increase in the number of ports of call. Low prices would then be achieved through more competition rather than big ship sizes. This is more so when it is doubtful if the economies of scale in shipping are passed on to the final consumer, as required by the consortia block exception from the provisions of competition law in Europe.Footnote51

#### \*\*\*Federal Maritime Commission [FMC] decisions are currently beyond the capacity of antitrust statutes — the plan removes the existing exemption

Young-Bascom 11 is a Professor of Law at the University of Wisconsin. (George, 2011, “Replacing Antitrust Exemptions for Transportation Industries: The Potential for a “Robust Business Review Clearance,” Oregon Law Review, Vol. 89 1059-1106, https://www.antitrustinstitute.org/wp-content/uploads/2018/08/Carstensen.pdf)

4. Some Tentative Conclusions

The great bulk of agreements and combinations that benefit from antitrust immunity have no absolute need for such an entitlement. Despite the concerns about the specifics of a few ventures, a majority of the joint venture agreements seem to present little risk of any antitrust liability. The relatively few standard-setting agreements are somewhat more problematic because they reflect a collective agreement among competitors that restricts the ways they compete. Because these agreements are subject to agency review and approval, the agreements could easily be transformed into formal agency orders based on an administrative proceeding in which all interested parties could participate as the STB has suggested. Thus, even if such agreements were characterized as unlawful under antitrust law, they can easily be converted into a formal regulatory requirement. With few exceptions, the current body of exempted agreements is not consistent with a clear cartel motivation. Two more troubling observations point toward the need for reform. First, especially in ocean shipping, some explicit cartel agreements remain. There seems, however, to be little justification for such agreements. Indeed, as the STB has stated in connection with the trucking agreements, such agreements are now contrary to declared public policy. Second, the present systems for land and air transportation immunities fail to provide a sufficiently rigorous check on the potentially adverse competitive effects that can and do flow from unnecessarily restrictive or unduly inclusive ventures. Worse, the FMC lacks any authority even to review the merits of submitted agreements that result in immunity. Overall, then, the present system has a strong tendency to undermine competition. The results are diminished efficiency and a loss of dynamic innovation. Moreover, given the changes in the underlying market contexts that result from both technological and legal changes, there is no continuing policy reason for the current system of an agency’s unilateral grant of immunity. This is not to argue that the agencies serve no function. First, the agencies provide a forum for establishing rules and regulations to govern aspects of these markets that are beyond the capacity of antitrust law and courts’ enforcing that law. Second, the agencies establish important reporting requirements to obtain information necessary in evaluating the services being offered by transportation providers. Third, the agencies provide continuing oversight, monitoring, and investigative capacity beyond the authorization or institutional capacity of the DOJ. Thus, the question is not whether the agencies should be removed from the process but whether agency approval alone should warrant immunity from antitrust law.

# 2AC

## Wipeout

#### life beyond humans

Pomeroy 17 — Steven Ross Pomeroy (Chief Editor at RealClearScience, zoologist, conservation biologist, appeared in *Science Now* and *Scientific American*), 6-5-2017, "12 Possible Reasons We Haven't Found Aliens," No Publication, <https://www.realclearscience.com/blog/2017/06/05/12_possible_reasons_we_havent_found_aliens.html>, [accessed: 5/18/19] — JPark

In 1950, a learned lunchtime conversation set the stage for decades of astronomical exploration. Physicist Enrico Fermi submitted to his colleagues around the table a couple contentions, summarized as 1) The galaxy is very old and very large, with hundreds of billions of stars and likely even more habitable planets. 2) That means there should be more than enough time for advanced civilizations to develop and flourish across the galaxy. So where the heck are they? This simple, yet powerful argument became known as the Fermi Paradox, and it still boggles many sage minds today. Aliens should be common, yet there is no convincing evidence that they exist.

Here are twelve possible reasons why this is so.

1. There aren't any aliens to find. As unlikely as it seems in a galaxy with hundreds of billions of stars and as many as 40 billion Earth-size planets in habitable zones, we could be alone.

2. There is no intelligent life besides us. (This assumes, of course, that humans count as intelligent.) Life may exist, but it could simply take the form of miniscule microbes or other cosmically "quiet" animals.

3. Intelligent species lack advanced technology. Currently, astronomers utilize radio telescopes to listen intently to the night sky. So if alien species aren't broadcasting any signals, we'd never know they existed.

4. Intelligent life self-destructs. Whether via weapons of mass destruction, planetary pollution, or manufactured virulent disease, it may be the nature of intelligent species to commit suicide, existing for only a short time before winking out of existence.

5. The universe is a deadly place. On cosmic timescales – think billions of years – life may be fleeting. All it takes is a single asteroid, supernova, gamma ray burst, or solar flare to render a life-harboring planet lifeless.

6. Space is big. The Milky Way alone is 100,000 light years across, so it's conceivable that the focused signals of intelligent aliens, which are limited to the speed of light, simply haven't reached us yet.

7. We haven't been looking long enough. Eighty years. That's the amount of time that radio telescopes, which allow us to detect alien signals, have been around. And we've been actively searching for aliens for maybe sixty years. That's not very long at all.

8. We're not looking in the correct place. As previously mentioned, space is big, so there are tons of regions to listen for alien signals. If we're not listening precisely in the direction from which a signal is originating, we'd never hear it. As Andrew Fain explained at Universe Today, it's like trying to speak with your friend on a 250,000,000,000-channel CB radio, without any knowledge of the frequency on which they are transmitting. You'll probably be channel flipping for a long time.

9. Alien technology may be too advanced. Radio technology may be commonplace here on Earth, but on far-flung worlds, alien societies may have graduated to more advanced communication technologies, like neutrino signals. We can't decipher those just yet.

10. Nobody is transmitting. Instead, everybody may be listening. That's basically how it is here on Earth. Apart from a few paltry efforts to broadcast strong signals over a narrow frequency band towards the stars above, we've barely made our presence known in the universe. In fact, if aliens have radio telescopes similar to what we have on Earth, our television and radio broadcasts would only be detectable up to 0.3 light-years away. That distance doesn't even transcend the farthest reaches of our solar system.

11. Earth is deliberately not being contacted. On Earth, we have policies about contacting indigenous peoples; it's possible that the same thing could be happening with us. Just like in Star Trek, advanced alien societies may enforce rules that limit contact only to species that attain a lofty degree of technological or cultural evolution.

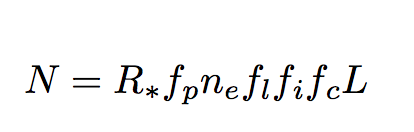
12. Aliens are already here and we just don't realize it. Conspiracy theorists love this unlikely explanation. While the chances are remote, it's not impossible that government agencies are concealing the presence of aliens. Although it's more likely that aliens are already amongst us, observing humanity in the clever and ironic guise of lab mice.

#### The newest study errs negative — the Drake Equation assumes the latest science and most likely scenarios

— we don’t endorse ableist language

Coren 18 — Michael J. Coren (covers technology, science, startups, and VC), 6-25-2018, “Where is Everybody — We may have answered the Fermi Paradox: We are alone in the universe,” <https://qz.com/1314111/we-may-have-answered-the-fermi-paradox-we-are-alone-in-the-universe/>, [accessed: 5/18/19] — JPark

Researchers of Oxford University’s Future of Humanity Institute have another answer. It’s likely intelligent life doesn’t exist at all, outside of Earth. In a paper submitted to the Proceedings of the Royal Society of London (it appeared online this month on the pre-publication site arXiv), the researchers write that there is “a substantial ex ante probability of there being no other intelligent life in our observable universe,” and we shouldn’t be surprised if we fail to detect any signs of it. In other words, there is no need to speculate about the fate of aliens. It’s likely they’ve never existed, they assert in the paper, titled “Dissolving the Fermi Paradox.” The Fermi Paradox derives from a question reportedly posed by physicist Enrico Fermi during a 1950 lunch in the Los Alamos National Laboratory in the state of New Mexico. According to Scientific American, a group of scientists were discussing a New Yorker cartoon showing aliens emerging a spaceship, onto the streets of New York City. ”Where is everyone?” Fermi asked. While he was likely questioning the possibility of interstellar travel, later accounts suggested he was casting doubt on the existence of extraterrestrials themselves, the magazine reports. Scientists have been trying to answer Fermi’s question ever since. Many of the most rigorous attempts have built on a postulation known as the Drake equation. There are plenty of unknowns, but the equation suggests it’s plausible thousands of detectable alien civilizations could be roaming the Milky Way based on the probability of seven factors. The equation:



N: total detectable alien civilizations in the Milky Way

R∗: rate of star formation per year

fp: fraction of stars with planets

ne: Earth-like (or otherwise habitable) planets per system with planets

fl: fraction of such planets with life

fi: fraction with life that develop intelligence

fc: fraction of intelligent civilizations that are detectable/contactable

L: average longevity of such detectable civilizations

Previous estimates of the Drake equation have assigned a single number to those variables. The recent study sought to make a more informed guess. It relies on our latest knowledge of biology, chemistry, and cosmology, and uses a distribution of probabilities (a range) to capture the most likely scenarios, rather than assign a single value. When they did, the researchers found that the possibility we’re alone in the galaxy is far higher than presumed given the truly gargantuan number of possible home planets. The authors assert that the chance humanity stands alone among intelligent civilizations in our galaxy is 53%–99.6%, and across the observable universe is 39%–85%. Since the Fermi “paradox” exists only if we are confident alien civilizations are out there, this uncertainty suggests we may just be the lucky ones—thus, there is no such paradox. ”We should not actually be all that surprised to see an empty galaxy,” the authors write. But don’t give up entirely. The Drake equation, at best, merely gives us a way to formalize what is still unknowable. It’s a big universe.

#### Avoiding wipeout is key to Type-II civilization – solves all universal suffering.

Fraser Cain, 7/6/2016. Science Journalist. “When will we be a type III civilization?” Phys.org. <https://phys.org/news/2016-07-iii-civilization.html>.

Now, I'm no futurist, but I think I can predict one thing. Humans love to use energy, and in the future, we're going to use even more of the stuff.

Let's hope it's clean energy, like that handy source of photons in the sky: the Sun. Not dirty forms of energy, like screams, unobtainium, liquid Shwartz, or using humans as batteries.

Once we really get our hands on a clean, unlimited source of energy, you can expect our usage to grow and grow until every human on Earth is using as much energy as a small country.

We will climb our way up through the Kardashev scale of energy usage, from Type 1, to Type II to Type III. Type III! Can you even imagine what would happen at that point?

Oh, you have no idea what I'm talking about? No problem.

The Kardashev Scale was originally developed by the Soviet astronomer Nikolai Kardashev in 1964. He looked at the advancement of humanity's need for energy, and then just extrapolated when what our future energy demands would look like – and how they'd be supplied.

He broke them into three types. A Type I civilization would have complete and total mastery over all the energy of its planet. A Type II civilization would be masters of all the energy produced by their home star, and a Type III civilization would own all the energy in their home galaxy.

It was a pretty clever way to categorize the mighty capabilities of future civilizations, and it's fueled the imagination of many sci-fi writers.

Where are we now along the Kardashev Scale? How long will it take for us to unlock each civilization level? Assuming we survive, of course.

Kardashev estimated that the total energy usage of a Type I civilization based on the amount of sunlight that falls on Earth. Our planet receives about 2 x 10^17 watts of power from the Sun.

Is that a lot? Is sure sounds like a lot. In 2013, the total human power consumption was 12.3 terawatts. So, doing a little math, we get about 1/14,000th the total potential power output that falls on the Earth.

It sounds like we've got a long way to making up that difference. But wait a second, we're in the realm of exponential growth now, which has a surprising way of sneaking up on you.

Freeman Dyson, the famous physicist, estimated that it'll only take about 200 years to fully utilize the energy falling on the Earth. That seems amazing, but when you consider that Germany was able to pump out 25 gigawatts of power in April, 2015, it doesn't stretch your imagination too far.

Where do we go from there?

Kardashev estimated a compounding energy usage of 1% per year. And so, if you extrapolate forward from our current energy usage, he figured it would take about 3,200 more years to reach Type II status, where we're extracting 100% of the energy pouring out of the Sun – all 4 x 10^26 watts.

Probably by using Dyson sphere, cloud or other Dyson-related polygon. We might have to dismantle all the planets to do it, but that's just what we'll do to keep up with our ravenous energy needs.

I know you look around your house, see your various appliances, and you're unable to imagine how you could use that much power. But trust me, you will. You might have nanofactories, spinning out furniture made of pure diamond. Or a massive, planet-sized computer calculating the answer to life the universe and everything. Or a console that'll let you play Witcher 3 without dropping frames. When energy is cheap and clean, all kinds of impossible ideas become reasonable.

Continuing this 1% compounding energy usage, Kardashev figured we'd be using up all the energy of our host galaxy within a few hundred thousand years – 10^37 watts -, but that's mostly because of the time it takes to travel to from star to star. The Milky Way measures 120,000 light-years across, so even colonizing the entire galaxy couldn't happen faster than that.

Imagine an entire galaxy, with every solar system completely dismantled and every star enclosed in a Dyson cloud of energy extracting solar cells. And yet, constant growth inevitably predicts it.

Is that it? Is that as much as a future civilization could colonize? Hardly, they would really just be getting started. A future civilization with that much energy at their disposal would be able to expand outward at just shy of the speed of light, eventually colonizing everything that the laws of physics would enable them to get to.

Eventually the expansion of the Universe, accelerated by dark energy would bring their colonization to a stop. Galaxies would drop over the cosmic horizon, forever out of reach. Vast cosmic power with no where else to go.

Thanks to Kardashev, we've got a great way of considering our place in the Universe. Assuming we don't wipe ourselves out, we've got a bright future ahead.

#### Death is the ultimate evil---there is no possible warrant for their argument

Paterson 3 , Department of Philosophy, Providence College, Rhode Island (Craig Patterson, 2003, “A Life Not Worth Living?,” Studies in Christian Ethics, <http://sce.sagepub.com>)

Contrary to those accounts, I would argue that it is death per se that is really the objective evil for us, not because it deprives us of a prospective future of overall good judged better than the alter- native of non-being. It cannot be about harm to a former person who has ceased to exist, for no person actually suffers from the sub-sequent non-participation. Rather, death in itself is an evil to us because it ontologically destroys the current existent subject — it is the ultimate in metaphysical lightening strikes.80 The evil of death is truly an ontological evil borne by the person who already exists, independently of calculations about better or worse possible lives. Such an evil need not be consciously experienced in order to be an evil for the kind of being a human person is. Death is an evil because of the change in kind it brings about, a change that is destructive of the type of entity that we essentially are. Anything, whether caused naturally or caused by human intervention (intentional or unintentional) that drastically interferes in the process of maintaining the person in existence is an objective evil for the person. What is crucially at stake here, and is dialectically supportive of the self-evidency of the basic good of human life, is that death is a radical interference with the current life process of the kind of being that we are. In consequence, death itself can be credibly thought of as a ‘primitive evil’ for all persons, regardless of the extent to which they are currently or prospectively capable of participating in a full array of the goods of life.81 In conclusion, concerning willed human actions, it is justifiable to state that any intentional rejection of human life itself cannot therefore be warranted since it is an expression of an ultimate disvalue for the subject, namely, the destruction of the present person; a radical ontological good that we cannot begin to weigh objectively against the travails of life in a rational manner. To deal with the sources of disvalue (pain, suffering, etc.) we should not seek to irrationally destroy the person, the very source and condition of all human possibility.82

#### Give people the choice to live---our status as beings creates an affirmation of life in the face of extinction and non-being.

Richard Bernstein 2. Professor of Philosophy at the New School for Social Research. *Radical Evil: A Philosophical Interrogation*. 188-92.

This is precisely what Jonas does in The Phenomenon of Life, his rethinking of the meaning of organic life. He tealizes that his philosophical project goes against many of the deeply embedded prejudices and dogmas of contemporary philosophy. He challenges two well-entrenched dogmas: that there is no metaphysical truth, and that there is no path from the "is" to the "ought". To escape from ethical nihilism, we must show that there is a metaphysical ground of ethics, an objective basis for value and purpose in being itself. These are strong claims; and, needless to say, they are extremely controversial. In defense of Jonas, it should be said that he approaches this task with both boldness and intellectual modesty. He frequently acknowledges that he cannot "prove" his claims, but he certainly believes that his "premises" do "more justice to the total phenomenon of man and Being in general" than the prevailing dualist or reductionist alternatives. "But in the last analysis my argument can do no more than give a rational grounding to an option it presents as a choice for a thoughtful person — an option that of course has its own inner power of persuasion. Unfortunately I have nothing better to offer. Perhaps a future metaphysics will be able to do more." 8 To appreciate how Jonas's philosophical project unfolds, we need to examine his philosophical interpretation of life. This is the starting point of his grounding of a new imperative of responsibility. It also provides the context for his speculations concerning evil. In the foreword to The Phenomenon of Life, Jonas gives a succinct statement of his aim. Put at its briefest, this volume offers an "existential" interpretation of biological facts. ¶ Contemporary existentialism, obsessed with man alone, is in the habit of claiming as his unique privilege and predicament much of what is rooted in organic existence as such: in so doing, it withholds from the organic world the insights to be learned from the awareness of self. On its part, scientific biology, by its rules confined to the physical, outward facts, must ignore the dimension of inwardness that belongs to life: in so doing, it submerges the distinction of "animate" and "inanimate." A new reading of the biological record may recover the inner dimension — that which we know best -- for the understanding of things organic and so reclaim for psycho-physical unity of life that place in the theoretical scheme which it had lost through the divorce of the material and the mental since Descartes. p. ix) Jonas, in his existential interpretation of bios, pursues "this underlying theme of all of life in its development through the ascending order of organic powers and functions: metabolism, moving and desiring, sensing and perceiving, imagination, art, and mind — a progressive scale of freedom and peril, culminating in man, who may understand his uniqueness anew when he no longer sees himself in metaphysical isolation" (PL, p. ix). The way in which Jonas phrases this theme recalls the Aristotelian approach to bios, and it is clear that Aristotle is a major influence on Jonas. There is an even closer affinity with the philosophy of nature that Schelling sought to elaborate in the nineteenth century. Schelling (like many post- Kantian German thinkers) was troubled by the same fundamental dichotomy that underlies the problem for Jonas. The dichotomy that Kant introduced between the realm of "disenchanted" nature and the realm of freedom leads to untenable antinomies. Jonas differs from both Aristotle and Schelling in taking into account Darwin and contemporary scientific biology. A proper philosophical understanding of biology must always be compatible with the scientific facts. But at the same time, it must also root out misguided materialistic and reductionist interpretations of those biological facts. In this respect, Jonas's naturalism bears a strong affinity with the evolutionary naturalism of Peirce and Dewey. At the same time, Jonas is deeply skeptical of any theory of evolutionary biology that introduces mysterious "vital forces" or neglects the contingencies and perils of evolutionary development.' Jonas seeks to show "that it is in the dark stirrings of primeval organic substance that a principle of freedom shines forth for the first time within the vast necessity of the physical universe" (PL 3). Freedom, in this broad sense, is not identified exclusively with human freedom; it reaches down to the first glimmerings of organic life, and up to the type of freedom manifested by human beings. ¶ " 'Freedom' must denote an objectively discernible mode of being, i.e., a manner of executing existence, distinctive of the organic per se and thus shared by all members but by no nonmembers of the class: an ontologically descriptive term which can apply to mere physical evidence at first" (PL 3). This coming into being of freedom is not just a success story. "The privilege of freedom carries the burden of need and means precarious being" (PL 4). It is with biological metabolism that this principle of freedom first arises. Jonas goes "so far as to maintain that metabolism, the basic stratum of all organic existence, already displays freedom — indeed that it is the first form freedom takes." 1 ° With "metabolism — its power and its need — not-being made its appearance in the world as an alternative embodied in being itself; and thereby being itself first assumes an emphatic sense: intrinsically qualified by the threat of its negative it must affirm itself, and existence affirmed is existence as a concern" (PL 4). This broad, ontological understanding of freedom as a characteristic of all organic life serves Jonas as "an Ariadne's thread through the interpretation of Life" (PL 3). The way in which Jonas enlarges our understanding of freedom is indicative of his primary argumentative strategy. He expands and reinterprets categories that are normally applied exclusively to human beings so that we can see that they identify objectively discernible modes of being characteristic of everything animate. Even inwardness, and incipient forms of self; reach down to the simplest forms of organic life. 11 Now it may seem as if Jonas is guilty of anthropomorphism, of projecting what is distinctively human onto the entire domain of living beings. He is acutely aware of this sort of objection, but he argues that even the idea of anthropomorphism must be rethought. 12 We distort Jonas's philosophy of life if we think that he is projecting human characteristics onto the nonhuman animate world. Earlier I quoted the passage in which Jonas speaks of a "third way" — "one by which the dualistic rift can be avoided and yet enough of the dualistic insight saved to uphold the humanity of man" (GEN 234). We avoid the "dualistic rift" by showing that there is genuine continuity of organic life, and that such categories as freedom, inwardness, and selfhood apply to everything that is animate. These categories designate objective modes of being. But we preserve "enough dualistic insight" when we recognize that freedom, inwardness, and selfhood manifest themselves in human beings in a distinctive manner. I do not want to suggest that Jonas is successful in carrying out this ambitious program. He is aware of the tentativeness and fallibility of his claims, but he presents us with an understanding of animate beings such that we can discern both continuity and difference.' 3 It should now be clear that Jonas is not limiting himself to a regional philosophy of the organism or a new "existential" interpretation of biological facts. His goal is nothing less than to provide a new metaphysical understanding of being, a new ontology. And he is quite explicit about this. Our reflections [are] intended to show in what sense the problem of life, and with it that of the body, ought to stand in the center of ontology and, to some extent, also of epistemology. . . The central position of the problem of life means not only that it must be accorded a decisive voice in judging any given ontology but also that any treatment of itself must summon the whole of ontology. (PL 25) The philosophical divide between Levinas and Jonas appears to be enormous. For Levinas, as long as we restrict ourselves to the horizon of Being and to ontology (no matter how broadly these are conceived), there is no place for ethics, and no answer to ethical nihilism. For Jonas, by contrast, unless we can enlarge our understanding of ontology in such a manner as would provide an objective grounding for value and purpose within nature, there is no way to answer the challenge of ethical nihilism. But despite this initial appearance of extreme opposition, there is a way of interpreting Jonas and Levinas that lessens the gap between them. In Levinasian terminology, we can say that Jonas shows that there is a way of understanding ontology and the living body that does justice to the nonreducible alterity of the other (l'autrui). 14 Still, we might ask how Jonas's "existential" interpretation of biological facts and the new ontology he is proposing can provide a metaphysical grounding for a new ethics. Jonas criticizes the philosophical prejudice that there is no place in nature for values, purposes, and ends. Just as he maintains that freedom, inwardness, and selfhood are objective modes of being, so he argues that values and ends are objective modes of being. There is a basic value inherent in organic being, a basic affirmation, "The Yes' of Life" (IR 81). 15 "The self-affirmation of being becomes emphatic in the opposition of life to death. Life is the explicit confrontation of being with not-being. . . . The 'yes' of all striving is here sharpened by the active `no' to not-being" (IR 81-2). ¶ Furthermore — and this is the crucial point for Jonas — this affirmation of life that is in all organic being has a binding obligatory force upon human beings. This blindly self-enacting "yes" gains obligating force in the seeing freedom of man, who as the supreme outcome of nature's purposive labor is no longer its automatic executor but, with the power obtained from knowledge, can become its destroyer as well. He must adopt the "yes" into his will and impose the "no" to not-being on his power. But precisely this transition from willing to obligation is the critical point of moral theory at which attempts at laying a foundation for it come so easily to grief. Why does now, in man, that become a duty which hitherto "being" itself took care of through all individual willings? (IR 82). We discover here the transition from is to "ought" — from the self-affirmation of life to the binding obligation of human beings to preserve life not only for the present but also for the future. But why do we need a new ethics? The subtitle of The Imperative of Responsibility — In Search of an Ethics for the Technological Age — indicates why we need a new ethics. Modern technology has transformed the nature and consequences of human ac-tion so radically that the underlying premises of traditional ethics are no longer valid. For the first time in history human beings possess the knowledge and the power to destroy life on this planet, including human life. Not only is there the new possibility of total nuclear disaster; there are the even more invidious and threatening possibilities that result from the unconstrained use of technologies that can destroy the environment required for life. The major transformation brought about by modern technology is that the consequences of our actions frequently exceed by far anything we can envision. Jonas was one of the first philosophers to warn us about the unprecedented ethical and political problems that arise with the rapid development of biotechnology. He claimed that this was happening at a time when there was an "ethical vacuum," when there did not seem to be any effective ethical principles to limit ot guide our ethical decisions. In the name of scientific and technological "progress," there is a relentless pressure to adopt a stance where virtually anything is permissible, includ-ing transforming the genetic structure of human beings, as long as it is "freely chosen." We need, Jonas argued, a new categorical imperative that might be formulated as follows: "Act so that the effects of your action are compatible with the permanence of genuine human life"; or expressed negatively: "Act so that the effects of your action are not destructive of the future possibility of such a life"; or simply: "Do not compromise the conditions for an indefinite continuation of humanity on earth"; or again turned positive: "In your present choices, include the future wholeness of Man among the objects of your will." (IR 11)

#### Their scenario is insignificant compared to conflict

Geist 15 — Edward Geist (PhD and MacArthur Nuclear Security Fellow at Stanford University's Center for International Security and Cooperation (CISAC), previously a Stanton Nuclear Security Fellow at the RAND Corporation), 8-9-2015, “Is artificial intelligence really an existential threat to humanity?,” <http://thebulletin.org/artificial-intelligence-really-existential-threat-humanity8577>)

Superintelligence is propounding a solution that will not work to a problem that probably does not exist, but Bostrom and Musk are right that now is the time to take the ethical and policy implications of artificial intelligence seriously. The extraordinary claim that machines can become so intelligent as to gain demonic powers requires extraordinary evidence, particularly since artificial intelligence (AI) researchers have struggled to create machines that show much evidence of intelligence at all. While these investigators’ ultimate goals have varied since the emergence of the discipline in the mid-1950s, the fundamental aim of AI has always been to create machines that demonstrate intelligent behavior, whether to better understand human cognition or to solve practical problems. Some AI researchers even tried to create the self-improving reasoning machines Bostrom fears. Through decades of bitter experience, however, they learned not only that creating intelligence is more difficult than they initially expected, but also that it grows increasingly harder the smarter one tries to become. Bostrom’s concept of “superintelligence,” which he defines as “any intellect that greatly exceeds the cognitive performance of humans in virtually all domains of interest,” builds upon similar discredited assumptions about the nature of thought that the pioneers of AI held decades ago. A summary of Bostrom’s arguments, contextualized in the history of artificial intelligence, demonstrates how this is so. In the 1950s, the founders of the field of artificial intelligence assumed that the discovery of a few fundamental insights would make machines smarter than people within a few decades. By the 1980s, however, they discovered fundamental limitations that show that there will always be diminishing returns to additional processing power and data. Although these technical hurdles pose no barrier to the creation of human-level AI, they will likely forestall the sudden emergence of an unstoppable “superintelligence.” The risks of self-improving intelligent machines are grossly exaggerated and ought not serve as a distraction from the existential risks we already face, especially given that the limited AI technology we already have is poised to make threats like those posed by nuclear weapons even more pressing than they currently are. Disturbingly, little or no technical progress beyond that demonstrated by self-driving cars is necessary for artificial intelligence to have potentially devastating, cascading economic, strategic, and political effects. While policymakers ought not lose sleep over the technically implausible menace of “superintelligence,” they have every reason to be worried about emerging AI applications such as the Defense Advanced Research Projects Agency’s submarine-hunting drones, which threaten to upend longstanding geostrategic assumptions in the near future. Unfortunately, Superintelligence offers little insight into how to confront these pressing challenges.

#### No impact to A.I.

— AT: Musk, Hawking, and Bostrom

Shermer 17 — Michael Shermer (Publisher of Skeptic magazine, a monthly columnist for Scientific American, and a Presidential Fellow at Chapman University), April 2017, “Why Artificial Intelligence Is Not an Existential Threat,” Skeptic, vol. 22, no. 2, pp. 29–35.

Why AI is not an Existential Threat First, most AI doomsday prophecies are grounded in the false analogy between human nature and computer nature, or natural intelligence and artificial intelligence. We are thinking machines, but natural selection also designed into us emotions to shortcut the thinking process because natural intelligences are limited in speed and capacity by the number of neurons that can be crammed into a skull that has to pass through a pelvic opening at birth, whereas artificial intelligence need not be so restricted. We don't need to compute the caloric value of foods, for example, we just feel hungry. We don't need to calculate the waist-to-hip ratio of women or the shoulder-to-waist ratio of men in our quest for genetically healthy potential mates; we just feel attracted to someone and mate with them. We don't need to work out the genetic cost of raising someone else's offspring if our mate is unfaithful; we just feel jealous. We don't need to figure the damage of an unfair or non-reciprocal exchange with someone else; we just feel injustice and desire revenge. Emotions are proxies for getting us to act in ways that lead to an increase in reproductive success, particularly in response to threats faced by our Paleolithic ancestors. Anger leads us to strike out, fight back, and defend ourselves against danger. Fear causes us to pull back, retreat, and escape from risks. Disgust directs us to push out, eject, and expel that which is bad for us. Computing the odds of danger in any given situation takes too long. We need to react instantly. Emotions shortcut the information processing power needed by brains that would otherwise become bogged down with all the computations necessary for survival. Their purpose, in an ultimate causal sense, is to drive behaviors toward goals selected by evolution to enhance survival and reproduction. AIs -- even AGIs and ASIs -- will have no need of such emotions and so there would be no reason to program them in unless, say, terrorists chose to do so for their own evil purposes. But that's a human nature problem, not a computer nature issue. To believe that an ASI would be "evil" in any emotional sense is to assume a computer cognition that includes such psychological traits as acquisitiveness, competitiveness, vengeance, and bellicosity, which seem to be projections coming from the mostly male writers who concoct such dystopias, not features any programmer would bother including, assuming that it could even be done. What would it mean to program an emotion into a computer? When IBM's Deep Blue defeated chess master Garry Kasparov in 1997, did it feel triumphant, vengeful, or bellicose? Of course not. It wasn't even "aware" -- in the human sense of self-conscious knowledge -- that it was playing chess, much less feeling nervous about possibly losing to the reigning world champion (which it did in the first tournament played in 1996). In fact, toward the end of the first game of the second tournament, on the 44th move, Deep Blue made a legal but incomprehensible move of pushing its rook all the way to the last row of the opposition side. It accomplished nothing offensively or defensively, leading Kasparov to puzzle over it out of concern that he was missing something in the computer's strategy. It turned out to be an error in Deep Blue's programming that led to this fail-safe default move. It was a bug that Kasparov mistook as a feature, and as a result some chess experts contend it led him to be less confident in his strategizing and to second-guess his responses in the subsequent games. It even led him to suspect foul play and human intervention behind Deep Blue, and this paranoia ultimately cost him the tournamentt.[ 13] Computers don't get paranoid, the HAL 9000 computer in 2001 notwithstanding. Or consider Watson, the IBM computer built by David Ferrucci and his team of IBM research scientists tasked with designing an AI that could rival human champions at the game of Jeopardy! This was a far more formidable challenge than Deep Blue faced because of the prerequisite to understand language and the often multiple meanings of words, not to mention needing an encyclopedic knowledge of trivia (Watson had access to Wikipedia for this). After beating the all-time greatest Jeopardy! champions Ken Jennings and Brad Rutter in 2011, did Watson feel flushed with pride after its victory? Did Watson even know that it won Jeopardy!? I put the question to none other than Ferrucci himself at a dinner party in New York in conjunction with the 2011 Singularity Summit. His answer surprised me: "Yes, Watson knows it won Jeopardy!" I was skeptical. How could that be, since such self-awareness is not yet possible in computers? "Because I told it that it won," he replied with a wry smile. Sure, and you could even program Watson or Deep Blue to vocalize a Howard Dean-like victory scream when it wins, but that is still a far cry from a computer feeling triumphant. This brings to mind the "hard problem" of consciousness -- if we don't understand how this happens in humans, how could we program it into computers? As Steven Pinker elucidated in his answer to the 2015 Edge Question on what to think about machines that think, "AI dystopias project a parochial alpha-male psychology onto the concept of intelligence. They assume that superhumanly intelligent robots would develop goals like deposing their masters or taking over the world." It is equally possible, Pinker suggests, that "artificial intelligence will naturally develop along female lines: fully capable of solving problems, but with no desire to annihilate innocents or dominate the civilization."[ 14] So the fear that computers will become emotionally evil are unfounded, because without the suite of these evolved emotions it will never occur to AIs to take such actions against us. What about an ASI inadvertently causing our extinction by turning us into paperclips, or tiling the entire Earth's surface with solar panels? Such scenarios imply yet another emotion -- the feeling of valuing or wanting something. As the science writer Michael Chorost adroitly notes, when humans resist an AI from undertaking any form of global tiling, it "will have to be able to imagine counteractions and want to carry them out." Yet, "until an AI has feelings, it's going to be unable to want to do anything at all, let alone act counter to humanity's interests and fight off human resistance." Further, Chorost notes, "the minute an A.I. wants anything, it will live in a universe with rewards and punishments -- including punishments from us for behaving badly. In order to survive in a world dominated by humans, a nascent A.I. will have to develop a humanlike moral sense that certain things are right and others are wrong. By the time it's in a position to imagine tiling the Earth with solar panels, it'll know that it would be morally wrong to do so."[ 15] From here Chorost builds on an argument made by Peter Singer in The Expanding Circle (and Steven Pinker in The Better Angels of Our Nature[ 16] that I also developed in The Moral Arc[ 17] and Robert Wright explored in Nonzero[ 18]), and that is the propensity for natural intelligence to evolve moral emotions that include reciprocity, cooperativeness, and even altruism. Natural intelligences such as ours also includes the capacity to reason, and once you are on Singer's metaphor of the "escalator of reason" it can carry you upward to genuine morality and concerns about harming others. "Reasoning is inherently expansionist. It seeks universal application," Singer notes.[ 19] Chorost draws the implication: "AIs will have to step on the escalator of reason just like humans have, because they will need to bargain for goods in a human-dominated economy and they will face human resistance to bad behavior."[ 20] Finally, for an AI to get around this problem it would need to evolve emotions on its own, but the only way for this to happen in a world dominated by the natural intelligence called humans would be for us to allow it to happen, which we wouldn't because there's time enough to see it coming. Bostrom's "treacherous turn" will come with road signs ahead warning us that there's a sharp bend in the highway with enough time for us to grab the wheel. Incremental progress is what we see in most technologies, including and especially AI, which will continue to serve us in the manner we desire and need. Instead of Great Leap Forward or Giant Fall Backward, think Small Steps Upward. As I proposed in The Moral Arc, instead of Utopia or dystopia, think protopia, a term coined by the futurist Kevin Kelly, who described it in an Edge conversation this way: "I call myself a protopian, not a Utopian. I believe in progress in an incremental way where every year it's better than the year before but not by very much -- just a micro amount."[ 21] Almost all progress in science and technology, including computers and AI, is of a protopian nature. Rarely, if ever, do technologies lead to either Utopian or dystopian societies. Pinker agrees that there is plenty of time to plan for all conceivable contingencies and build safeguards into our AI systems. "They would not need any ponderous 'rules of robotics' or some newfangled moral philosophy to do this, just the same common sense that went into the design of food processors, table saws, space heaters, and automobiles." Sure, an ASI would be many orders of magnitude smarter than these machines, but Pinker reminds us of the AI hyperbole we've been fed for decades: "The worry that an AI system would be so clever at attaining one of the goals programmed into it (like commandeering energy) that it would run roughshod over the others (like human safety) assumes that AI will descend upon us faster than we can design fail-safe precautions. The reality is that progress in AI is hype-defyingly slow, and there will be plenty of time for feedback from incremental implementations, with humans wielding the screwdriver at every stage."[ 22] Former Google CEO Eric Schmidt agrees, responding to the fears expressed by Hawking and Musk this way: "Don't you think the humans would notice this, and start turning off the computers?" He also noted the irony in the fact that Musk has invested $1 billion into a company called OpenAI that is "promoting precisely AI of the kind we are describing."[ 23] Google's own DeepMind has developed the concept of an AI off-switch, playfully described as a "big red button" to be pushed in the event of an attempted AI takeover. "We have proposed a framework to allow a human operator to repeatedly safely interrupt a reinforcement learning agent while making sure the agent will not learn to prevent or induce these interruptions," write the authors Laurent Orseau from DeepMind and Stuart Armstrong from the Future of Humanity Institute, in a paper titled "Safely Interruptible Agents." They even suggest a precautionary scheduled shutdown every night at 2 AM for an hour so that both humans and AI are accustomed to the idea. "Safe interruptibility can be useful to take control of a robot that is misbehaving and may lead to irreversible consequences, or to take it out of a delicate situation, or even to temporarily use it to achieve a task it did not learn to perform or would not normally receive rewards for this."[ 24] As well, it is good to keep in mind that artificial intelligence is not the same as artificial consciousness. Thinking machines may not be sentient machines. Finally, Andrew Ng of Baidu responded to Elon Musk's ASI concerns by noting (in a jab at the entrepreneur's ambitions for colonizing the red planet) it would be "like worrying about overpopulation on Mars when we have not even set foot on the planet yet."[ 25] Both Utopian and dystopian visions of AI are based on a projection of the future quite unlike anything history has given us. Yet, even Ray Kurzweil's "law of accelerating returns," as remarkable as it has been has nevertheless advanced at a pace that has allowed for considerable ethical deliberation with appropriate checks and balances applied to various technologies along the way. With time, even if an unforeseen motive somehow began to emerge in an AI we would have the time to reprogram it before it got out of control. That is also the judgment of Alan Winfield, an engineering professor and co-author of the Principles of Robotics, a list of rules for regulating robots in the real world that goes far beyond Isaac Asimov's famous three laws of robotics (which were, in any case, designed to fail as plot devices for science fictional narratives).26 Winfield points out that all of these doomsday scenarios depend on a long sequence of big ifs to unroll sequentially: "If we succeed in building human equivalent AI and if that AI acquires a full understanding of how it works, and if it then succeeds in improving itself to produce super-intelligent AI, and if that super-AI, accidentally or maliciously, starts to consume resources, and if we fail to pull the plug, then, yes, we may well have a problem. The risk, while not impossible, is improbable."[ 27]

#### 1 — No impact to grey goo

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Attack of the Killer Robots

Nanotechnology scientists dream of some day creating robots the size of molecules, or even turning molecules into machines that could roam the human body and perform all sorts of useful tasks. But some nanotechnology theorists and science fiction aficionados imagine a more ominous possibility. What if one of these tiny robots were given the ability to self-replicate? All it would take is a single malfunction and the robots would consume everything in the galaxy as they multiply out of control until all that was left was a shapeless, robotic mass called “grey goo.”

Worst Case Scenario

Now, before you go heading for the hills with a year’s supply of water and a survival guide, understand that the death-by-robot scenario is just that—a scenario, and a pretty fanciful one to boot. First, we’re nowhere near the point of being able to create a self-replicating nano-machine. But even if such machines do one day exist, they would have a hard time taking over the universe for one simple reason: fuel. Even microscopic machines need an energy source. Inorganic matter such as rocks and minerals wouldn’t do the trick because they just don’t contain stuff that the machines could break down and use for power.

But what if a mad scientist created a robot that fed on organic materials such as sunlight and living things? Not to worry. Natural life forms have had around four billion years of training to compete for resources; the killer robots probably wouldn’t stand much of a chance against such streamlined competitors. Plus, if the robots were made from organic materials, they might be preyed on by bacteria or other predators.

#### No extinction – or cosmic rays would have destroyed us

Don Lincoln 2-10-2016; Don Lincoln, Senior Scientist, Fermi National Accelerator Laboratory; Adjunct Professor of Physics, University of Notre Dame “Will the World's Largest Supercollider Spawn a Black Hole? (Op-Ed)” http://www.livescience.com/53669-can-particle-accelerators-spawn-black-holes-and-global-extinction.html

Luckily, we have the most compelling answer of all: Nature has been running the equivalent of countless LHC experiments since the universe began — and still does, every day, on Earth. Space is a violent place, with stars throwing off literally tons of material every second — and that's the tamest of phenomena. Supernovas occur, blasting star stuff across the cosmos. Neutron stars can use intense magnetic fields to accelerate particles from one side of the universe to another. Pairs of orbiting black holes can merge, shaking the very fabric of space itself. All of those phenomena, as well as many others, cause subatomic particles to be flung across space. Mostly consisting of protons, those particles travel the lengths of the universe, stopping only when an inconvenient bit of matter gets in their way. And, occasionally, that inconvenient bit of matter is the Earth. We call these intergalactic bullets — mostly high-energy protons — "cosmic rays." Cosmic rays carry a range of energies, from the almost negligible, to energies that absolutely dwarf those of the LHC. To give a sense of scale, the LHC collides particles together with a total energy of 13 trillion (or tera) electron volts of energy (TeV). The highest-energy cosmic ray ever recorded was an unfathomable 300,000,000 TeV of energy. Now, cosmic rays of that prodigious energy are very rare. The energy of more common cosmic rays is much lower. But here's the point: Cosmic rays of the energy of a single LHC beam hit the Earth about half a quadrillion times per second. No collider necessary. Remember that cosmic rays are mostly protons. That's because almost all of the matter in the universe is hydrogen, which consists of a single proton and a single electron. When they hit the Earth's atmosphere, they collide with nitrogen or oxygen or other atoms, which are composed of protons and neutrons. Accordingly, cosmic rays hitting the Earth are just two protons slamming together — this is exactly what is happening inside the LHC. Two protons slamming together. Thus, the barrage of cosmic rays from space have been doing the equivalent of LHC research since the Earth began — we just haven't had the luxury of being able to watch. Now one must be careful. It's easy to throw numbers around a bit glibly. While there are lots of cosmic rays hitting the atmosphere with LHC energies, the situations between what happens inside the LHC and what happens with cosmic rays everywhere on Earth are a bit different. Cosmic ray collisions involve fast-moving protons hitting stationary ones, while LHC collisions involve two beams of fast-moving protons hitting head-on. Head-on collisions are intrinsically more violent; so to make a fair comparison, we need to consider cosmic rays that are much higher in energy, specifically about 100,000 times higher than LHC energies. Cosmic rays of that energy are rarer than the lower energy ones, but still 500,000,000 of them hit the Earth's atmosphere every year. When you remember that the Earth is 4.5 billion years old, you realize that the Earth has experienced something like 2 billion billion cosmic ray collisions with LHC-equivalent energies (or higher) in the atmosphere since the Earth formed. In order to make that many collisions, we'd need to run the LHC continuously for 70 years. Given that we're still here, we can conclude that we're safe.

## Theory

## T — Of

#### Of is an extremely ambiguous term — the other terms in the resolution should check

Nelson 66, Mankato Citizens Tel. Co. v. Commissioner of Taxation, 145 N.W.2d 313, 275 Minn. 107 (1966).

The commissioner has conceded that the word "of," in the law as presently printed, is ambiguous and susceptible of more than one interpretation. The Tax Court acceded to this view and added that the original wording of the statute must control as evidence of the legislative intent. The Tax Court suggests in its memorandum that "exchange business of" can mean either business actually taking place at some particular place, or it can mean business "arising from" or "derived from" some particular place. Relator argues that the latter interpretation is the correct one. The commissioner, however, contends that, because the word "at" was used when the statute was first enacted, the legislature intended that the place where the exchange facilities building and business offices were located should control and, consequently, the higher rate must be applied. Relator also asserts that because the subscriber and certain physical equipment constitute a part of the telephone system as applied to North Mankato, the lower rate of 4 percent is applicable, even though the central facilities, the exchange building, the switching equipment, and the business offices are located in Mankato. Despite these arguments it is conceded by both parties that the intention of the legislature controls.

#### Of means nothing without a definition of scope — it’s just to expand the range of operations which we do via removing a statutory exemption

Levin 2 (LEVIN, United States Magistrate Judge. MEMORANDUM OPINION AND ORDER in Dabertin v. HCR Manor Care, Inc., 235 F. Supp. 2d 853 (N.D. Ill. 2002). Google scholar caselaw. Date accessed 7/21/21).

Dabertin asserts that HCR Manor Care's "scope" rationale ignores the significant 864\*864 changes that occurred in her job involving her "space or opportunity for unhampered activity," "extent of activity or influence," or "range of operation," which are the ordinary meanings of the term "scope" (see Webster's New Collegiate Dictionary (1977), at 1035). (Pl.'s Reply at 1.) In addition, Dabertin contends that HCR Manor Care's "scope" rationale nullifies the reasonable expectations of Plan participants who relied on the ordinary, popular meaning of Article 1.8(i)'s language. (Id.)

#### Prohibitions expand the scope

Bradford and Chilton 18 (Anu Bradford, Henry L. Moses Professor of Law and International Organization, Columbia Law School. Adam S. Chilton, Assistant Professor of Law and Walter Mander Research Scholar @ the University of Chicago. “Competition Law Around the World from 1889 to 2010: The Competition Law Index” , Columbia Law School Scholarship Archive Faculty Scholarship, <https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3519&context=faculty_scholarship> , 2018, date accessed 9/5/21)

The Scope Index is the closest to the CLI in that it also measures the law in the books, treating prohibitions as elements that increase the scope (or stringency) of the law and defenses as elements that reduce the scope (or stringency) of the law. Basic categories in the Scope Index and our CLI are also the same, even if somewhat differently labeled. For example, we refer to “anticompetitive agreements” where the Scope Index refers to “restrictive trade practices.”

#### ‘Scope’ is the extent of the area dealt with or relevant to the core laws

Oxford Languages ND, “scope,” shorturl.at/wCDY3

scope

the extent of the area or subject matter that something deals with or to which it is relevant.

"we widened the scope of our investigation"

#### It’s bounded by exemptions and immunities

Kruse et al. 19, Layne E. Kruse, Co-Chair; Melissa H. Maxman, Co-Chair; Vittorio Cottafavi, Vice Chair; Stephen M. Medlock, Vice Chair; David Shaw, Vice Chair; Travis Wheeler, Vice Chair; Lisa Peterson, Young Lawyer Representative; all on the Exemptions and Immunities Committee of the ABA Antitrust Section, “Long Range Plan, 2018-19,” American Bar Association, 3/18/19, https://www.americanbar.org/content/dam/aba/administrative/antitrust\_law/lrps/2019/exemptions-immunities.pdf

D. Top 3 Accomplishments Since Last Long Range Plan in 2015

(1) Publications. In addition to our Annual ALD Updates, we are set to publish an update to the Noerr-Pennington Handbook, which should be out in 2019. We also published a new version of the State Action Handbook in 2016. The Handbook on the Scope of the Antitrust Laws was published in 2015.

(2) Commentary on Legislative and Regulatory Proposals. The Committee has been very active in supporting Section commentary on proposed legislation, regulations, and other policy issues.

For instance, in March 2018, the E&I Committee assisted former E&I Chair John Roberti in composing his article, “The Role and Relevance of Exemptions and Immunities in U.S. Antitrust Law”, presented to the DOJ Antitrust Division Roundtable on behalf of the ABA Antitrust Section.

In January 2018, in response to a request from the Section Chair, we submitted Section comments along with the Legislative and State AG Committees, addressing the proposed Restoring Board Immunity Act legislation that would impact the post-NC Dental exemptions and immunity climate. Previously, we commented on the Professional Responsibility Act.

(3) Spring Meeting Programs. We have sponsored or co-sponsored a program at every Spring Meeting since our last long range plan. In 2019 we will chair Sham Litigation after FTC v. AbbVie The FTC v. AbbVie decision – calling for the disgorgement of $448 million on the basis of sham patent litigation. In addition, we will co-sponsor in 2019 with the Trade, Sports & Professional Associations Committee, a program on “Antitrust Law's Anomalous Treatment of Sports,” addressing how US courts have shown broad deference to the "rules of the game," including near-immunity status for concepts such as "amateurism."

II. Major Competition/Consumer Protection Policy or Substantive Issues Within Committee’s Jurisdiction Anticipated to Arise Over Next Three Years

A. Issue #1: Will Certain Exemptions Be Eliminated or Expanded?

A goal of the current DOJ Antitrust Division is to streamline antitrust laws, and in particular, take a hard look at exemptions and immunities. This is in the wheelhouse of our Committee’s fundamental policy issue: How much of the economy has opted out of our antitrust system? Is that a problem or are ad hoc exemptions acceptable ways to fine tune the application of the antitrust laws?

We anticipate, therefore, that efforts to enact or to repeal existing statutory exemptions and immunities will continue. In recent years, there have been efforts to repeal the exemptions for railroads and (at least in part) the McCarran-Ferguson insurance exemption. The Section and the Committee has generally supported efforts to repeal statutory exemptions. Given that repeal issues are very political it is unlikely that we will see many exemptions actually repealed.

On the other hand, proposals for new exemptions and immunities will continue to be introduced in Congress. The Committee will improve on a template for use in assisting the Section in drafting comments to Congress on newly proposed exemptions and immunities.

One development that may continue in the health care area are issues over a "COPA" or "Certificate of Public Advantage" at the state level. A COPA is a state statutory mechanism that provides certain collaborations in the health care community with immunity from private or government actions under the antitrust laws by invoking the state action doctrine. The FTC has generally opposed such efforts at the state level, but several states have used them to immunize health care mergers. This is a major development that should be monitored.

Through programs, newsletters, and Connect entries, the Committee intends to educate its members about Congressional and other efforts to repeal, or introduce new, exemptions and immunities, as well as the application of existing statutory exemptions and immunities in the courts. The Committee’s Handbook on the Scope of Antitrust Law, published in 2015, addresses developments in the statutory immunities area. It built on the prior publication, Federal Statutory Exemptions from Antitrust Law Handbook in 2007. Our Scope book will need to be updated within the next three years.

B. Issue #2: Will There Be Legislative Solutions to State Action Issues at State and Federal Levels?

The FTC’s case against the North Carolina Board of Dental Examiners put the "active supervision" prong of the state action test front and center. North Carolina State Board of Dental Examiners v. Federal Trade Commission, 135 S.Ct. 1101 (2015). The Court agreed with the FTC’s position that state occupational licensing boards comprised of market participants must satisfy the active supervision requirement. This spurred additional suits against other types of state boards involving regulated professionals. Moreover, every State had to reassess its boards to determine if there is "active supervision." Courts and state legislatures are addressing those issues. We also expect the proper framing of the clear articulation prong of the state action doctrine will be addressed. The Supreme Court spoke to the clear articulation test in FTC v. Phoebe Putney Health System, Inc., 133 S.Ct. 1003 (2013), narrowing the foreseeability test to cover only situations in which the anticompetitive conduct is the “inherent, logical, or ordinary result of the exercise of authority delegated by the state legislature.” How this test has played out in the lower courts will be of particular interest to the Committee and its membership. The COPA issues, at the state level, as previously mentioned, will impact this area.

The Committee expects to address these issues through updates to Connect, newsletters, Spring Meeting programs, committee programs, its contributions to the Annual Review of Antitrust Law Developments. The State Action Practice Manual addresses these issues, as well as the Committee’s Handbook on the Scope of Antitrust Law.

C. Issue #3: Will Noerr Be Restricted or Expanded?

The Noerr-Pennington doctrine is an exemption issue that is frequently litigated. In particular, the most likely area of further development is in the pharma industry. Alleged misrepresentations to government agencies has caught the attention of some courts. In addition, there may be more development on the pattern exception, which raises the issue of whether each act of petitioning in a pattern must satisfy the objectively and subjectively baseless requirements for sham petitioning. The Committee’s new Handbook on Noerr (forthcoming) and its earlier Handbook on the Scope of Antitrust Law addresses developments in the Noerr law.

III. Specific Long Term Plans to Strengthen Committee

The Committee provides important services to the membership of the Section through publications, drafting ABA Antitrust Section comments to proposed regulation and international competition proposed immunities, and programming. The goals of the Committee include: (1) to provide policy comments on key questions about the scope of the antitrust laws for legislation and policy-making; (2) produce a mix of publications and programming that provides relevant and useful information to our members; (3) to ensure that the Committee remains valuable to our members’ practices; and (4) to make the most productive use of electronic communications to deliver the Committee’s work product.

A. Potential Modifications to Charter: What is the Role of this Committee?

The Committee’s current charter accurately characterizes its purview—that is, addressing the scope of the antitrust laws. That scope, of course, is defined primarily in terms of exemptions and immunities (both statutory and non-statutory). The Committee, however, has dealt with other doctrines, such as preemption and primary jurisdiction. These areas may not necessarily be viewed as traditional exemptions or immunities, but they nonetheless directly affect the application and extent of the antitrust laws. In addition, the Committee expends significant efforts to address international issues, including statutory exclusions from the U.S. antitrust laws, including the FTAIA; the related doctrines of act of state, sovereign immunity, and foreign sovereign compulsion; and industry-specific exemptions and exclusions from non-U.S. antitrust laws, including blocking exemptions.

## K — Baudrillard

#### Info isn’t always dissuasive - Bush could have escalated the war further absent significant anti-war activism

Heaney 12, Assistant Professor of Organizational Studies and Political Science @ Umich (Michael, “The Policy, Political, and Social Effects of the Antiwar Movement after 9/11,” <https://mobilizingideas.wordpress.com/2012/07/02/the-policy-political-and-social-effects-of-the-antiwar-movement-after-911/>)

Of course, it is impossible to establish definitely the nonimpact of the antiwar movement on policy. Doing so requires the evaluation of counterfactual scenarios that cannot be tested empirically. For example, if there had been no antiwar movement at all – if nobody had protested the war policies of the Bush Administration – it is plausible to believe that the administration would have been emboldened to take more aggressive military actions, possibly invading Syria or Iran. Or, perhaps the Bush Administration would have had the confidence to pursue more ambitious conservative domestic policies. Personally, I am inclined to believe that the movement did have these types of restraining effects but, as a social scientist, it is impossible to demonstrate them convincingly. To claim that the policy and political effects of the antiwar movement were limited is not to say that the movement was unimportant. Indeed, the social effects of the movement may have been its most lasting contribution. The antiwar movement exposed millions of people to their first experiences with activism, which will likely shape the way that many of them think of, and participate in, politics for the remainder of their lives.[7]

The movement provided critical opportunities for activists to learn about new tactics and to implement them on unfamiliar terrain.[8] Alliances and conflicts within coalitions shaped the structure of the social networks of movement participants.[9] The movement provided activists with opportunities to explore their identities[10] and to create new organizations by hybridizing elements of intersecting social movements.[11] In many ways, we have only begun to see the long-term consequences of a generation shaped by the antiwar movement.

#### Even if simulation exists, reality is still putting up a good fight

**Luke,** Chair, Political Science Dept – Virginia Tech**, ‘91**(Timothy W, “Power and politics in hyperreality: The critical project of Jean Baudrillard,” *Social Science Journal*, Vol. 28 Issue 3, p347)

Baudrillard's critical project clearly outlines a fascinating and innovative appraisal of the often confusing and contradictory tendencies in contemporary society that are usually labelled as "postmodernity." Nonetheless, **there are considerable weaknesses** as well as great strengths **in Baudrillard's system of analysis.** The tenacity of "reality" or "modernity" in several spheres of everyday life, for example, often still overshadows "hyperreality." Thus, it seems that Baudrillard's major flaw is mistaking a handful of incipient developments or budding trends for a full-blown or completely fixed new social order. The total break with all past forms of social relations cannot be verified either from within or from outside of Baudrillard's frameworks. While he denies finding much systematicity in hyperreal capitalism and sees the end of "production" and "power" in the rise of seduction, Baudrillard still clings to the image of a powerful exploitative system in his call to the masses to recognize "that a system is abolished only by pushing it into hyperlogic."( n21) This twist in his thinking raises important questions. Why does a social order that no longer really exists need his theoretical intervention to be transformed by mass resistance if it is not real, powerful or productive? Likewise, if the history of power and production has ended, then why does Baudrillard envision today's best radical opposition to capital and the state assuming the form of hyperconformity by pushing "the system" into a hyperlogical practice of itself to induce the crisis that might abolish it?

On the other hand, Baudrillard's strategy of "hyperconformity," as a means of radical resistance, does not seriously challenge the consumerist modes of domination intrinsic to transnational corporate capitalism. Moreover, its ties to consumer subjectivity do not even begin to address other possible strategies of resistance following lines drawn by gender, race, ethnicity, language or ecology. Unlike Lyotard, he does not advance any new conceptions of postmodern justice or articulate alternative principles to represent meaningful narratives about values in hyperreality. Thus, **Baudrillard** also **can be tarred with the brush of neoconservatism**, like many other postmodernist critics of society.( n22) Baudrillard tends to misplace the concreteness of the relations that he is investigating, lumping everything into the category of "seduction" which, in turn, **totally subsumes** **such complex factors as power, production, sex, and economy into one universal force**. He claims somewhat contradictorily that "seduction . . . does not partake of the real order." Yet, at the same time, "seduction envelops the whole real process of power, as well as the whole real order of production, with this never-ending reversibility and disaccumulation--without which neither power nor production would even exist."( n23) While Baudrillard makes these claims, he never really demonstrates definitely how this all works with carefully considered evidence.

#### Err on the side of reality — suffering and death are real, and the alt greenlights it

**Giman-Olpasky 11** - Assistant Professor of Political Philosophy in the Department of Political Science at the University of Illinois at Springfield (Richard, Spectacular Capitalism Guy Debord and the Practice of Radical Philosophy <http://www.scribd.com/doc/58299096/3/Chapter-1-Selectively-Forgetting-Baudrillard>)

Simulacra are, by definition, indistinguishable from real events. Nevertheless, the actual existence and constant possibility of simulacra are not sufficient causes for adopting reality agnosticism. It may be impossibleto distinguish the fake holdup and fake sickness from the real holdup andreal sickness, but the child has really been sick, and most criminals are notplaying. Those involved in staging the act of simulation itself do mostly know the difference. But Baudrillard would rightly point out that, fromthe outside – for those confronting simulacra phenomenologically (instead of making them) – our general inability to tell the difference means that we can never be too confident about reality. Reality agnosticism istantamount to treating every event as a possible simulacrum. This is thesame as to treat no events as real. This is precisely what Baudrillard wantsto do, yet I think this is a mistake.Baudrillard presses us to recognize that even suffering and death canbe and have been simulated (i.e. the Timişoara Massacre in 1989 in WesternRomania, where protestors were gunned down by the army. While themassacre was real, it was later disclosed that 27 bodies were exhumed fromthe Timişoara “Paupers’ Cemetery” to exaggerate the massacre for TV effect. This series of events marked the end of Ceauşescu’s Stalinist regimein Romania.). 36 However, despite such manipulation, we do live in a world where suffering and death are real. That even suffering and death couldbe staged, and that we cannot always tell when that is the case, does notmean that we should make such suspicion into an operational logic – thereis always the other side, the side of actual suffering and death. Baudrillardmakes too much out of the fake, and he errs on the wrong side of theequation. What I mean by saying “too much” and “wrong side,” is precisely to raise a normative objection. Wherever we cannot tell the difference (thatis, wherever there are functional simulacra), I contend that we should err on the side of a different obligation. And this is indeed a moral obligation to take human suffering seriously, an obligation that outweighs the integrity of Baudrillard’s skepticism. To put it bluntly, I would rather be fooled intothinking a faked death was real than that a real death was faked, just as I would always prefer the doctor who assumes that my pain is real despite the leap of faith this may entail. We must also ask, from a political point of view, what it means to beagnostic about reality. Can one act with certainty and resolve against human suffering, against inequality, against growing macroeconomic disparity,against misrecognition, etc., if we cannot know anything with any certainty about these things? It is no misuse or abuse of Baudrillard’s work too bserve that his arguments do in fact distance us from a political consideration of the material conditions of poverty, war, repression, and oppression. He explicitly intends for his arguments to be – inasmuch asthis is possible – incompatible with or unusable for moral judgment and political argument. Baudrillard happily argues for the abandonment of moral argument and normative theory altogether (again, much likeNietzsche, who also intended to think beyond good and evil). For example,Baudrillard writes, “It is no longer a matter here of philosophical morality of the sort that says ‘the world isn’t what it ought to be’ or ‘the world isn’t what it was’. No, the world is as it is.” 37 Of course, Baudrillard is right that the world is as it is, but what of the role of human action in making it that way? So much of the world is as it is because of the cumulative effect of collective human action and inaction over time. In light of this, we do have some space within which to consider what ought to be, and what human action can do to move usin that direction. This is a tenuous space indeed, for it promises us nothing and many people already stand in it pushing and pulling in different directions. But, it is in this space of consideration of the impact and the intervening prospects of human action where the possibility for politics remains, and where one hopes that the best heads will enter the fray.

**The focus on representations and information masks the slow and brutal violence enacted by modern warfare—the critique replicates the Pentagon’s propaganda and shuts down any chance for progressive coalitions for change**

Krishna, Professor of Political Science at the University of Hawai’i at Manoa, 1993 [Sankaran, Alternatives, Summer, p. 397-401]

Postmodern Amnesias: Resurrecting the Dead in Iraq I have absolutely no idea what the Iraqi casualties are, and I tell you, if I have anything to say about it, we're never going to get into the body-count business. —General H. Norman Schwarzkopf24 Well, the numbers are in, if anybody cares. Between 100,000 and 200,000 Iraqi soldiers and civilians were killed in the Gulf War and an estimated 300,000 were injured. In contrast to this, fewer than four hundred Allied soldiers died, many of them due to "friendly fire."25 In two weeks, the Allied forces managed to kill almost four times as many Iraqis as all the US soldiers who died in Vietnam, which should indicate the magnitude of the violence. Coverage of the war was closely orchestrated by the Pentagon, and, eager to be in on the story, the news networks were complicitous in the selective coverage, giving up any liberal pretensions of being impartial observers.26 One of the obvious and distressing aspects of the war was the ineffectiveness of the antiwar movement in derailing the momentum during the months of build up, and the incredible degree of censorship of media coverage of the war by the Pentagon." In this context, some of the poststructuralist analyses of the war (examined here through Der Derian's chapter in AD; Shapiro's chapter on security policy in the video age in RP, and his article on the Gulf War published recently;28 and Chaloupka's sections on the impact of speed and technology on the modern warrior in KN) have been invaluable in their depiction of the alienation and complicity produced through a hyperreal and almost real-time media coverage. The objectification of the Iraqis; the role of electronic simulations in rendering the Iraqi people content-less; the annihilation of space by time and the obsoleteness of conventional spatiotemporal axes in describing and understanding what Der Derian describes as the first "cyberwar"; the intertextuality of the war itself, with both foe and friend often getting information from the same sources (CNN)—all these have been highlighted by critical international theorists. Yet overemphasizing the new forms of representations of the war in the media can become politically problematic. First, a focus on the newness of "cyberwar" detracts attention from the fact that in many ways the Gulf War was very much in the mold of previous conflicts. Far from indicating any shift from the material to the perceptual, this conflict was about territory, oil, and reasserting US hegemony. Second, one ought not to confuse the actual nature of the Gulf War with the Pentagon's close orchestration of its media coverage. In this regard, quotes such as the following leave this reviewer with a sense of disquiet: The consequence . . . is that in modern warfare, as the aim of battle shifts from territorial, economic, and material gains to immaterial, perceptual fields the spectacle of war is displaced by the war of spectacle. (AD: 191) For several reasons (technological, political, and theoretical), the warrior has ceased to hold any kind of possibility. Instances where the warrior seems to be present—Panama, Liberia, Grenada, Afghanistan, even the Persian Gulf—quickly present themselves as failures, spectacles, or exercises in nostalgia. (KN: 24) Contrasted with this supposed dematerialization of war, territory, and the warrior, and a supposedly new era of cyberwars of sign systems, a few enduring realities seem to need reiteration: The war in Iraq was over one of those stubborn geopolitical facts of the present era—oil. It was preceded by a Hannibal-esque build-up lasting more than six months (in contrast to all this talk about speed). The overwhelming percentage of the bombs used in Iraq were not "smart" bombs; in fact nearly 93 percent of the 88,500 tons of bombs used in that war were not precision-guided but "dumb" bombs. US bombs are estimated to have "missed" their targets about 70 percent of the time (needless to add, a "missed target" probably means higher civilian casualties). Far from being a "clean" war (as General Powell and others suggested during the conflict), the weapons systems used were deliberately designed to increase human casualties and suffering. Thus, the Multiple-Launch Rocket System; the Army Tactical Missile System; the "Adam" bombs designed to "spin out tiny darts with razor edges; phosphorous 1 or 2 square kilometers, destroying all human life through asphyxiation or through implosion of the lungs, leaving no chance for survival" and replicating tactical nuclear weapons in their destructiveness—all these and more were used on the traffic jam on the road connecting Kuwait to Iraq, where thousands of soldiers and civilians (including migrant laborers) were trapped and became a turkey-shoot for US "technology."29 By emphasizing the technology and speed in the Gulf War, endlessly analyzing the representation of the war itself, without a simultaneous exposition of the "ground realities," postmodernist analyses wind up, **unwittingly, echoing the Pentagon** and the White House in their claims that this was a "clean" war with smart bombs that take out only defense installations with minimal "collateral damage." One needs to reflesh the Gulf War dead through our postmortems instead of merely echoing, with Virilio and others, the "disappearance" of territory or the modern warrior with the new technologies; or the intertext connecting the war and television; or the displacement of the spectacle of war by the war of spectacle." Second, the emphasis on the speed with which the annihilation proceeded once the war began tends to obfuscate the long build-up to the conflict and US complicity in Iraqi foreign and defense policy in prior times. Third, as the details provided above show, if there was anything to highlight about the war, it was not so much its manner of representation as the incredible levels of annihilation that have been perfected. To summarize: I am not suggesting that postmodernist analysts of the war are in agreement with the Pentagon's claims regarding a "clean" war; I am suggesting that their preoccupation with representation, sign systems, and with the signifier over the signified, leaves one with little sense of the annihilation visited upon the people and land of Iraq. And, as the Vietnam War proved and Schwarzkopf well realized, without that physicalistic sense of violence, war can be more effectively sold to a jingoistic public. In this regard, Der Derian's point that the nature of antiwar protest movements has to change, has to recognize the fact that one can no longer wait for the body bags to come home, is one that merits attention. He notes, in a sharp attack on the left's anti-Gulf War movement: "Like old generals the anti-war movement fought the last war ... a disastrous war of position, constructing ideologically sound bunkers of facts and history while the 'New' World Order fought a highly successful war of maneuver ... with high speed visuals and a high-tech aesthetics of destruction." (AD: 176-77) While this point is, perhaps, debatable, Der Derian's further assertion, that a postmodern critique of the Gulf War mobilization would be somehow more effective, sounds less convincing. An alternative, late-modern tactic against total war was to war on totality itself, to delegitimize all sovereign truths based on class, nationalist, or internationalist metanarratives ... better strategically to play with apt critiques of the powerful new forces unleashed by cyberwar than to hold positions with antiquated tactics and nostalgic unities. (Al): 177-178; emphasis in original) The dichotomous choice presented in this excerpt is straightforward: one either indulges in total critique, delegitimizing all sovereign truths, or one is committed to "nostalgic," essentialist unities that have become obsolete and have been the grounds for all our oppressions. In offering this dichotomous choice, Der Derian replicates a move made by Chaloupka in his equally dismissive critique of the more mainstream nuclear opposition, the Nuclear Freeze movement of the early 1980s, that, according to him, was operating along obsolete lines, emphasizing "facts" and "realities" while a "postmodern" President Reagan easily outflanked them through an illusory Star Wars program. (See KN: chapter 4) Chaloupka centers this difference between his own supposedly total critique of all sovereign truths (which he describes as nuclear criticism in an echo of literary criticism) and the more partial (and issue-based) criticism of what he calls "nuclear opposition" or "antinuclearists" at the very outset of his book. (KN: xvi) Once again, the unhappy' choice forced upon the reader is to join Chaloupka in his total critique of all sovereign truths or be trapped in obsolete essentialisms. This leads to a disastrous politics, pitting groups that have the most in common (and need to unite on some basis to be effective) against each other. Both Chaloupka and Der Derian thus reserve their most trenchant critique for political groups that should, in any analysis, be regarded as the closest to them in terms of an oppositional politics and their desired futures. Instead of finding ways to live with these differences and to (if fleetingly) coalesce against the New Right, this fratricidal critique is politically suicidal. It obliterates the space for a political activism based on provisional and contingent coalitions, for uniting behind a common cause even as one recognizes that the coalition is compromised of groups that have very differing (and possibly unresolvable) views of reality. Moreover, it fails to consider the possibility that there may have been other, more compelling- reasons for the "failure" of the Nuclear Freeze movement or anti-Gulf War movement. Like many a worthwhile cause in our times, they failed to garner sufficient support to influence state policy. The response to that need not be a totalizing critique that delegitimizes all narratives. The blackmail inherent in the choice offered by Der Derian and Chaloupka, between total critique and "ineffective" partial critique, ought to be transparent. Among other things, it effectively militates against the construction of provisional or strategic essentialism in our attempts to create space for an activist politics. In the next section, I focus more widely on the genre of critical international theory and its impact on such an activist politics.

**They are wrong about their totalizing claims about semiotics—there are ruptures everywhere—they aren’t “terrorizing” anything**

**Robinson 13** (Andrew Robinson is a political theorist and activist based in the UK, Jean Baudrillard and Activism: A critique, Feb 7, http://ceasefiremagazine.co.uk/in-theory-baudrillard-14/)

These are challenges which can be met. Baudrillard’s analysis suggests that the system is vulnerable to any act which disregards consequences or is irreducible to the existing frame of possibilities, which is not a “rational action”. This is why the loss of fear has been so central in understanding revolts, from Tahrir Square to Tottenham. In addition, the system remains vulnerable, both to new tactics which it hasn’t thought of yet, and to any event on such a scale that it overwhelms available resources. Just-in-time production has reduced redundancy within systems. The result is that they don’t have the resources to spare, to cope with any events beyond the usual. This is suggested by Baudrillard’s view that the police simply simulate repression. As long as people are broadly conforming, the simulation works. The moment the unexpected happens, the police become unable to repress effectively. If Baudrillard is right, then the **slightest thing** escaping the system’s rationality is enough to pose a challenge to it. The idea of involution suggests that the system is **beginning to fray around the edges.** As control is tightened, peripheral areas slip out of control. This phenomenon is widely discussed in relation to the global South. But fraying can also be seen in the system’s apparent incapacity to respond to emergent events, because of just-in-time production and the maintenance of systems lacking redundancy. Something like the August insurrection can spread on the basis of unexpectedness, rapidity and limited police resources. Baudrillard’s theory of deterrence needs to be reconsidered in light of recent events. We have seen in 2011 that it is still possible to create events: the London unrest, the student protests, **Occupy**, the **Wikileaks** saga… The system does not actually have the power on the ground to prevent revolts, occupations, movements. Even the system’s vice-like grip on future significations is being partially broken through movements like Occupy, which conveys different future images in its own rhetoric. Anonymous turns the anonymity of statistical indifference into a source of strength, using tactics based on the very vulnerability to excess the system creates – such as distributed denial of service attacks (using an excess of web connections) and leaking of documents (relying on the obscene overexposure of information in the Internet).

# 1AR

## K — Baudrillard

#### **We take the ballot hostage and refuse to negotiate, our stealing of there authorship and advocacy is necessary to implode the system all of there authors vote for this. This is a form of piracy that destroys the violent practices of debate through simulations, extinction representations.**

Baudrillard ‘76 (Jean Baudrillard, Professor of Sociology and Philosophy at Université de Paris-IX Dauphine, *Symbolic Exchange and Death*, 1976) \\EG

We will not destroy the system by a direct, dialectical revolution of the economic or political infrastructure. Everything produced by contradiction, by the relation of forces, or by energy in general, will only feed back into the mechanism and give it impetus, following a circular distortion similar to a Moebius strip. We will never defeat it by following its own logic of energy, calculation, reason and revolution, history and power, or some finality or counter-finality. The worst violence at this level has no purchase , and will only backfire against itself. We will never defeat the system on the plane of the real: the worst error of all our revolutionary strategies is to believe that we will put an end to the system on the plane of the real: this is their imaginary, imposed on them by the system itself, living or surviving only by always leading those who attack the system to fight amongst each other on the terrain of reality, which is always the reality of the system. This is where they throw all their energies, their imaginary violence, where an implacable logic constantly turns back into the system. We have only to do it violence or counter-violence since it thrives on symbolic violence - not in the degraded sense in which this formula has found fortune, as a violence 'of signs', from which the system draws strength, or with which it 'masks' its material violence : symbolic violence is deduced from a logic of the symbolic (which has nothing to do with the sign or with energy): reversal, the incessant reversibility of the counter-gift and, conversely, the seizing of power by the unilateral exercise of the gift . We must therefore displace everything into the sphere of the symbolic, where challenge, reversal and overbidding are the law, so that we can respond to death only by an equal or superior death. There is no question here of real violence or force, the only question concerns the challenge and the logic of the symbolic. If domination comes from the system's retention of the exclusivity of the gift without counter-gift - the gift of work which can only be responded to by destruction or sacrifice , if not in consumption, which is only a spiral of the system of surplus-gratification without result, therefore a spiral of surplus-domination, a gift of media and messages to which , due to the monopoly of the code , nothing is allowed to retort ; the gift, everywhere and at every instant, of the social, of the protection agency, security, gratification and the solicitation of the social from which nothing is any longer permitted to escape - then the only solution is to turn the principle of its power back against the system itself: the impossibility of responding or retorting. To defy the system with a gift to which it cannot respond save by its own collapse and death. Nothing, not even the system, can avoid the symbolic obligation, and it is in this trap that the only chance of a catastrophe for capital remains. The system turns on itself, as a scorpion does when encircled by the challenge of death. For it is summoned to answer, if it is not to lose face, to what can only be death. The system must itself commit suicide in response to the multiplied challenge of death and suicide So hostages are taken. On the symbolic or sacrificial plane, from which every moral consideration of the innocence of the victims is ruled out , the hostage is the substitute , the alter-ego of the 'terrorist' - the hostage's death for the terrorist's. Hostage and terrorist may thereafter become confused in the same sacrificial act. The stakes are death without any possibility of negotiation, and therefore return to an inevitable overbidding. Of course , they attempt to deploy the whole system of negotiation, and the terrorists themselves often enter into this exchange scenario in terms of this calculated equivalence (the hostages' lives against some ransom or liberation, or indeed for the prestige of the operation alone). From this perspective, taking hostages is not original at all, it simply creates an unforeseen and selective relation of forces which can be resolved either by traditional violence or by negotiation. It is a tactical action. There is something else at stake, however, as we clearly saw at The Hague over the course of ten days of incredible negotiations: no-one knew what could be negotiated, nor could they agree on terms, nor on the possible equivalences of the exchange. Or again, even if they were formulated, the 'terrorists' demands amounted to a radical denial of negotiation. It is precisely here that everything is played out, for with the impossibility of all negotiation we pass into the symbolic order, which is ignorant of this type of calculation and exchange (the system itself lives solely by negotiation, even if this takes place in the equilibrium of violence). The system can only respond to this irruption of the symbolic (the most serious thing to befall it, basically the only 'revolution') by the real, physical death of the terrorists. This, however, is its defeat, since their death was their stake, so that by bringing about their deaths the system has merely impaled itself on its own violence without really responding to the challenge that was thrown to it. Because the system can easily compute every death, even war atrocities, but cannot compute the death-challenge or symbolic death, since this death has no calculable equivalent, it opens up an inexpiable overbidding by other means than a death in exchange. Nothing corresponds to death except death. Which is precisely what happens in this case: the system itself is driven to suicide in return, which suicide is manifest in its disarray and defeat. However infinitesimal in terms of relations of forces it might be, the colossal apparatus of power is eliminated in this situation where (the very excess of its) derision is turned back against itself. The police and the army, all the institutions and mobilised violence of power whether individually or massed together, can do nothing against this lowly but symbolic death. For this death draws it onto a plane where there is no longer any response possible for it (hence the sudden structural liquefaction of power in '68, not because it was less strong, but because of the simple symbolic displacement operated by the students' practices) . The system can only die in exchange, defeat itself to lift the challenge. Its death at this instant is a symbolic response, but a death which wears it out . The challenge has the efficiency of a murderer Every society apart from ours knows that, or used to know it. Ours is in the process of rediscovering it. The routes of symbolic effectiveness are those of an alternative politics. Thus the dying ascetic challenges God ever to give him the equivalent of this death. God does all he can to give him this equivalent 'a hundred times over' , in the form of prestige , of spiritual power, indeed of global hegemony But the ascetic's secret dream is to attain such an extent of mortification that even God would be unable either to take up the challenge , or to absorb the debt . He will then have triumphed over God, and become God himself. That is why the ascetic is always close to heresy and sacrilege, and as such condemned by the Church , whose function it is merely to preserve God from this symbolic face-to-face, to protect Him from this mortal challenge where He is summoned to die, to sacrifice Himself in order to take up the challenge of the mortified ascetic. The Church will have had this role for all time, avoiding this type of catastrophic confrontation (catastrophic primarily for the Church) and substituting a rule-bound exchange of penitences and gratifications, the impressario of a system of equivalences between God and men. The same situation exists in our relation to the system of power All these institutions, all these social, economic, political and psychological mediations, are there so that no-one ever has the opportunity to issue[s] this symbolic challenge, this challenge to the death, the irreversible gift which, like the absolute mortification of the ascetic, brings about a victory over all power, however powerful its authority may be . It is no longer necessary that the possibility of this direct symbolic confrontation ever takes place. And this is the source of our profound boredom. This is why taking hostages and other similar acts rekindle some fascination: they are at once an exorbitant mirror for the system of its own repressive violence, and the model of a symbolic violence which is always forbidden it, the only violence it cannot exert : its own de[ath]

#### They put the prisoner up for hostage, losing their experience in simulation only hostage taking is able to solve all of there impacts.

**Baudrillard ‘92** (Jean, PhD in porn and irony, The Illusion of the End, Verso,)

In the case of the Romanian revolution, it was the faking of the dead in Timisoara which aroused a kind of moral indignation and raised the problem of the scandal of ‘disinformation’ or, rather, of *information itself as scandal*. It was not the dead that were the scandal, but the corpses being pressed into appearing before the television cameras, as in the past dead souls were pressed into appearance in the register of deaths. It was their being **taken hostage** too, as mystified TV viewers. Being blackmailed by violence and death, especially in a noble and revolutionary cause, was felt to be worse than the violence itself, was felt to be a parody of history. All the media live off the presumption of catastrophe and of the **succulent imminence of death**. A photo in *Liberation*, for example, shows us a convoy of refugees ‘which, sometime after this shot was taken, *was to be* attacked by the Iraqi army’. **Anticipation of effects, morbid simulation, emotional blackmail**. It was the same on CNN with the arrival of the Scuds. Nothing is news if it does not pass through that horizon of the virtual, **that hysteria of the virtual** – not in the psychological sense, but in the sense of a compulsion for what is presented, in all bad faith, as real to be consumed as unreal. In the past, to show something up as fake, we said: ‘It’s just play-acting’, ‘It’s all romance!’, ‘It’s put on for the cameras!’. This time, with Romania and the Gulf War, we were able to say, ‘It’s just TV!’ Photographic or cinema images still pass through the negative state (and that of projection), whereas the TV image, the video image, digital and synthetic, are images with a negative, and hence without negativity and without reference. **They are *virtual* and the virtual is what puts an end to all negativity**, and thus **to all reference to the real or to events**. At a stroke, the contagion of images, engendering themselves without reference to a real or an imaginary, itself becomes virtually without limits and this limitless engendering produces ***information as catastrophe****.* Is an image which refers only to itself still an image? However this may be, that image raises the problem of its indifference to the world, and thus of our indifference to *it* – which is a political problem. When television becomes the strategic space of the event, it sets itself up as a deadly self-reference, it becomes a bachelor machine. **The real object is wiped out by news** – **not merely alienated, but abolished**. **All that remains of it are the traces on a monitoring screen.**

#### Drastic times call for drastic measures, the only option left is to push the system to its extremes so that it implodes under its own weight. They advocated for this meaning vote aff for an endorsement of there method, only voting aff actually changes everything they are critiquing.

Robinson, 12 (Andrew, Political Theorist, Activist Based in the UK and research fellow affiliated to the Centre for the Study of Social and Global Justice (CSSGJ), University of Nottingham “Jean Baudrillard: Strategies of Subversion” September 7, 2012 https://ceasefiremagazine.co.uk/in-theory-baudrillard-11/)

Baudrillard proposes that opponents of the system replace explosive strategies with implosive strategies. Such strategies outbid the system in the direction in which it is already going, and/or restore symbolic exchange. Explosion responds to the order of production. Implosion and reversal similarly respond to the order of networks, combinations and flows. We live in an era when games of chance and vertigo have replaced competitive, expressive games. For Baudrillard, an effective subversion today would involve becoming more aleatory than the system. Baudrillard sees this as possible through ‘symbolic disorder’, the return of symbolic exchange. Death offers a higher order than the code, one which can move beyond and overthrow it. Baudrillard argues for catastrophic - rather than dialectical - responses. Catastrophic responses involve pushing things to their limit. Catastrophe is not necessarily a negative idea - Baudrillard means catastrophe for the system, not for anyone else. Something is catastrophic in the bad sense only from a linear mode of thought. From another point of view, it is a winding-down of a cycle to its horizon or to a transition-point where an event happens. The catastrophe is the point of transition after which nothing has meaning from one’s own point of view. But the rejection of the code’s demand for meaning makes catastrophe no longer negative. Catastrophe is the passage to an entirely different world. The challenge must now be taken up at a higher level. The challenge the code poses for us is the liquidation of all its structures, finding at the end only symbolic exchange. Baudrillard proposes that we ‘become the nomads of this desert, but disengaged from the mechanical illusion of value’. We should live this space, devoid of meaning, as a return to the territory, as symbolic exchange. To become, as one writer puts it, [‘the hunters and gatherers of the contemporary megacity’](http://www.eco-action.org/dod/no8/desire.html). We should reconstruct the current space as a sacred space, a space without pathways, while rejecting the seduction of value - allowing work, value, the dying system to bury themselves. Baudrillard was writing this before the rise of contemporary surveillance and policing practices, which make it far harder to live in the system’s spaces as if they were territorial. It seems the system has somehow gained a reprieve from death, as it has several times before. It has done this by further deepening and expanding the code, and by drawing on reactionary and fascistic energies. According to Baudrillard, the challenge is to avoid fascination with the death throes of the system, to avoid giving it our energies in this way - to simply leave it to die. The system keeps itself alive by staging the ‘ruse’ of its death, while leaving the subjects it has created intact. It is, rather, through our own ‘death’ (or metamorphosis) that the system collapses. With the social failing, it seeks new energy, drawing on the marginal rebellions of excluded groups. For this reason, Baudrillard is suspicious of attempts to recreate marginal systems of meaning, instead calling for the logical exacerbation of the system’s logic. One part of this revolt is the recreation of direct relations. The code depends on everything being segmented and reduced to it, hence separated from others. Where exchange happens - for instance, direct communication in a liberated area - the finality of the code is shattered. Any kind of social practice or language which does not rely on the distinctions made by the code is revolutionary. Connections between people which don’t depend on their social status, solidarity across social borders, is revolutionary. Baudrillard also calls for the expansion of ‘[pataphysics](http://www.guardian.co.uk/culture/2005/dec/09/8)‘ - the formulation of imaginary solutions and problems in parody of science, similar to Situationist detournement and post-Situationist subvertisement and culture jamming. One might also see phenomena such as Internet memes as pataphysical. For Baudrillard, pataphysics is a further stage beyond simulation, which raises the stakes on it. This leads to particular implications. The revolutionary aspect of emancipatory movements (say, of Tahrir Square or the Argentinazo or Occupy) [ that ]do not reside in their demands or significations, but in their existence beyond these, as direct connection. The real struggle is always against the code. But the system defuses or recuperates struggles by redirecting them from the code to reality. This turns them into struggles within the system. It also deflects them back to the field of political economy. But the reality we experience is a product of the code, and political economy is now an illusion. What seems to most people as a fulfilment of a movement - the realisation of its particular project - is for Baudrillard a recuperation, a loss of the alternative forms of sociality it produces. A thoroughgoing revolution would keep up constantly the intense connections of a liberated zone. It would thus become something akin to a new indigenous group, constructed through symbolic exchange.

#### The system must do anything to preserve itself – vote aff to vote neg to embrace the implosion

**Robinson 12** (Andrew Robinson, political theorist and activist, “Jean Baudrillard: Hyperreality and Implosion” https://ceasefiremagazine.co.uk/in-theory-baudrillard-9/)

What are the social effects of all these changes? The main function of the changes is to actualise and preserve the system. **Ultimately, the system seeks only to preserve itself. The ultimate end of politics, concealed by democratic discourse, is to maintain control of the population by any means necessary, including terror.** The system is a kind of **violence without consequences.** It constantly dominates through deterrence, without this gesture being returned or reversed. It is sustained by fascination for the system’s operations. And its effects on the everyday? The social is now a special effect. The appearance of networks converging on an empty site of collective happiness produces the special effect. Consumption now functions like labour. It is a kind of work, which gives the system sign-value. We have lost the social, the real, and power. We don’t know how to mourn them. We become fascinated by the real as a lost object. **Melancholy (depression) becomes the dominant tone of social life**. It is **a brutal disaffection arising from generalised simulation** and the loss of intensity and meaning. The system seems too strong to be checked. People become fascinated at what is happening to signs and to reality. The lines between categories become vague and categories begin to disappear, or become poorly defined or all-encompassing. **The lack of differentiation – the collapse of the segmenting categories – brings us back to a terrifying, undivided nature.** Interstitial space – the space between things – disappears. We are overwhelmed by the over-proximity of all things, like in the Lacanian view of psychosis. It’s not so much that reality doesn’t exist, as that it is inaccessible from within a regime of simulation. Transparency has the effect of curtailing intensity. Social life falls into a stupor or inertia, ‘deterred’ by the code and by its own transparency. Today, illusion no longer counts. Survival depends on the real, the object. This has negative effects. Objectivity is the opposite of fatality, and is always subject to law. This is another way of saying that we are lacking the symbolic dimension. This lack resounds throughout various fields, putting an end to values. The autonomy of the system of signs puts an end to the regime of signs, of representation, and of production. Aesthetics are destroyed by the cold, systematic reproduction of functional objects, including objects signifying beauty. Signs become socially mobile, as in the phenomena of kitsch and cliché. All the humanist criteria of value – from morality to truth to aesthetics – disappear, because the code rests on indifference and neutralisation. Capitalism almost becomes a parody of itself. The situation of indistinction which reason and science have historically struggled against is now coming into existence, because of hyperreality – because a lot of what exists is neither objectively true nor subjectively imagined. **Panic tends to arise because of the functioning of value separately from its referential contents. We are living through a collapse of meaning.**

#### Rupture is good and key to disrupt the system — all of the reasons above are bolstered by this

Pawlett ‘14 (William; Senior lecturer in media, communications, and cultural studies at the University of Wolverhampton UK, “Society At War With Itself”, International Journal of Baudrillard Studies, Volume 11, Number 2, May 2014)

It all depends on the ground we choose to fight on … most often … we choose to fight on ground where we are beaten before we begin (Baudrillard 2001: 119).

This paper examines Baudrillard’s assertion, made in later works including Impossible Exchange (2001), The Intelligence of Evil (2005) and Pyres of Autumn(2006), that individuals, society and indeed the global system, are internally and irreconcilably divided, that modernity is ‘at odds with itself’ (Baudrillard 2006: 1). In his view dissent, rejection and insurrection emerge from within, not from external challenges such as alternative ideologies or competing worldviews, but from within bodies, within borders, inside programmes. For Baudrillard much of the violence, hatred and discomfort visible around the globe can be understood as a latent but fundamental ‘silent insurrection’ against the global integrating system and its many pressures, demands and humiliations (2001: 106). This is anendogenic or intra-genic rejection, it emanates from within the system, from within individuals, even from within language, electronic systems and bodily cells, erupting as abreaction, metastasis and sudden reversal.[2](http://www2.ubishops.ca/baudrillardstudies/vol-11_2/v11-2-pawlett.html#ft-endnote2)

For Baudrillard then, despite the many simulations of external threat and enmity – radical Islam currently being the best example – the most dangerous threat lies within:  ‘society faces a far harder test than any external threat: that of its own absence, its loss of reality’ (2006: 1). The global order, conventionally labelled “capitalist”, is neutralising its values and structures, its ideologies disappear, its principles are sacrificed.  Even the sense of “reality” produced by the abstract sign and by simulation models begin to disappear (2005: 67-73; 2009: 10-15). The goal is ‘integral reality’, a limitless operational project geared towards the total transcription of the world into virtuality: ‘everything is realised and technically materialised without reference to any principle or final purpose’ (2005: 18). Yet there is an internal war or “backlash” taking place between integralist violence which seeks ultimate control by eliminating all otherness, and duality. Duality, for Baudrillard, is “indestructible” and is manifest as the inevitable or destined re-emergence of otherness: of death, Evil, ambivalence, the ghosts of symbolic exchange, the accursed share within the system. The integrating system then suffers a ‘dissent working away at it from inside. It is the global violence immanent in the world-system itself which, from within, sets the purest form of symbolic challenge against it’ (2005: 22). This is a war or conflict that does not end, the outcome of which cannot be predicted or programmed. It is a war that is quite different from the disappearance of war into simulated non-events, such as occurred with the Gulf wars (Baudrillard 1995). Indeed, Baudrillard suggests, the deterrence of world wars, and of nuclear wars, does not result in peace, but in a viral proliferation of conflicts, a fractalisation of war and conflict into everyday, local, and ubiquitous terror (1993b: 27).

This paper will examine Baudrillard’s position on internal rejection through two closely related themes: complicity and duality. Complicity, and the closely related term collusion, are themselves dual in Baudrillard’s sense. That is, complicity or collusion express an internal division or ‘duality’ which is not a simple opposition of terms. As is so often the case, Baudrillard’s position builds on his much earlier studies: Requiem For the Media (orig. 1972, in Baudrillard 1981: 164-184) had already argued that the dominance of the abstract sign and of simulation models meant that any critique of the system made through the channels of semiotic abstraction were automatically re-absorbed into the system. Any meaningful challenge must invent its own, alternative medium – such as the silk-screen printings, hand-painted notices and graffiti of May 1968 – or it will lapse into an ineffectual complicity with the system it seeks to challenge (Baudrillard 1981: 176). In his later work, Baudrillard’s emphasis on duality and complicity is extended much further, taking on global, anthropological and even cosmological dimensions, and increasingly complicity and collusion are seen as dual, as encompassing both acceptance and a subtle defiance. This paper examines the dual nature of complicity and collusion. It considers the influence of La Boetie’s notorious Essay on Voluntary Servitude on Baudrillard, seeking to draw out what is distinctive in Baudrillard’s position. The second section turns to the notion of duality, examining Good and Evil and Baudrillard’s assertion that attempts to eliminate duality merely revive or re-active it.

Complicity implies a complexity of relations, and, specifically, the condition of being an accomplice to those in power. To be an accomplice is to assist in the committing of a crime. If the crime is murder, the term accomplice implies one who plans, reflects, calculates – but does not strike the lethal blow. The crime which is of particular interest to Baudrillard is, of course, the perfect crime: the elimination of otherness, of ambivalence, of duality, even of “reality” and of the abstract representational sign which enables a sense of “reality” (Baudrillard 1996). The global, integral, carnivalising and cannibalising system, which might loosely still be called capitalist, is at war against radical otherness or duality; yet, for Baudrillard, as duality lies at its heart, locked within its foundations, it is indestructible and emerges through attempts to eliminate it. If the system has been largely successful at eliminating external threats, it finds itself in an even worse situation: it is at war with itself.

II. Complicity

Complicity is a particularly slippery term. In the 1980s Baudrillard’s thought, mistakenly assumed to be “Postmodernist”, was argued to be complicit with capitalism, largely because it questioned the ability of dominant strands of Marxism and feminism to significantly challenge the capitalist system (Callinicos 1989; Norris 1992). At the same time, Baudrillard was alleging that the work of supposedly radical theorists such as Deleuze and Guattari (1984 orig. 1972) and Lyotard (1993 orig. 1974) was, with their emphasis on desire as productive and liberatory force, complicit with the mechanisms of advanced consumer capitalism (Baudrillard 1987: 17-20). So which branch of contemporary theory is most complicit with capitalism? Liberals, humanists and environmentalists who see their clothes stolen by mainstream politicians? Marxists and Communists who by refusing to update their thinking provide a slow moving target for right-wing snipers? Post- Modernists and Post-Structuralists who attack Enlightenment thought but refuse to speak of the human subject and so have “thrown the baby out with the bath water”? Network and complexity theory which flattens all phenomena and experience to a position on a grid, producing a very complex simplification? The list could go on but it is a question that cannot be answered because all critical theories are complicit with the system they critique. They fight on a terrain already demarcated by their opponents, a terrain on which they are beaten before they begin, one where the most compelling argument can always be dismissed as doom-mongering or irresponsible intellectualism. This includes Baudrillard’s own critical thinking, as he readily acknowledges (Baudrillard 2009a: 39). Further, and even more damaging to the project of critique, in a hegemonic or integral order the system solicits critique and it criticises itself, so displacing and making redundant the laborious attempts at academic critique. The latter continue, even proliferate, but with decreasing impact.

So, what does Baudrillard mean by complicity with the global order? Baudrillard’s concern is primarily with complicity at the level of the form of the (capitalist) system, not at the level of belief, consent or allegiance to particular contents of capitalist life (consumer products, plurality of ‘lifestyles’, a degree of ‘tolerance’ etc.). Complicity is often seen, by critics of capitalism, as acceptance of consumerism and its myriad choices and lifestyles, but this is a reductive level of analysis from Baudrillard’s perspective. By complicity or collusion Baudrillard means, on the one hand, the very widespread willingness to surrender or give up beliefs, passions and “symbolic defences” (2010: 24), and on the other – as the dual form – an equally widespread ability to find a space of defiance through the play of complicity, collusion, hyperconformity and indifference (1983: 41-8). That is, while many of us (in the relatively affluent West) share in the profanating, denigrating and “carnivalising” of all values, embracing indifference, shrugging “whatever”, we do so with very little commitment to the system, rejoicing inwardly when it suffers reversals: we operate in a dual mode.

While such attitudes of indifference may seem to accept that there is no meaningful alternative to capitalism: an attitude that has been called ‘capitalist nihilism’ (Davis in Milbank and Zizek, 2009) and ‘capitalist realism’ (Fisher 2008), Baudrillard’s notions of “integral reality”, duality and complicity may have significant advantages over those approaches. Unlike thinkers who remain anchored to critical thinking defined by determinate negation, Baudrillard’s approach emphasises ambivalence, reversal and both personal and collective modes of rejection more subtle than those envisioned by the increasingly exhausted mechanisms of critique. The critique of consumer capitalism – the consumption of junk food, junk entertainment and junk information – is now integral to the system; the critique of finance capitalism – banker’s bonuses, corporate tax avoidance – is integral to the system, yet it fails to bring about meaningful or determinate social transformation. Indeed, such critiques may do no more than provide the system with a fleeting sense of “reality” – real issues, real problems to deal with – around which the system can reproduce its simulacra, perhaps to reassure us that “something is being done”, “measures are being put into place” etc. “Reality” cannot be dialectically negated by critical concepts when both ‘reality’ and the critical concept disappear together, their fates clearly tied to each other (Baudrillard 2009b: 10-12).

There is a sense then in which the production of critique is in complicity with the system, the unravel-able proliferation and excess of critical accounts of the system has the effect of protecting the system. Complicity consists in a sharing of the denigration of all values, all institutions, all ideas, all beliefs: so long as we believe in nothing – at least not passionately – then the system has us, at least superficially. For example, in recent decades we have seen the denigration of religious faiths – or their reduction to ‘cultural identity’ and ‘world heritage’ objects; the denigration of public services and welfare provision accompanied by their marketisation; the denigration of the poor, the young, immigrants and the unemployed. Yet this is not only the denigration of the powerless or disenfranchised, there is also the widespread denigration of those seen as powerful: politicians, corporations, celebrities. For Baudrillard, it is quite inadequate to focus only on the power of global neo-liberal policies such as marketisation in these processes of denigration. This is where Baudrillard’s position departs decisively from anti-globalists and from neo-Communists such as Negri, Zizek, and Badiou. Global power has deliberately sacrificed its values and ideologies, it presents no position, it takes no stand, it undermines even the illusion that “free markets” function and has made “capital” virtual; become orbital it is removed from a terrestrial, geo-political or subjective space. These are protective measures enabling power to become (almost) hegemonic (Baudrillard 2009a: 33-56; 2010: 35-40).

Baudrillard often emphasises the fragility and the vulnerability to reversal of the “powerful” and the distinction between powerful and powerless is radically questioned in his work. So what is this global power? Where is it? The answer, of course, is that it is everywhere and it is in everyone. We have not liberated ourselves from slavery, but, Baudrillard contends, internalised the masters: ‘[e]verthing changes with the emancipation of the slave and the internalisation of the master by the emancipated slave’ (2009a: 33). We tyrannise ourselves, for example by demanding that we maximise our opportunities, fulfill our potential. This is a deeper level of slavery – and complicity – than any previous historical system could inflict (Baudrillard 1975; 2009a: 33).

Yet duality always re-emerges, Baudrillard insists: indifference is dual, complicity is dual. Carnivalisation and cannibalisation are themselves dual: the global system absorbs all otherness in a ‘forced conversion to modernity’ (2010: 5), reproducing otherness within the carnival of marketable “difference”, yet cannibalisation emerges as a reversion and derailing of this process. The world adopts Western models: economic, cultural, religious – or it appears to. Hidden within this complicity with the West, there is, Baudrillard suggests, a deeper sense of derision and rejection. The allegiance to Western models is superficial; it is a form of mimicry or hyperconformity that involves a ritual-like exorcism of the hegemonic system. Further, such mimicry reveals the superficiality of Western cultural and economic models: this is not only a superficial acceptance, but an acceptance of superficiality. Western values are already parodic, and, in being accepted, they are subject to further parody as they circulate around the globe (2010: 4-11). The West has deregulated and devalued itself and demands that the rest of the world follows: "It is everything by which a human being retains some value in his own eyes that we (the West) are deliberately sacrificing … [o]ur truth is always to be sought in unveiling, de-sublimation, reductive analysis …[n]othing is true if it is not desacralised, objectivised, shorn of its aura, dragged on to the stage" (Baudrillard 2010: 23).

Western desacrilisation amounts to a powerful challenge to the rest of the world, a potlatch: desacralise in return or perish! But who has the power? Who is the victor? There isn’t one, according to Baudrillard. Of the global order, Baudrillard writes: ‘We are its hostages – victims and accomplices at one and the same time – immersed in the same global monopoly of the networks. A monopoly which, moreover – and this is the supreme ruse of hegemony – no one holds any longer’ (2010: 40). There is no Master, no sovereign because all the structures and dictates of power have been internalised, this is the complicity we all share with global order, yet it is a dual complicity: an over-eager acceptance goes hand-in-hand with a deep and growing rejection.

Baudrillard’s discussions of power, servitude and complicity make frequent reference to Estienne La Boetie’s essay on voluntary servitude, completed around 1554. The fundamental political question for La Boetie is: ‘how can it happen that a vast number of individuals, of towns, cities and nations can allow one man to tyrannise them, a man who has no power except the power they themselves give him, who could do them no harm were they not willing to suffer harm’ (La Boetie 1988: 38). It seems people do not want to be free, do not want to wield power or determine their own fates: ‘it is the people who enslave themselves’ (La Boetie 1988: 41). People in general are the accomplices of the powerful and the tyrannical, some profit directly through wealth, property, favour – ‘the little tyrants beneath the principal one’ (1988: 64), but many do not, why do they not rebel? Baudrillard takes up La Boetie’s emphasis on servitude being enforced and maintained from within, rather than from without. Yet, there are also major divergences. La Boetie deplores the “common people” for accepting the narcotising pleasures of drinking, gambling and sexual promiscuity, while Baudrillard rejects such elitism and celebrates the masses abilities to strategically defy those who would manipulate them through perverse but lethally effective practices such as silence, radical indifference, hyperconformity – dual modes of complicity and rejection (Baudrillard 1983: 1-61). Though La Boetie’s essay prefigures the development of the concept of hegemony, he never doubts that voluntary servitude is unnatural, a product of malign custom that is in contradiction with the true nature of human beings which is to enjoy a God-given freedom. Baudrillard, by contrast, examines voluntary servitude as a strategy of the refusal of power, a refusal of the snares of self and identity, as strategy of freedom from the tyranny of the will and the fiction of self-determination (Baudrillard 2001: 51-7). For Baudrillard the “declination” or refusal of will disarms those who seek to exert power through influencing or guiding peoples’ choices and feelings towards particular ends. It also allows for a symbolic space, a space of vital distance or removal, a space in which to act, or even act-out (of) a character (Baudrillard 2001: 72-3). This is a space where radical otherness may be encountered, a sense of shared destiny which is a manifestation of the dual form at the level of individual existence (Baudrillard 2001: 79).

It could certainly be argued that modern subjects are confronted by a far more subtle and pervasive system of control than were the subjects discussed in La Boetie’s analysis. In theorising the nature of modern controls Baudrillard develops suggestive themes from La Boetie’s work. Speaking of slavery in the Assyrian empire, where, apparently, kings would not appear in public, La Boetie argues, ‘the fact that they did not know who their master was, and hardly knew whether they had one at all, made them all the more willing to be slaves’ (1988: 60). Whatever its historical provenance, this strategy of power is, it seems, generalised in modernity; particularly after the shift away from Fordist mass production it has become increasingly hard to detect who the masters actually are. While workers are persecuted by middle managers, supervisors, team leaders, project co-ordinators who are the masters of this universe? Who are the true beneficiaries? Rather than trying to identify a global neo-liberal elite, as do many proponents of anti-capitalist theory, Baudrillard suggests that the situation we confront is so grave because “we” (those in the West in relatively privileged positions) have usurped the position of masters; we have become the slave masters of ourselves, tyrannising every detail of our own lives: trying to work harder, trying for promotion or simply trying to avoid redundancy. We are all the accomplices of a trans-capitalist, trans-economic exploitation. We are all tyrants: a billion tiny tyrants servicing a system of elimination. But this is not to say that Baudrillard ignores power differentials altogether: ‘it is, indeed, those who submit themselves most mercilessly to their own decisions who fill the greater part of the authoritarian ranks, alleging sacrifice on their parts to impose even greater sacrifices on others’ (2001: 60-1). We all impose such violence on ourselves and on others as part of our daily routines, hence Baudrillard’s injunction to refuse power: ‘Power itself must be abolished – and not solely because of a refusal to be dominated, which is at the heart of all traditional struggles – but also, just as violently, in the refusal to dominate’ (2009a: 47).

Yet, even on the theme of systemic violence and elimination, Baudrillard differs sharply from neo-communist theory, while retaining a position of defiance. Systemic eliminationism should not be conceived in individual or subjective terms, despite good points made in recent studies of work and education under neo-liberalism, such as Cederström and Fleming’s Dead Man Working (2012). At a formal level, neo-liberal eliminationism does not merely eliminate jobs and also lives (for example in the recent textile factory fires in Bangladesh), it eliminates meaning, symbolic space and thought. And it eliminates not by termination but by “ex-termination”. That is, by transcribing the world into integral reality, the system produces a single, meaning-depleted, virtual space which encourages participation, engagement and campaigning, on condition that these are produced as part and parcel of an integrated void where “[t]he real no longer has any force as sign, and signs no longer have any force of meaning” (Baudrillard 2001: 4). Most of the developed world has been conferred the right to blog and to tweet as they please and they are indebted to the system in a way which far exceeds the paying of a small tribute or rent to Microsoft or Apple (Zizek 2010: 233). The symbolic debt imposed by the modern world and its technologies is of a metaphysical or cosmological order. Through it we take leave of this world Baudrillard suggests, we become extra-terrestrials. We will recognise no Other, no singularity, no debt to anyone because we attempt to cancel everything out in an integral, technological system that has no outsides because it was, in a sense, created from the outside.

In making this argument, Baudrillard takes up Hannah Arendt’s striking suggestion that modern science and technology, from Galileo’s invention of the telescope to the launch of the first space satellite in 1957, enacts a “fateful repudiation” of the Earth and of the terrestrial human condition. Human beings, Arendt argues, seek to eliminate their rootedness to Earth and their relationship to all other species on Earth (an ambition which also drives the science of genetics). There is for Arendt: "… a rebellion against human existence as it has been given, a free gift from nowhere (secularly speaking), which he wishes to exchange, as it were, for something he has made himself" (Arendt 1958: 2-3).

Economic alienation, as theorised by Marx, is an echo of a far more fundamental “world alienation” Arendt suggests. Baudrillard’s reading of Arendt’s work is surprisingly faithful, though he pushes a little further. What Arendt calls the invention of an ‘Archimedean point outside the world’, when Galileo’s telescope hardened philosophical speculations that the Earth might not be the centre of the universe into demonstrable scientific fact, is, for Baudrillard, the moment the “real world” began to exist: ‘the moment when human beings, while setting about analysing and transforming the world, take their leave of it, while at the same time lending it force of reality … the real world begins, paradoxically, to disappear at the very same time as it begins to exist’ (Baudrillard 2009b: 11). Human beings do not, cannot, live in the “real world”, they live elsewhere in a space of symbolic belonging, and the “real world” can only be posited on condition that human beings are removed from it, removed to a vantage point from where they can observe it. Hence the process of measuring, representation and conceptualisation produces a ‘real world’ subject to scientific knowledge and, at the same time, hastens the progressive disappearance of the real world. Concepts “capture” things only as things begin to disappear into concepts: ‘the real vanishes into the concept’ (Baudrillard 2009b: 12) and human being, as products of nature, are progressively eliminated from the “real” they have fashioned. Further, Baudrillard suggests, human beings are complicit in this process, they are unique in inventing a “mode of disappearance”. The alienating effects of modern science and technology are not only to be deplored, they can also be seen as a freeing of human intelligence to engage in useless, sovereign and radical thought (Baudrillard 2001: 119-121).

The disappearance of the human being from nature, and then from “reality” has dual, irreconcilable consequences. We lead double lives, or we have a life but also mere sur-vival; a destiny but also a biological, functional, performative existence. The latter terms appear to be dominant, and to denigrate all else as meaningless or whimsical. Yet, Baudrillard suggests, life itself, with its destiny, radical otherness, singularity and duality is actually the more potent. Performative existence, or integral servitude, can be diverted, annulled, suspended or even sacrificed in sudden, radically escalated events: from 9/11 to cases such as that of Jean-Claude Romans who massacred his family, eliminating his simulated sense of self and all those who, apparently, believed in his simulation (Baudrillard 2001: 67-70). According to Baudrillard: “[as] we break the symbolic pact and the cycle of metamorphoses, two kinds of violence ensue: a violence of liberation, and an opposite violence in reaction against the excess of freedom, safety, protection and integration, and hence against the loss of any dimension of fate, of destiny – a violence directed against the emergence of the Ego, the Self, the Subject or the Individual, which takes its toll in the form of self-hatred and repentance” (2001: 46). Two forms of violence emerging from the same source: the breaking of symbolic obligation and the expulsion of otherness, the foundation upon which modern society is based (1993a: 1-5; 131-135).