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Judicial Efficiency DA

#### Antitrust cases are uniquely complex and time consuming. The plan clogs federal dockets.

Keith Holleran 20, JD from GMU School of Law, 2020, “Establishing an Independent Antitrust Court,” https://awards.concurrences.com/IMG/pdf/4.\_establishing\_an\_independent\_antitrust\_court.pdf?56466/614536766da09a9216d1e0809972eb9aa909eb4d

The Antitrust Court would be more efficient than generalist courts simply because the Antitrust Court is made up of experts in antitrust law. “Judges who regularly handle a single class of cases are expected to dispose of their work in less time than their counterparts on generalist courts who see that class of cases less frequently.”5 Antitrust Court judges are made up of experts in the field, and so they would require much less preliminary research to get brought up to speed on a given case. Generalist judges may not see many antitrust cases each year, and so they would have to research antitrust law and gain an understanding of what needs to be resolved and proven in every case. As antitrust cases often involve highly complex economic models and arguments, more and more is required of generalist judges to make an accurate decision. An ancillary gain in efficiency is realized from generalist courts no longer having to work through complicated antitrust cases, as they are now brought before a specialized court.6 Antitrust cases can take years to resolve, and these cases can clog up a generalist court’s docket. “It is now generally accepted that the regular federal courts, and especially the courts of appeals, are critically overloaded.”7 Removing all of these cases to a specialized court frees up generalist judges to resolve other cases quicker.8

#### Efficient court review underpins patent-led innovation---that stops nuclear war and a range of existential threats

Robert J. Rando 16, Founder and Lead Counsel of The Rando Law Firm P.C., Fellow of the Academy of Court-Appointed Masters, Treasurer for the New York Intellectual Property Law Association, Chair of the Federal Bar Association Intellectual Property Law Section, “America’s Need For Strong, Stable and Sound Intellectual Property Protection and Policies: Why It Really Matters”, IP Insight, June 2016, p. 12-14 [language modified] [abbreviations in brackets]

Robert F. Kennedy’s speech, which includes his reference to the oft-quoted “interesting times” curse, applies throughout history in many contexts and, indeed, with both negative and positive connotation. While he focused on the struggles for freedom and social justice, the requisite ascendancy of the individual over the state, and the institution and integration of those ideals for the greater good, he also promoted the goals of greater global unity, cooperation and communication, which were, and could be, achieved by advances in technology. And, as noted in the excerpt, he championed “the creative energy of men.” Intellectual Property in “Interesting Times” It is beyond question that starting with the last decade of the twentieth century and throughout the first two decades of the twenty-first century, when it comes to matters relating to intellectual property, we have been living in “interesting times.” Some may interpret these interesting times as defined by the curse and others may view it by the ordinary meaning of “interesting.” In either case, those of us that toil in the fields of patents, copyrights, trademarks, trade secrets, and privacy rights have experienced an unprecedented sea change in the way those rights are procured, protected and enforced. Likewise, and perhaps more importantly, even those of us that do not practice in these areas of law, as well as the general public, have been, and continue to be, impacted by the consequences of these changes (both positive and negative). The Changes In Intellectual Property Law Examples of some of the changes in intellectual property law are: the sweeping 2011 legislative changes to the patent laws under the America Invents Act (AIA), which impact is only beginning to be fully appreciated; the various proposals for patent law reform, on the heels of the AIA, beginning with the 113th and 114th Congress; the copyright laws Digital Millennium Copyright Act (DMCA) and numerous 114th Congressional proposed copyright law changes; the recently enacted federal trade secret law (Defend Trade Secrets Act of 2016 (DTSA))2; the impact of the internet, domain names and globalization on Trademark law; the intellectual property law harmonization requirements included in various global/regional trade agreements; and the proliferation of devices (both invasive and non-invasive) that defy any rational basis for believing we can still adhere to the republic’s libertarian understanding of the right to privacy. Without engaging in “chicken and egg” analysis, it is sufficient to observe that technological advancement, societal needs, globalization, existential threats, economic realities, and political imperatives (or what James Madison referred to in the Federalist Papers No. 10 as factious governance), have combined to create the “interesting times” for the United States [IP] intellectual property laws. What was said by Bobby Kennedy in 1966 remains true today. We live in dangerous and uncertain times. Many of the existential threats remain the same (nuclear war and proliferation, [genocides] genocidal maniacs and natural disease) and some are new ([hu]manmade disease, greater awareness of environmental changes and possibly human interrelationship factors, and the unintended consequences of genetic manipulation and robotic technologies). The danger and uncertainty that pervades changes in intellectual property laws, though not an existential threat of the same manner and kind, correlates with the threat and remains “more open to the creative energy of man than any other time in history.” Apropos the creative energy of man, there is a non-coincidental congruence and convergence of activity across and among the three branches of government, occurring almost simultaneously with the congruence and convergence of the rapid developments of technological innovation across various scientific disciplines and the information age, reflected in the transformation of the [IP] intellectual property laws in the United States. Patents The passage of the AIA was a culmination of efforts spanning several years of Congressional efforts; and the product of a push by the companies at the forefront of the twenty-first century new technology business titans. The legislation brought about monumental changes in the patent law in the way that patents are procured (first inventor to file instead of first to invent) and how they are enforced (quasi-judicial challenges to patent validity through inter-party reviews at the Patent Trial and Appeals Board (PTAB)). The 113th and 114th Congress grappled with newly proposed patent law reforms that, if enacted, may present additional tectonic shifts in the patent law. Major provisions of the proposals include: fee-shifting measures (requiring loser pays legal fees - counter to the American rule); strict detailed pleadings requirements, promulgated without the traditional Rules Enabling Act procedure, that exceed those of the Twombly/Iqbal standard applied to all other civil matters in federal courts, and the different standards applicable to patent claim interpretation in PTAB proceedings and district court litigation concerning patent validity. The Executive and administrative branch has also been active in the patent law arena. President Obama was a strong supporter of the AIA3 and in his 2014 State Of The Union Address, essentially stated that, with respect to the proposed patent law reforms aimed at patent troll issues, we must innovate rather than litigate.4 Additionally, the USPTO has embarked upon an energetic overhaul of its operations in terms of patent quality and PTO performance in granting patents, and the PTAB has expanded to almost 250 Administrative Law Judges in concert with the AIA post-grant proceedings’ strict timetable requirements. The Supreme Court, not to be outdone by the Articles I and II branches of the U.S. government, has raised the profile of patent cases to historical heights. From 1996 to the 2014-15 term there has been a steady increase in the number of patent cases decided by the SCOTUS5. The 2014-15 term occupied almost ten percent of the Court’s docket. Prior to the last two decades, the Supreme Court would rarely include more than one or two patent cases in a docket that was much larger than those we have become accustomed to from the Roberts’ Court6. While the SCOTUS activity in patent cases is viewed by some as a counter-balance to the perceived Federal Circuit’s pro-patent and bright line decisions, it can just as assuredly be viewed as decisions rendered by a Court of final resort which does not function in a vacuum devoid of the social, economic and political winds of the times. In recognition of the effect new technologies have on the patent law, the politicization of intellectual property law matters, especially patent law (through factious governing principles of the political branches of the government), and the maturation of the Federal Circuit patent law jurisprudence, the SCOTUS has rendered opinions in cases that impact, and perhaps are/were intended to mitigate the concerns regarding, some of the vexing issues confronting the patent community today (e.g., non-practicing entities or in the politicized parlance “patent trolls,” the intersection of patent and antitrust laws in Hatch-Waxman so called “pay-for-delay” settlements between Branded and Generic pharma companies, and the fundamental tenets that comprise the very heart of what is patent eligible subject matter). Copyrights The advent and ubiquity of the internet, social media and digital technologies (MP3s, Napster, Facebook, YouTube, and Twitter) represents the impetus for changes in the Copyright laws. The DMCA addressed the issues presented by these advances or changes in the differing media and forms of artistic impressions. The proliferation of digital photos, graphic designs and publishing alternatives, as well as adherence to globalization harmonization have given rise to changes in the statutory law and jurisprudence in this area of intellectual property law. Additionally, there is an overlap of patent rights and copyrights for software driven by the ebb and flow of the strength of each respective intellectual property protection. Notably, the Patent and Copyright Clause7, in addition to Author’s writings, has been viewed as discretely applying to two different types of creativity or innovation. When drafted the “sciences” referred not only to fields of modern scienctific inquiry but rather to all knowledge. And the “useful arts” does not refer to artistic endeavors, but rather to the work of artisans or people skilled in a manufacturing craft. Rather than result in ambiguity or confusion, perhaps the Framers were either quite prescient or, just coincidentally, these aspects of the Patent and Copyright Clause have converged. For example, none other than the famous Crooner, Bing Crosby, benefited from both protections. Well-known as a prolific and popular recording artist he also benefited from his investments in the, then innovative, recording technologies. Similarly, the Beatles, Beach Boys, as well as many other rock and roll artists, experimental efforts in music performance, recording and production, helped to transform the music industry in both copyrightable artistic expression and patentable inventions. Similarly, film, literary and digital arts reap benefits at the crossroads of both copyright and patent protections. Trademarks Trademark laws have been impacted by numerous changes in the business landscape. They include the internet, Domain names, international rights in a global economy, different venues and avenues for branding, marketing and merchandising, global knock-offs from nations that have a less than stellar respect for intellectual property rights, and international trade agreements. More recently, politicization (or perhaps political correctness) has creeped into the trademark law arena pitting branding rights and protections against first amendment rights. Trade Secrets As with Copyright and Trademark law, trade secrets law includes some of the same issues related to trade agreements. TRIPS required members to have trade secret protection in place. Initially, the United States compliance with this requirement has relied upon the trade secret law of the individual states. That compliance may be supplanted by the recently enacted DTSA. Similarly, the Trans Pacific Partnership (TPP) trade agreement contains intellectual property rights provisions that will trigger required changes to United States statutory Intellectual Property Laws. The proposed trade secret legislation also gives rise to several concerns. For instance, there is an absence of a specific definition for trade secret, as well as potential issues of federalism, conflict with state law precedent (despite no preemption), remedies, and the impact on employer/employee relations. There is also a real concern that the strengthening of trade secret protection in conjunction with the perceived weakening of patent protection (e.g., high rate of invalidating patents in post-grant proceedings before the PTAB and strict limitations on what is patent eligible subject matter) may very-well have the unintended consequence of contravening the purpose behind the Patent and Copyright Clause: “to promote the progress of the sciences and the useful arts.” Moreover, the incentive to innovate may very well be usurped by the advantage of withholding patent law disclosure of highly beneficial scientific advancements that directly affect the human condition, alter life expectancies and the evolution of the human species (rather than by mere “natural selection”), and what is the very essence of a human being (for better or worse). Thus, crippling innovation and the progress of the sciences and useful arts. Privacy Rights It is increasingly more difficult to function “off the grid.” The invasive and non-invasive attributes of the internet, the reliance upon the multitude of devices, social media, and information age technologies, and access to big data, all contribute to the decrease in and dilution of the right to privacy. Wittingly or otherwise, the strong libertarian roots of the republic have been replaced by dependence upon these modes of an information-age life. Commentary on the benefits and deficits of this reality are beyond the subject and purpose of this writing. Suffice to acknowledge that the right to privacy has been significantly reduced. The laws that protect these rights are in a constant struggle to maintain those rights while yielding to the demands of the lifestyle and security concerns. Laws that relate to cybersecurity in the global and domestic space create interplay with privacy rights. Legislation, trade agreements and jurisprudence all impact this area of intellectual property. Cross-border theft of trade secrets, competitor espionage, and loss of control over personal data are all implicated in the intellectual property law arena. America’s Need For Strong Intellectual Property Protection The need for strong protection of intellectual property rights is greater now than it was at the dawn of our republic. Our Forefathers and the Framers of the U.S. Constitution recognized the need to secure those rights in Article 1, Section 8, Clause 8. James Madison provides insight for its significance in the Federalist Papers No. 43 (the only reference to the clause). It is contained in the first Article section dedicated to the enumerated powers of Congress. The clause recognizes the need for: uniformity of the protection of IP rights, securing those rights for the individual rather than the state; and, incentivizing innovation and creative aspirations. Underlying this particular enumerated power of Congress is the same struggle that the Framers grappled with throughout the document for the new republic: how to promote a unified republic while protecting individual liberty. The fear of tyranny and protection of the “natural law” individual liberty is a driving theme for the Constitution and throughout the Federalist Papers. For example, in Federalist No. 10, James Madison articulated the important recognition of the “faction” impact on a democracy and a republic. In Federalist No. 51, Madison emphasized the importance of the separation of powers among the three branches of the republic. And in Federalist No. 78, Alexander Hamilton, provided his most significant essay, which described the judiciary as the weakest branch of government and sought the protection of its independence providing the underpinnings for judicial review as recognized thereafter in Marbury v. Madison. All of these related themes are relevant to the Patent and Copyright Clause and at the center of the intellectual property protections then and now. The Federalist Papers No. 10 recognition that a faction may influence the law has been playing itself out in the halls of congress in the period of time leading up to the AIA and in connection with the current patent law reform debate. The large tech companies of the past, new tech, new patent-based financial business model entities, and pharma factions have been the drivers, proponents and opponents of certain of these efforts. To be sure, some change is inevitable, and both beneficial and necessary in an environment of rapidly changing technology where the law needs to evolve or conform to new realities. However, changes not premised upon the founding principles of the Constitution and the Patent and Copyright Clause (i.e., uniformity, secured rights for the individual, incentivizing innovation and protecting individual liberty) run afoul of the intended purpose of the constitutional guarantee. Although the Sovereign does not benefit directly from the fruits of the innovator, enacting laws that empower the King, and enables the King to remain so, has the same effect as deprivation and diminishment of the individual’s rights and effectively confiscates them from him/her. Specifically, with respect to intellectual property rights, effecting change to the laws that do not adhere to these underlying principles, in favor of the faction that lobbies the most and the best in the quid pro quo of political gain to the governing body threatens to undermine the individual’s intellectual property rights and hinder the greatest economic driver and source of prosperity in the country. It is also important to recognize that the social, political and economic impact of strong protections for intellectual property cannot be overstated. In the social context, the incentive for disclosure and innovation is critical. Solutions for sustainability and climate change (whether natural, man-made or mutually/marginally intertwined) rely upon this premise. Likewise, as we are on the precipice of the ultimate convergence in technologies from the hi-tech digital world and life sciences space, capturing the ability to cure many diseases and fatal illnesses and providing the true promise of extended longevity in good health and well-being, that is meaningful, productive, and purposeful; this incentive must be preserved. In similar fashion, advancements in technologies related to the global economy and communications will enhance the possibilities for solutions to political and cultural conflicts that arise around the globe. Likewise, the United States economy has always benefited when it is at the forefront of innovation and achieves prosperity from its leadership role in technological advancements. Conclusion As was the case in 1966, how we move forward today, to solve the many problems facing our country and the broader global community in these “interesting times,” both within and without the laws affecting intellectual property rights, depends upon the “creative energy of man” which must prevail. An achievable goal, dependent on the strong, stable and sound protection of intellectual property rights.

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#### The United States federal government should \*pursue a strategy of fighting inequality listed in the Bhatt’s evidence\*

* Expand the Child and Earned Income Tax Credits
* Reduce payroll taxes and increase capital gains taxes
* Create a wealth tax
* Keep the estate tax
* Impose a Value Added Tax
* Create automatic tax cuts and unemployment benefits
* Provide tax credits for Research and Development
* Provide universal early childhood education and increase support for childcare
* Provide college tax credits
* Expand Pell Grants
* Implement tuition free community college with vocational programs
* Raise the minimum wage
* Invest in job creation programs
* Ease restrictions in the formation of unions
* Develop classification and benefit systems for temporary, part-time, on-call, and self-employment jobs
* Create a federal job guarantee
* Expand Trade Adjustment Assistance.

#### The Counterplan’s convergence of policies solves economic inequality

**Bhatt et al. 20** , Anjali Bhatt is a PhD student at Stanford. Melina Kolb has an MS in Journalism from Northwestern and a BA in anthropology from UChicago. Oliver Ward is a digital content producer for PIIE. Citing economists Hilary Hoynes (University of California Berkeley), Laura D’Andrea Tyson (University of California Berkeley), Gabriel Zucman (University of California Berkeley), Emmanuel Saez (University of California Berkeley), Stefanie Stantcheva (Harvard University), Jason Furman (PIIE), Richard Freeman (Harvard University), and William Darity Jr. (Duke University). (Anjali Bhatt, Melina Kolb, and Oliver Ward, 10/17/2020, “How to Fix Economic Inequality?” *Peterson Institute for International Economics*, <https://www.piie.com/microsites/how-fix-economic-inequality> Date Accessed: 9/23/2021)

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

TAX POLICIES

“We have shed our blood in the glorious cause in which we are engaged; we are ready to shed the last drop in its defense. Nothing is above our courage, except only (with shame I speak it) the courage to tax ourselves.”

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

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

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

The Earned Income Tax Credit is calculated based on the number of dependents (children) and work status. It has been effective at reducing poverty since its enactment in 1975. Periodic increases in the program’s disbursements have improved child educational and health outcomes [and increased employment](https://www.cbpp.org/research/federal-tax/eitc-and-child-tax-credit-promote-work-reduce-poverty-and-support-childrens) among single parents. Expanding the program would further reduce poverty while encouraging work.

Hilary Hoynes (University of California Berkeley) estimates in a [National Academy of Sciences report](https://www.nap.edu/read/25246/chapter/1) that an investment of $90 billion to $100 billion a year in expanding existing policies—such as EITC, Child and Dependent Care Tax Credit, housing vouchers, and food assistance—would cut child poverty in half.

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

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

Create a wealth tax.

Adjusting the top marginal tax rate alone would [not increase](https://www.youtube.com/watch?v=tSzes1P0NIM&feature=emb_title) the effective tax rate on the superrich, argues Gabriel Zucman (University of California Berkeley). Incomes are only a very small fraction of their wealth. Many billionaires accumulate their wealth through shares and other assets, which are subject to capital gains taxes, rather than income taxes.

Two former 2020 presidential candidates, Senators Elizabeth Warren and Bernie Sanders, backed taxing wealth directly. Their wealth tax plans sought to tax the net wealth, the assets held minus debts, of the richest citizens on an annual basis. Supporters of a wealth tax, including Emmanuel Saez (University of California Berkeley) and Zucman, contend that it would curtail the power of the superrich while funding valuable programs to help those in need. Other experts, such as Lawrence Summers (Harvard University), [argue](https://www.youtube.com/watch?v=oUGpjpEGTfE&feature=youtu.be&t=1200) it is impractical because calculating individual wealth (real estate, possessions) is problematic, and wealth can be shifted abroad. Still others say a wealth tax may be unconstitutional and note that it has been difficult to implement in Europe.

Keep the estate tax.

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

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

Impose a value-added tax (VAT).

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

Create automatic tax cuts and unemployment benefits.

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

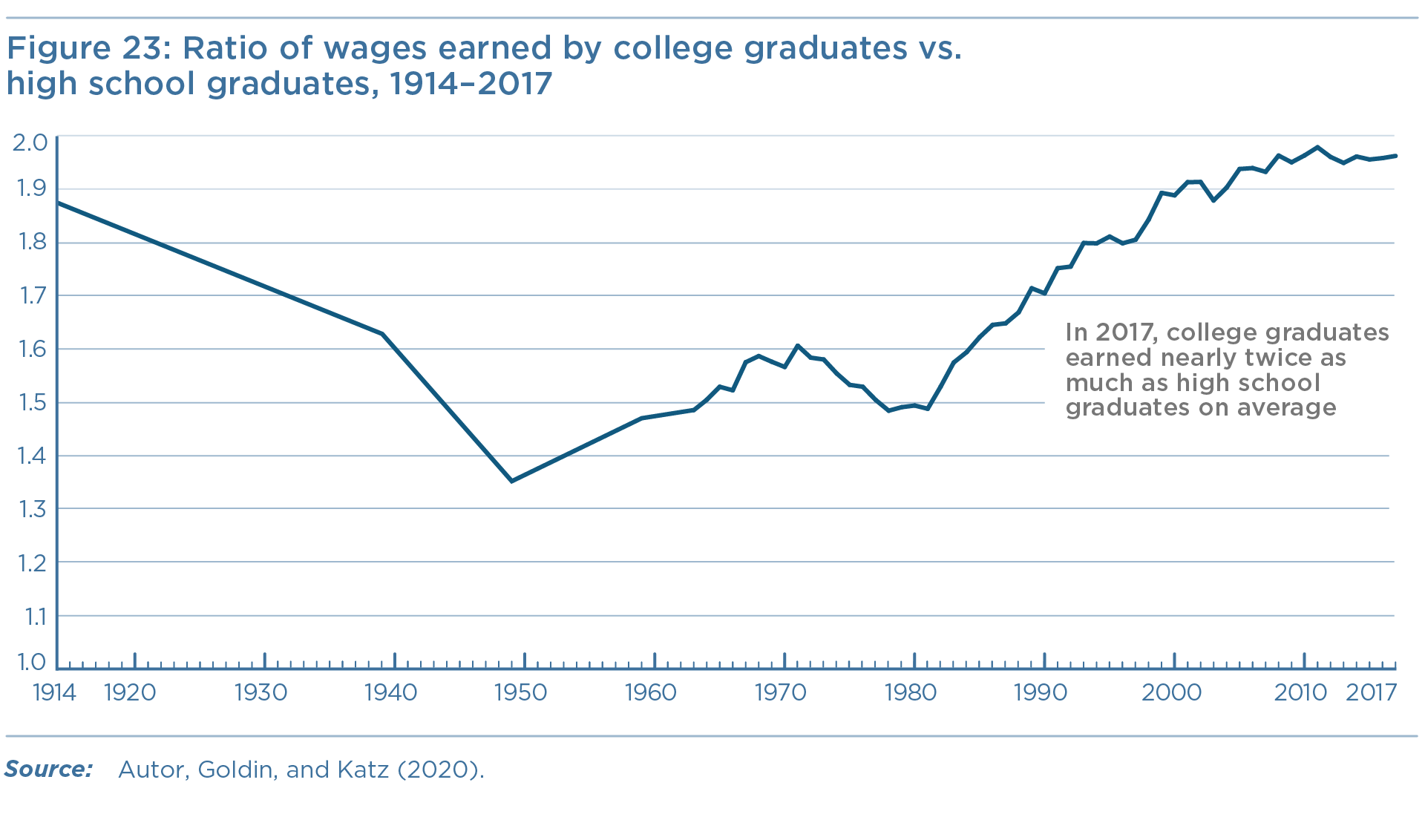
Provide tax credits for more research and development (R&D).

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

EDUCATION POLICIES

Provide universal early childhood education and increase support for childcare.

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



Improve access to quality higher education.

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

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

Provide more job training.

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

Implement talent discovery and matching programs.

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

LABOR POLICIES

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

Raising the federal minimum wage would help the lowest paid workers in states that have not already introduced their own higher minimum wages. Opponents say raising the minimum wage would burden employers and reduce the number of jobs available, but [several](https://escholarship.org/uc/item/86w5m90m) [studies](https://northstar-www.dartmouth.edu/~pwolfson/Belman-Wolfson-What-Does-the-MW-Do-Conclusion.pdf) find there is little effect on employment.

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

Enforce existing minimum wage laws.

Some employers evade minimum wage laws by classifying employees as independent workers, deducting company costs from wages (for example, taking the cost of a uniform from an employee’s pay), failing to pay overtime, and through other forms of wage theft. One [study](https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year/) suggests that the total wages US employers steal by violating minimum wage and other labor laws exceeds $15 billion each year. More resources to combat wage theft and incentives for compliance would help.

Increase government investment in job creation programs.

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

Give employees more bargaining power at companies.

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

Many experts advocate for empowering unions to bargain for better compensation, benefits, access to training, and education. A recent [Business Roundtable initiative](https://opportunity.businessroundtable.org/ourcommitment/) recommends that big companies make commitments to all stakeholders, including workers and customers, not just investor shareholders.

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

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

Create a federal job guarantee.

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

Richard Freeman (Harvard University) maintains that a federal job guarantee could have [been effective](https://www.jacobinmag.com/2020/03/unemployment-richard-freeman-recession-labor-market) at managing the economic shock of the COVID-19 crisis. It could have put newly unemployed workers to work on critical government projects, such as contact tracing, at a wage above the poverty level. As economies rebuild, the federal government can facilitate access to labor through job programs that expand during periods of economic slowdown and shrink during periods of private sector job growth. The same can be said of the need for climate-related labor—federal governments can provide jobs to work on critical green projects.

Expand Trade Adjustment Assistance beyond trade-affected workers.

Trade Adjustment Assistance (TAA) is much criticized as ineffective, but those who received training through the program enjoyed [substantial increases in earnings](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3155386.). The program falls short because of its limited scope—it only helps workers demonstrably hurt by trade, not by technology or other factors beyond their control. Removing the conditions and expanding the TAA program to include workers displaced by automation and other factors would deliver the program’s benefits to a wider group of recipients.

### 1NC

T-Per Se

**Only per se illegality is a prohibition.**

**Seita and Tamura 94** (Alex Y. Seita, Professor of Law, Albany Law School of Union University. B.S. 1973, California Institute of Technology; J.D. 1976, M.B.A. 1980, Stanford University, & Jiro Tamura, Associate Professor of Law, Keio University. B.A. 1981, M.A. 1983, Keio University; LL.M. 1985, Harvard University, [“The Historical Background of Japan's Antimonopoly Law,” 1994 U. Ill. L. Rev. 115, 177-178](https://advance.lexis.com/api/document/collection/analytical-materials/id/3S3T-WD60-00CW-508X-00000-00?page=177&reporter=8130&cite=1994%20U.%20Ill.%20L.%20Rev.%20115&context=1516831))

Upon the elimination of the restriction on undue substantial disparities in bargaining power, for example, economic concentration of power in and of itself was no longer a problem for business. The elimination of the prohibition against certain concerted activities meant that cartel behavior was no longer illegal per se. Most significantly, the authorization of depression and rationalization cartels under the Antimonopoly Law, with JFTC permission, legalized cartels under certain conditions. 418 Thus the rule of reason, rather than per se illegality, now governed cartel behavior. 419

#### The rule of reason is not a prohibition.

Skoczny 01 – Professor of law, Holder of the Jean Monnet Chair on European Economic Law at the Warsaw University Faculty of Management

Tadeusz Skoczny, “Polish Competition Law in the 1990s - on the Way to Higher Effectiveness and Deeper Conformity with EC Competition Rules,” European Business Organization Law Review, Vol. 2, Issue 3-4, September 2001, LexisNexis

Most importantly, the new Act departed from the relativity of the prohibition of dominant position abuses; as in Article 82 EC Treaty, it is now a general prohibition which does not allow for exemptions on the basis of a rule of reason. Also new is the prohibition of the abuse of dominant position by groups of undertakings, which will allow to effectively control the state and the development of competition on oligopolistic markets. The Act also eliminated the distinction between monopolistic and dominant position; in theory and in practice, it was difficult to justify the maintenance of this distinction. Therefore, the Act relates only to a dominant position, the definition of which however has been changed. According to the new Article 4 point 9, dominant position means a position "which allows [the undertaking] to prevent effective competition on the relevant market thus enabling [the undertaking] to act to a significant degree independently from its competitors, contracting parties and consumers". It is easy to notice that this definition is based on the United Brands and Hoffmann La-Roche standards. It must nevertheless be emphasised that such understanding of dominance was introduced by the AMC already in 1993; it considered dominance as the capacity to act "to a large extent independently of the competitors and clients, thus also the consumers". Thanks to the AMC's judgements also the relevant product and geographical markets are defined on the basis of the criteria of "close commodity substitutability" and "homogenous competition conditions".

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### 1NC

#### FTC fraud prevention is funded now---unexpected demands trade off

Bilirakis et al. 21 (Gus Michael Bilirakis is an American lawyer and politician serving as the U.S. Representative for Florida's 12th congressional district since 2013; Hon. Noah Joshua Phillips is a Commissioner at the Federal Trade Commission; Hon. Lina Khan is the Chair of the Federal Trade Commission, “Transforming the FTC: Legislation to Modernize Consumer Protection,” *Committee on Energy and Commerce*, 6/28/21, <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-transforming-the-ftc-legislation-to-modernize-consumer>)

Gus Bilirakis (3:12:44): Thank you. Our committee has worked extensively in a bipartisan manner to protect consumers from fraud and scams. Mr. Carter's Combating Pandemic Scams Act was enacted at the beginning of the year thanks to all of our leadership here. Representive Blunt Rochester's Fraud and Scam Reduction Act, as well as Representative Kelly's Protecting Seniors from Emergency Scams Act both cleared our chamber with bipartisan support this year. My bill, HR 2672, the FTC Reports Act, would require the FTC to report on fraud against our seniors. Commissioner Philips, how important is the work the FTC staff does to protect Americans from scams? Noah Josuha Phillips (3:13:33): Congressman, thank you for your question. The work we do to protect American consumers against frauds and scams, is our bread and butter as an agency. There is no work that makes me feel better as a commissioner, when we watch our ability to find bad guys, or taking money from American consumers, dipping into their life savings, and get that money back to them. So the work that you have done on the committee to provide funding, to provide tools for us to go after scam artists, is critical. And I think that needs to continue with the agency. Gus Bilirakis (3:14:05): Thank you, and Chair Khan, again, as you pursue other initiatives, when staff and resources be shifted away from the fraud program, which is so essential in preventing bad actors from harming our constituents? That's the question, please. Lina Khan (3:14:22): Sorry, could you repeat the question - when should services be shifted... Gus Bilirakis (3:14:26): Yes, of course. As you pursue other initiatives, when staff and resources be shifted away from your fraud program, which is so essential in preventing bad actors from harming our constituents? Lina Khan (3:14:40): Well, of course, we're always limited by the appropriations bills when it comes to thinking through how we're delegating resources across the agency. In certain instances, I think there are exigent needs that can arise in certain aspects. Gus Bilirakis (3:14:54): But you don't anticipate moving money from the fraud program, is that correct? Lina Khan (3:15:00): Not especially, but I mean, I think overall, we are trying to look through the prism of managerial efficiency and trying to understand how we can best use our resources, especially given some of the exigent circumstances and so we'll be continuing to make those determinations. Gus Bilirakis (3:15:15): I suggest that you not because this is such a very important program. Commissioner Wilson, can you elaborate on why the FTC Reports Act would also prove beneficial to increasing much needed transparency and the flow of information within the commission?

#### Unplanned expanded enforcement drains finite resources from existing priorities

Dafny 21, Professor of Business Administration at the Harvard Business School and the John F. Kennedy School of Government, and former Deputy Director for Healthcare and Antitrust in the Bureau of Economics at the Federal Trade Commission. Professor Dafny’s research focuses on competition in health care markets, and the intersection of industry and public policy. (Leemore, “The Covid-19 Pandemic Should Not Delay Actions to Prevent Anticompetitive Consolidation in US Health Care Markets,” *Pro Market*, <https://promarket.org/2021/06/10/covid-pandemic-consolidation-pandemic-monopoly/>)

However, as Commissioner Rebecca Slaughter, the current acting FTC chair has noted, these efforts have “faced resistance, with two of these recent victories only coming after district court setbacks.” Blocking a horizontal merger, even when it appears to be an “open and shut” case to a layperson, requires extraordinary resources, including large investigation and litigation teams, as well as economic and other subject matter experts who must analyze the transaction, lay out the case for blocking the merger, and rebut arguments advanced by Defendants’ attorneys and experts. To pick a recent example, consider the proposed merger of two hospital systems in the Memphis area, which the FTC filed to block in November 2020. Based on the FTC’s complaint, the merger would have reduced the number of competing systems from four to three and created a system with over a 50 percent market share. In the face of litigation, the parties abandoned the deal—consistent with this being a straightforward case. Although the FTC prevailed without a trial, it took nearly a year from the merger announcement to the abandonment. Over that period, the FTC likely devoted thousands of staff hours to the investigation and lawsuit and expended substantial taxpayer resources on expert witnesses. The higher the payoff from the merger for the merging parties—and the payoff in the case of an increase in market power can be substantial—the greater the incentive for defendants to invest extraordinary resources to fight a merger challenge. Even if there is only a middling (and in some cases, small) chance of getting a merger through, it may well be in the parties’ interest to see if they can prevail, absorbing the agencies’ (i.e., DOJ and FTC’s) scarce resources in that attempt and preventing them from devoting those resources to investigate other transactions or anticompetitive practices. The substantial resources required to challenge transactions, paired with stagnating enforcement budgets, may explain why authorities have elected not to challenge some horizontal transactions they would likely have challenged in previous eras. Using data on a wide range of industries, antitrust scholar John Kwoka documents that enforcers rarely raise concerns about changes in market structure that used to draw scrutiny—that is, mergers that yield five or more market participants.

#### Fraud funds terror operations

Tierney 18, George & Mary Hylton Professor of International Relations; Director Global Research Institute (GRI) (Michael, “#TerroristFinancing: An Examination of Terrorism Financing via the Internet,” International Journal of Cyber Warfare and Terrorism, vol. 8, no. 1, 01/2018, pp. 1–11)

2. TERRORIST FINANCING AND THE INTERNET

As mentioned, terrorists’ use of the internet has become a major concern for security officials across the world in recent years. Like many other users, terrorists have found that the internet is an invaluable tool to share information quickly, in order to disseminate ideas and link up with likeminded individuals (Jacobson, 2010; Okolie-Osemene & Okoh, 2015). In this manner, terrorists use the internet for a variety of purposes, including recruitment, propaganda, and financing. As scholars have also noted, the internet is an attractive option for extremists due to the security and anonymity it provides (Jacobson, 2010). Yet while there have been a growing number of studies completed on the ways in which terrorist organizations use the internet to recruit and indoctrinate others, there has been relatively little focus on the methods by which terrorists finance themselves through online activities. Some researchers have attempted to fill gaps in this area by broadly studying internet aspects of terrorism financing. However, research on this particular aspect of terrorism financing still appears to be lacking, with little focus on new methods of terrorist financing via the internet or a marrying of strategies to combat online financing trends available to practitioners in the field.

For instance, Sean Paul Ashley (2012) assessed the mobile banking phenomenon, which is prevalent in regions such as the Middle East and Africa, and provides extremists with the ability to easily connect to the internet and remit funds around the world. The decentralization of this kind of banking, due to the fact that brick-and-mortar facilities are not needed to conduct transactions, has allowed terrorist financiersto more efficiently move funds while avoiding detection from authorities. Other researchers,such as MichaelJacobson (2010), have studied the waysin which terrorists engage in cyber-crime to raise and move funds. For example, Jacobson (2010) found that online credit card fraud was a fairly major source of terrorist financing. By stealing a victim’s private credit information, terrorists are able to co-opt needed funds and provide support to themselves or their counterparts. Yet as James Okolie-Osemene and Rosemary Ifeanyi Okoh (2015) note, the internet is mostly used to augment and assist activities which occur in the physical world. In this way, it would appear that the internet is far more useful as a means to move funds globally in support of terrorism, rather than simply as a method to raise funds.

#### Nuclear war---cash is key

Hayes 18, Executive Director of the Nautilus Institute for Security and Sustainability, Ph.D. in Energy and Resources from the University of California-Berkeley, Professor of International Relations at RMIT University (Dr. Peter J., “Non-State Terrorism and Inadvertent Nuclear War”, NAPSNet Special Reports, 1/18/2018, <https://nautilus.org/napsnet/napsnet-special-reports/non-state-terrorism-and-inadvertent-nuclear-war/>)

The critical issue is how a nuclear terrorist attack may “catalyze” inter-state nuclear war, especially the NC3 systems that inform and partly determine how leaders respond to nuclear threat. Current conditions in Northeast Asia suggest that multiple precursory conditions for nuclear terrorism already exist or exist in nascent form. In Japan, for example, low-level, individual, terroristic violence with nuclear materials, against nuclear facilities, is real. In all countries of the region, the risk of diversion of nuclear material is real, although the risk is likely higher due to volume and laxity of security in some countries of the region than in others. In all countries, the risk of an insider “sleeper” threat is real in security and nuclear agencies, and such insiders already operated in actual terrorist organizations. Insider corruption is also observable in nuclear fuel cycle agencies in all countries of the region. The threat of extortion to induce insider cooperation is also real in all countries. The possibility of a cult attempting to build and buy nuclear weapons is real and has already occurred in the region.[15] Cyber-terrorism against nuclear reactors is real and such attacks have already taken place in South Korea (although it remains difficult to attribute the source of the attacks with certainty). The stand-off ballistic and drone threat to nuclear weapons and fuel cycle facilities is real in the region, including from non-state actors, some of whom have already adopted and used such technology almost instantly from when it becomes accessible (for example, drones).[16]

Two other broad risk factors are also present in the region. The social and political conditions for extreme ethnic and xenophobic nationalism are emerging in China, Korea, Japan, and Russia. Although there has been no risk of attack on or loss of control over nuclear weapons since their removal from Japan in 1972 and from South Korea in 1991, this risk continues to exist in North Korea, China, and Russia, and to the extent that they are deployed on aircraft and ships of these and other nuclear weapons states (including submarines) deployed in the region’s high seas, also outside their territorial borders.

The most conducive circumstance for catalysis to occur due to a nuclear terrorist attack might involve the following nexi of timing and conditions:

1. Low-level, tactical, or random individual terrorist attacks for whatever reasons, even assassination of national leaders, up to and including dirty radiological bomb attacks, that overlap with inter-state crisis dynamics in ways that affect state decisions to threaten with or to use nuclear weapons. This might be undertaken by an opportunist nuclear terrorist entity in search of rapid and high political impact.
2. Attacks on major national or international events in each country to maximize terror and to de-legitimate national leaders and whole governments. In Japan, for example, more than ten heads of state and senior ministerial international meetings are held each year. For the strategic nuclear terrorist, patiently acquiring higher level nuclear threat capabilities for such attacks and then staging them to maximum effect could accrue strategic gains.
3. Attacks or threatened attacks, including deception and disguised attacks, will have maximum leverage when nuclear-armed states are near or on the brink of war or during a national crisis (such as Fukushima), when intelligence agencies, national leaders, facility operators, surveillance and policing agencies, and first responders are already maximally committed and over-extended.

At this point, we note an important caveat to the original concept of catalytic nuclear war as it might pertain to nuclear terrorist threats or attacks. Although an attack might be disguised so that it is attributed to a nuclear-armed state, or a ruse might be undertaken to threaten such attacks by deception, in reality a catalytic strike by a nuclear weapons state in conditions of mutual vulnerability to nuclear retaliation for such a strike from other nuclear armed states would be highly irrational.

Accordingly, the effect of nuclear terrorism involving a nuclear detonation or major radiological release may not of itself be *catalytic* of *nuclear* war—at least not intentionally–because it will not lead directly to the destruction of a targeted nuclear-armed state. Rather, it may be catalytic of non-nuclear war between states, especially if the non-state actor turns out to be aligned with or sponsored by a state (in many Japanese minds, the natural candidate for the perpetrator of such an attack is the pro-North Korean General Association of Korean Residents, often called Chosen Soren, which represents many of the otherwise stateless Koreans who were born and live in Japan) and a further sequence of coincident events is necessary to drive escalation to the point of nuclear first use by a state. Also, the catalyst—the non-state actor–is almost assured of discovery and destruction either during the attack itself (if it takes the form of a nuclear suicide attack then self-immolation is assured) or as a result of a search-and-destroy campaign from the targeted state (unless the targeted government is annihilated by the initial terrorist nuclear attack).

It follows that the effects of a non-state nuclear attack may be characterized better as a *trigger* effect, bringing about a *cascade* of nuclear use decisions within NC3 systems that shift each state increasingly away from nuclear non-use and increasingly towards nuclear use by releasing negative controls and enhancing positive controls in multiple action-reaction escalation spirals (depending on how many nuclear armed states are party to an inter-state conflict that is already underway at the time of the non-state nuclear attack); and/or by inducing concatenating nuclear attacks across geographically proximate nuclear weapons forces of states already caught in the crossfire of nuclear threat or attacks of their own making before a nuclear terrorist attack.[17]

### 1NC

#### Text: The 50 United States and relevant subnational entities should enact and enforce substantial legislation prohibiting anticompetitive practices, including recognizing protection of competition as the purpose of antitrust law and favor structural remedies, including blocking mergers and instituting breakups, over conduct remedies.

#### State antitrust is enforceable and solvent.

Lange et al. 21, \*Perry A., JD, antitrust lawyer, vice-chair of the ABA Antitrust Section’s Joint Conduct Committee. \*Brian K. Mahanna, JD, former chief of staff and deputy attorney general in the Office of the New York State Attorney General, \*Nicole Callan, JD, vice chair of the Civil Practice and Procedure Committee of the American Bar Association (ABA)'s Section of Antitrust Law, \*Álvaro Mateo Alonso, LLM, Law Degree, antitrust lawyer. (3-5-2021, "Developments in Antitrust Law: Keep an Eye on New York", *WilmerHale*, Full report accessible at: https://www.wilmerhale.com/en/insights/client-alerts/20210305-developments-in-antitrust-law-keep-an-eye-on-new-york)

Although much attention recently has been focused upon debates in Congress, potential legislative changes to U.S. antitrust law are not limited to proposals at the federal level. Many states are considering changes to their own antitrust laws, which usually can be enforced by state attorneys general and private plaintiffs. Importantly, New York legislators have introduced two bills that propose sweeping changes to the State’s antitrust law, the Donnelly Act, building on measures introduced in New York’s last legislative session.

These proposals, if enacted, would make New York’s single firm conduct statutory provisions the most aggressive in the United States and would give the New York Attorney General a more prominent role in reviewing transactions—including by creating a first-of-its-kind state merger notification requirement. These changes would allow New York’s antitrust law to reach a range of conduct not actionable under any existing federal or state antitrust law, and would introduce European-style antitrust standards to New York. Accordingly, this reform would create considerable new compliance challenges and risk for companies potentially subject to New York antitrust law, whether or not those companies are located in New York.

Other U.S. states and territories are considering antitrust law changes, but the New York proposals are the most significant. Although much of the conversation concerning developments in antitrust law has focused on “Big Tech” companies, these proposals would affect businesses across all sectors of the economy. This alert discusses these legislative proposals and key implications for businesses.

### 1NC

#### The United States federal government should increase regulatory prohibitions on anticompetitive practices, and pursue blocking mergers and instituting breakups, over conduct remedies.

#### Solves, competes, and avoids the court and agency DAs.

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

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

### 1NC

#### The United States federal government should establish a comprehensive technology policy that:

* Significantly expands Open-RAN and provides incentives to developing countries to adopt US and indigenously developed advanced technology
* Supports R and D in key tech, provides tax incentives for key building blocks, finances domestic production and scale-up, adopts a competitiveness screen for regulation and establishes reshoring financing

#### Plank 1 solves by leveraging the entire international community against China

Patey 21, senior researcher at the Danish Institute for International Studies and author of How China Loses: The Pushback Against Chinese Global Ambitions (Luke, “To Beat China on Tech, Biden Will Have to Learn from It,” *Wired*, https://www.wired.com/story/beat-china-tech-biden/)

But the incoming Biden administration may not be China’s saving grace. President Biden is expected to maintain a hard line against Chinese tech, up America’s own game by pumping billions of dollars into basic research and development, and rally fellow democracies together to promote global technology standards on cybersecurity and digital trade. China’s tech companies may soon find themselves facing both Trump’s restrictions and new competition from an international tech alliance led by the United States. Yet if President Biden is serious about winning the race against China on 5G mobile networks and other new technologies, he will need more than the support of America’s traditional allies; he’ll also need to learn from China’s own global tech expansion and work closer with developing countries in Africa, Latin America, and Asia. Cooperating more closely with the United Kingdom, Japan, and other advanced democracies in Western Europe and East Asia offers the US instant partners in its competition with China. But global economic growth will increasingly come from emerging markets in the coming decades. If America and its allies ignore large and populous economies like Nigeria, Brazil, and Indonesia, they’re certain to lose the long game on tech. Biden will surely ditch Trump’s derogatory language toward the developing world, but he also needs to shake off America’s entrenched reluctance to view the strategic gains possible in engaging these regions. The problem for the Biden administration is that China is already miles ahead of Western competition. For too long, the United States has viewed much of the developing world as overrun by poverty, humanitarian crises, and conflict. Conversely, China has recognized that these regions offer plenty of economic opportunity in trade, investment, and technology cooperation. In the last couple decades, Chinese tech companies have gained first-mover advantage by capturing large market shares in these budding economies and laying the groundwork as a standards-setter for how the next generation of technologies will work. In Africa, for example, after developing a long line of affordable smartphones, the Chinese tech company Transsion now dominates the continent’s mobile phone industry with over 40 percent of total market share. Chinese telecoms Huawei and ZTE built the majority of Africa’s 4th generation mobile networks, and are now carving a similar path in developing 5G mobile networks in Indonesia, Malaysia, and much of Southeast Asia. Guaranteed market share in China and billions in preferential loans for partner countries have allowed China’s telecoms to deeply underprice their competitors. Chinese tech executives also had the foresight to recognize the potential for future growth in these markets. But all is not lost for Biden. China’s geopolitical behavior has caused plenty of self-inflicted damage to its own tech companies. After deadly border clashes last year between Indian and Chinese soldiers, India banned dozens of popular Chinese social media apps, including TikTok and WeChat, over security concerns. This was hardly a small loss: India was TikTok’s largest market with some 200 million active users. China will find it difficult to lead the future of new technologies without India’s 1.3 billion population on board. And along with Australia, Japan, Vietnam, and others, India is also moving to deny Huawei’s involvement in developing 5G mobile networks within its borders. These decisions weren’t the result of Trump’s aggressive diplomacy, but rather grew out of deepening tensions in relations with Beijing. Huawei’s main competitors, such as Sweden’s Ericsson, are looking to fill any gaps left by China’s geopolitical troubles. But some countries also aspire to develop their own capabilities in 5G. Working alongside California-headquartered Qualcomm, the Indian conglomerate, Reliance Industries, is developing its subsidiary Jio Platforms to provide a homegrown solution for India’s 5G mobile networks. On top of partnering with Ericsson and Finland’s Nokia, Vietnam also aims to develop its own 5G mobile networks with its national company Viettel. For President Biden, China’s setbacks in these rapidly growing markets provide new openings the United States and its allies can pursue. See What’s Next in Tech With the Fast Forward Newsletter The Trump administration struggled to get Brazil and other emerging economies to block Huawei from participating in their 5G mobile networks, despite offering to finance equipment from its competitors. Now that Trump is no longer frustrating American allies with trade war threats, the Biden team can negotiate with South Korea, Japan, the European Union, and others to pool resources in order to level the playing field with China. While not all partners in the developing world will fit into the idea of a democratic tech alliance, President Biden should look to the India and Vietnam model and help other nations develop domestic capacities that lower dependencies on Huawei and other foreign providers over time. New open radio access network technology is one way to develop such alternative solutions. Open RAN essentially allows a variety of companies to supply different parts of a telecommunications network, decoupling the hardware from the software, rather than relying on one provider like Huawei or Ericsson. Though still a work-in-progress, this new technology is believed to have the potential to undermine Huawei’s cost advantage by dramatically lowering the necessary investment to develop 5G networks. European telecom service providers Orange and Vodafone are already introducing such networks in Africa and beyond. The United States is also realizing the possibilities for Open RAN. Late last year, amid political turmoil surrounding Trump’s election defeat, a bipartisan bill quietly passed the US House, unlocking $750 million in funding to accelerate Open RAN development and deployment. In the face of fierce Chinese competition, the next step will be to work with Japan, the United Kingdom, and other allies to explore how to push this new technology forward and make it amenable to emerging market demands. But Open RAN is no silver bullet to Biden’s Huawei challenge. Its potential will only be fully realized in the mid and long run, after high integration costs, security gaps, and other problems are worked out. It should not distract from finding new ways to compete with China in traditional mobile networks. If President Biden is serious about beating China in a global tech race, he will need to learn from the Chinese experience and reverse America’s longstanding failure to see the strategic gain from engaging the developing world on technology. The new administration must not follow Trump’s playbook page by page. Its egregious approach to crippling Chinese competition did little to win over new partners. By offering tech solutions that spur on new growth and development, President Biden can harness the power and ingenuity of America and its allies to outcompete China.

#### Plank 2 solves through a robust industrial strategy

Atkinson 20, founder and president of ITIF. Atkinson’s books include: Big Is Beautiful: Debunking the Myth of Small Business (MIT, 2018), Innovation Economics: The Race for Global Advantage (Yale, 2012), and The Past and Future of America’s Economy: Long Waves of Innovation That Power Cycles of Growth (Edward Elgar, 2005). Atkinson holds a Ph.D. in city and regional planning from the University of North Carolina, Chapel Hill, and a master’s degree in urban and regional planning from the University of Oregon. (Robert, “The Case for a National Industrial Strategy to Counter China’s Technological Rise,” *ITIF*, <https://itif.org/publications/2020/04/13/case-national-industrial-strategy-counter-chinas-technological-rise>)

KEY TAKEAWAYS

China has long posed a stark techno-economic challenge in the advanced industries that are most critical to America’s economic wellbeing and national security. To overcome that threat, policymakers must break free of conventional economic thinking. Trade and foreign policy measures are necessary, but not enough. America needs a robust domestic strategy, too—and it cannot be limited to generic policies to expand “factor inputs” like science, education, and infrastructure. America needs a national strategy that fortifies traded-sector tech industries that are “too critical to fail,” such as advanced machinery, aerospace, biopharma, electrical equipment, semiconductors and computing, software, transportation and more. To develop and implement a national industrial strategy, the federal government will need to significantly strengthen its institutional capabilities to conduct thorough sectoral analysis. Congress should act in four areas: support for R&D targeted to key technologies, tax incentives for key building blocks of advanced production, financing for domestic production scaleup, and adding a competitiveness screen for regulation. All these programs should be aligned with U.S. allies wherever possible. Without a robust industrial strategy to bolster its advanced industries, America will likely experience a steady erosion in its competitive position—

akin to the UK’s path in the 1960s and 70s—and a concurrent rise in populist fervor. OVERVIEW Economic pundit Robert Reich once wrote that “industrial policy is one of those rare ideas that has moved swiftly from obscurity to meaninglessness without any intervening period of coherence.” But after 40 years of obscurity and meaninglessness, the concept is now gaining credence for one main reason: China. Elected officials and others from both sides of the political aisle have become increasingly concerned in recent years that China will overtake the United States as the world’s technology leader, with dire consequences for America’s prosperity and national security. And the COVID-19 pandemic, with its disruptions of supply chains, has put U.S. dependency on China in the news on an almost daily basis. Yet while efforts to push back against Chinese “innovation mercantilism” are needed, such steps, even if successful—which is increasingly doubtful—will not be enough. It is time for the federal government to put in place a national industrial strategy that focuses on supporting key industries critical to America’s economic vitality, public health, and national security: in other words, industries that are “too critical to fail.” Unfortunately, when it comes to industrial strategy, our institutional structures are holdovers from the Cold War era while our thinking remains stuck in the 1990s’ free-market, globalist-based Washington Consensus. It is time for a new way of thinking about national security, economic competitiveness, and advanced technology, coupled with new institutions that can effectively develop and implement a national industrial strategy in conjunction with our allies. As such, as Congress considers further stimulus in response to the COVID-19 crisis, it should focus on actions that will not only spur short-term growth and recovery, but also ensure long-term competitive and economic resilience. It is time for the U.S. government to put in place a proactive and targeted national industrial strategy, focused on supporting key industries critical to America’s economic and national security. This report provides the “why, what, and how” of a national industrial strategy—explaining why advanced industrial competitiveness is important, particularly vis-à-vis China; what is the nature of the U.S. advanced industry competitiveness challenge and why markets acting alone are not enough to address the challenge; what a strategy should look like, both institutionally and substantively, and how policymakers should approach developing one; and finally, why common objections to such a strategy are misguided. While trade and foreign policy responses need to play a key role in any overarching strategy to address the China challenge, this report focuses only on proactive, domestic measures the United States can take to have a better chance of retaining, expanding, and making advanced technology industries more resilient in the face of Chinese competition.1 These recommendations include:

* Congress should task the administration with creating a national advanced industry strategy, as Sens. Chris Coons (D-DE), Jeff Merkley (D-OR), Marco Rubio (R-FL), and Todd Young (R-IN) have proposed.
* Congress should establish a unit within the National Institute of Standards and Technology (NIST) to monitor and analyze U.S. domestic production capabilities in advanced industry sectors and their supply chains.
* Congress should significantly expand funding for research related to key technologies, including, among others, artificial intelligence, biopharmaceuticals, robotic and autonomous systems, and semiconductors, and target it to maximize commercialization of these technologies in the United States.
* Congress should establish a Competitiveness Tax Credit, providing a tax credit of 45 percent of all business investments made in the United States in R&D, skills training, and global standards setting, and a 25 percent credit for expenditures on new equipment and software, with expenditures in excess of 75 percent of base-period expenditures qualifying for the credit.
* Congress should support the establishment of an industrial investment bank to drive advanced production scale-up in America, as well as a reshoring incentive fund to encourage relocation from China to the United States of production in critical industries.
* These efforts should be coordinated with our allies, and as such, the federal government should work to establish a joint U.S.-EU-Japan Technology Alliance.

WHY ADVANCED INDUSTRY COMPETITIVENESS IS IMPORTANT The competitiveness of advanced, traded-sector establishments is a key component of healthy economies, and why dozens of nations have implemented strategies to bolster advanced industry competitiveness. There are at least five reasons why policymakers should focus on these sectors. First, advanced traded sectors are critical to America’s trade performance, accounting for 60 percent of U.S. exports.2 More competitive sectors mean a lower trade deficit and a higher value of the dollar relative to other currencies. The former is important because a lower trade deficit means less foreign debt owed by future generations. The latter matters because a stronger dollar means cheaper imports and a higher living standard now. Given the debate over the role of the value of the dollar in competitiveness, it is important to understand that the goal is not a weak dollar; the goal is globally competitive robust advanced traded sectors. If these sectors are competitive, and if the value of the dollar is determined by market forces rather than by foreign government policy, the dollar’s value will be high because sectors are competitive and the U.S. is exporting as much as—or more—than it imports. As such, U.S. currency policy should be focused not on keeping the dollar high or low, but rather on letting the price reflect market conditions (including by fighting foreign currency manipulation). However, U.S. economic policy should work to ensure these market conditions include having the most globally competitive advanced industries. Second, advanced traded sectors are a key source of high-wage jobs, including for non-college-educated workers. Workers in advanced industries earn 80 percent more than average, while workers without college degrees earn 57 percent more in high-tech industries.3 Third, a strong advanced technology sector is a source of growth and vitality for the macroeconomy. For example, 35 percent of U.S. economic growth came from 75 intellectual property (IP)-intensive industries.4 In this sense, having healthy and growing advanced technology traded sectors is akin to the Fed cutting interest rates: They provide a stimulus for continued growth. When advanced industries decline, they generate a headwind for economic growth, in part because spending by their workers and non-traded-sector suppliers falls. Fourth, these sectors give nations needed flexibility and resilience in the face of global challenges. Strength in a broad array of advanced technology sectors makes it easier to respond to external threats to supply chains, either from natural disasters like pandemics, or from actions by other nations to intentionally harm or exert leverage over the United States. Finally, advanced traded sectors and many of the technologies associated with them are critical to America’s ability to field a robust military force, particularly as China’s technological capabilities and efforts at “civil-military fusion” advance.5 As a recent Department of Defense (DOD) report on the defense industrial base stated, “To provide for our national security, America’s manufacturing and defense industrial base must be secure, robust, resilient, and ready.”6 And while much of the U.S. defense capability could once be provided principally by defense contractors, today, advancements in technology require “spin on” from the commercial sector. This is why Mike Griffin, undersecretary of defense for research and engineering, wrote, “Superiority in these [commercial] technologies…is the key to deterring or winning future conflicts.”7 And with the loss of advanced manufacturing capabilities to overseas locations over the last two decades, this makes it harder not just to produce needed technologies, but even to develop them. As Bonvillian, Van Atta, and Windham wrote in a report on the Defense Advanced Research Projects Agency (DARPA), “For the DARPA model agencies to be cut off from these innovation system capabilities, and unable to rely on a strong U.S. manufacturing base for rapid prototyping and innovative production, spells a major potential challenge to their ability to develop and implement hard technologies.”8 This is one reason DOD launched its Defense Innovation Unit to work with the private sector, and is supporting 8 of the 14 Manufacturing USA institutes.9 As such, the ability to defend the nation’s interests comes not only from traditional defense firms in sectors such as aerospace, shipbuilding, and munitions, it also comes from firms in dual-use sectors such as software, materials, machine tools, industrial automation systems, semiconductors, and technology hardware. Moreover, even other sectors, such as consumer electronics and autos, while not directly defense related, contribute to the overall technical capabilities and production resilience of the U.S. economy, in part by supporting science, technology, engineering, and mathematics (STEM) workers and technologically sophisticated suppliers.

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#### EU RELATIONS DA:

#### US-EU trade relations are strong.

Reuters 21, published in Al Jazeera. (6-15-2021, "EU and US call truce in Trump-era trade war", *Al Jazeera*, <https://www.aljazeera.com/economy/2021/6/15/eu-and-us-call-truce-in-trump-era-trade-war>)

United States President Joe Biden ended one front in a Trump-era trade war when he met European Union leaders on Tuesday by agreeing to a truce in a transatlantic dispute over aircraft subsidies that has dragged on for 17 years. Quoting Irish poet WB Yeats at the start of his first EU-US summit as president, Biden also said the world was shifting and that Western democracies needed to come together. “The world has changed, changed utterly,” Biden, an Irish-American, said, citing from the poem Easter 1916, in remarks that pointed towards the themes of his eight-day trip through Europe: China’s rise, the COVID-19 pandemic and climate change. Sitting at an oval table in the EU’s headquarters with US cabinet officials, he told EU institution leaders that the bloc and the US working together was “the best answer to deal with these changes” that he said brought “great anxiety”. He earlier told reporters he had very different opinions from his predecessor. Former President Donald Trump also visited the EU institutions, in May 2017, but later imposed tariffs on the EU and promoted Brexit – the United Kingdom’s departure from the bloc. “I think we have great opportunities to work closely with the EU as well as NATO and we feel quite good about it,” Biden said after walking through the futuristic glass Europa Building, also known as The Egg, to the summit meeting room with EU institution leaders. “It’s overwhelmingly in the interest of the USA to have a great relationship with NATO and the EU. I have very different views than my predecessor,” he said. The two sides agreed to remove tariffs on $11.5bn of goods from EU wine to US tobacco and spirits for five years. The tariffs were imposed on a tit-for-tat basis over mutual frustration with state subsidies for US planemaker Boeing and European rival Airbus. “This meeting has started with a breakthrough on aircraft,” European Commission chief Ursula von der Leyen said. “This really opens a new chapter in our relationship because we move from litigation to cooperation on aircraft – after 17 years of dispute … Today we have delivered.” Biden’s summit is with von der Leyen and the European Council President Charles Michel, who represents EU governments. Biden also repeated his mantra – “America is back” – and spoke of the need to provide good jobs for European and American workers, particularly after the economic impact of COVID-19. He spoke of his father saying that a job “was more than just a paycheque” because it brought dignity. He is seeking European support to defend Western liberal democracies in the face of a more assertive Russia and China’s military and economic rise. “We’re facing a once in a century global health crisis,” Biden said at NATO on Monday evening, while adding “Russia and China are both seeking to drive a wedge in our transatlantic solidarity.” According to an EU-US draft summit statement seen by Reuters news agency and still being negotiated up until the end of the gathering, Washington and Brussels will commit to ending another dispute over punitive tariffs related to steel and aluminium. Broader agenda US Trade Representative Katherine Tai discussed the aircraft dispute in her first face-to-face meeting with EU counterpart Valdis Dombrovskis before the US-EU summit. The pair are due to speak on Tuesday afternoon. Freezing the trade conflicts gives both sides more time to focus on broader agendas such as concerns over China’s state-driven economic model, diplomats said. Biden and US Secretary of State Anthony Blinken earlier met Belgian King Philippe, Prime Minister Alexander De Croo and Foreign Minister Sophie Wilmes in Brussels’ royal palace. On Wednesday, he meets Russian President Vladimir Putin in Geneva. The summit draft statement to be released at the end of the meeting said they had “a chance and a responsibility to help people make a living and keep them safe, fight climate change, and stand up for democracy and human rights”. There are no firm new transatlantic pledges on climate in the draft summit statement, however, and both sides will steer clear of setting a date to stop burning coal. The EU and the US are the world’s top trading powers, along with China, but Trump sought to sideline the EU. After scotching a free-trade agreement with the EU, the Trump administration focused on shrinking a growing US deficit in goods trade. Biden, however, sees the EU as an ally in promoting free trade, as well as in fighting climate change and ending the COVID-19 pandemic.

#### Enforcers would apply the plan extraterritorially. That blows up US-EU trade relations.

Kava 19, J.D./M.B.A. Candidate, 2020, University of Maryland Francis King Carey School of Law and Johns Hopkins University Carey School of Business. (Samuel F., “The Extraterritorial Application of the Sherman Anti-Trust Act in the Age of Globalization: The Need to Amend the Foreign Trade Antitrust Improvements Act (FTAIA) & Vigorously Apply International Comity”, 15 J. Bus. & Tech. L. 135, pg. 157-159 Available at: <https://digitalcommons.law.umaryland.edu/jbtl/vol15/iss1/5>)

A. Adverse Political and Economic Effects

Before the FTAIA was enacted, in 1982, many of the United States’ closest allies were disgruntled by the U.S. courts’ expansive extraterritorial application of the Sherman Anti-Trust Act.152 These nations confided in the territorial principle, and believed it “axiomatic that in anti-trust matters the policy of one state may be to defend what it is the policy of another state to attack.”153 The United Kingdom, one of the most outspoken allies against the United States’ “attempt[] to impose [its] domestic laws on persons and corporations who are not U.S. nationals and who are acting outside the territory of the United States,” viewed the extraterritorial application of the Sherman Anti-Trust Act as ironic given the fact “the United States was founded by those who took exception to little matters of taxation being imposed extraterritorially.”154 Thus, in an attempt to “protect their nationals from criminal [and civil] proceedings in foreign courts where the claims to jurisdiction [were] excessive and constitute[d] an invasion of sovereignty,” foreign nations enacted blocking statutes to resist the extraterritorial application of the Sherman Act.155

The blocking statutes of each nation varied, but all served to “block the discovery of documents located in their countries and bar the enforcement of foreign judgements.”156 The United Kingdom achieved these goals with the Protection of Trading Interests Act, France with the French Blocking Law, Canada with the Foreign Extraterritorial Measures Act, and Australia with the Foreign Proceedings Act.157 The conflicting laws between the United States and its foreign counterparts created tremendous uncertainty regarding what nation’s laws would be applied in the event of a cross-border dispute. According to Nuno Limáo and Giovanni Maggi, economists from the University of Maryland and Yale University, “as the world becomes more integrated, the gains from decreasing trade-policy uncertainty should tend to become more important relative to the gains from reducing the levels of trade barriers.”158 should tend to become more important relative to the gains from reducing the levels of trade barriers.”158

Essentially, for trade to prosper, it is more important to provide producers and consumers with predictability and certainty (regarding the rule of law) rather than enacting laws that focus on free trade economics. Accordingly, it is in the best interest of governments to focus on unifying its laws before negotiating for the elimination of tariffs or quotas. This is not to say that eliminating trade barriers is not vital to the health of the economy—in fact, tariffs, quotas, and other trade barriers are proven to adversely affect all parties involved in the chain of distribution—however, it is more important to unify laws before focusing on the elimination of any trade barriers.159

As mentioned in Part I.C., the complaints of U.S. exporters and foreign governments were heard, and the United States Congress enacted the FTAIA “to address the concerns of foreign governments that the effects test established in the Alcoa case had not made clear the magnitude of the U.S. effects required to support a claim under the Sherman Act.”160 Thus, the FTAIA was implemented to bring certainty to consumers and producers by requiring that “conduct must have a ‘direct, substantial, and reasonably foreseeable effect’” for the Sherman Anti-Trust Act to apply extraterritorially.161 This language provided the foreign community with temporary relief, and gave producers and consumers the certainty and predictability needed to establish confidence in the markets and continue trading.

However, since the passage of the FTAIA in 1982, the world has witnessed a remarkable increase in globalization, such that most conduct that takes place today has a “direct, substantial, and reasonably foreseeable effect” 162 on the U.S. economy. Epitomizing the obscureness of the FTAIA, is the fact that U.S. enforcement agencies—i.e. the U.S. Department of Justice and the Federal Trade Commission—have taken an aggressive approach to pursuing international antitrust claims. In 2017, the U.S. Department of Justice (“DOJ”) and Federal Trade Commission (“FTC”) published the International Guidelines—a publication “explaining how the agencies intend to enforce U.S. antitrust laws against conduct occurring outside the United States.”163 The International Guidelines have taken the broadest approach in determining if conduct is “direct”—finding if there is a “reasonably proximate causal nexus between the conduct and the effect” conduct is “direct”—and the narrowest view that international comity bars enforcement of U.S. antitrust laws only when it is impossible for the actor to comply with both U.S. law and its foreign nation’s law.164 Thus, because the FTAIA has become ineffective and there is a risk of further expansion of the extraterritorial application of the Sherman Anti-Trust Act with Apple v. Pepper, foreign nations will almost certainly strive to adopt modern and effective blocking statutes. These blocking statutes will revitalize uncertainty in the markets, and the global economy will be adversely affected.

In addition, because our world is more integrated, compared to the time when the FTAIA was implemented, the adverse economic effects may be worse if foreign nations pursue modern blocking statutes. To hedge against judicial uncertainty, corporations will likely react by hiring more robust legal teams. By re-allocating money to legal costs, with the hopes of avoiding potential litigation and ensuring compliance with all nations’ laws, corporations would have foregone the opportunity to spend time and money on: (1) scaling its current line of products (which would decrease the price of goods for consumers), (2) enhancing the capabilities of its current line of products (which improve consumer capabilities and increase corporate profits), or (3) creating new and innovative products (which would benefit both consumers and producers). Thus, because corporations would be forced to spend more resources on avoiding litigation rather than research and development with the new blocking statutes, consumers, producers, distributors, and the economy as a whole will be adversely affected.

Overall, there is a significant risk that foreign nations will look towards blocking statutes to limit the extraterritorial application of the Act. The conflicting laws of the United States and international community will lead to judicial uncertainty, which will have an adverse impact on the global economy. Businesses will spend more time and money to avoid disputes; thus, undermining corporate profits, a customer’s ability to purchase low cost goods, and the overall health of the global economy. The only certainty is that trade will slow down as a result of trade policy uncertainty. To avoid these adverse economic effects, it would be advantageous for the United States Congress to amend the FTAIA in a way that limits the effects of the extraterritorial application of the Sherman Anti-Trust Act. Specifically, Congress should limit the effects of the extraterritorial application of the Sherman Anti-Trust Act by expressly providing courts with a robust international comity analysis.

#### Strong US-EU economic ties stop global war

Wright 18, PhD, MA, Assistant Professor of Economics @ the University of California, Merced. (Greg, 7-18-2018, "The US is a whole lot richer because of trade with Europe, regardless of whether EU is friend or 'foe'", *The Conversation*, <https://theconversation.com/the-us-is-a-whole-lot-richer-because-of-trade-with-europe-regardless-of-whether-eu-is-friend-or-foe-99829>)

President Donald Trump recently questioned the value of the long-standing United States-Europe alliance. When asked to identify his “biggest foe globally,” he declared: “I think the European Union is a foe, what they do to us in trade.” This view is consistent with his recent turn against trade with Europe but ignores the immense benefits that Americans have reaped due to the strong economic and military alliance between the U.S. and Europe – benefits that include nothing less than unprecedented peace and prosperity. As such, Trump’s trade war with Europe and his hostility toward broader Western alliances such as NATO portend a future of diminished standards of living – as a direct result of less trade – and greater global conflict – indirectly due to reduced economic integration. In the words of columnist Robert Kagan, “things will not be ok.” Some of my research focuses on the impact of increased international trade on U.S. standards of living, which I show are causally linked during the late 20th century. Most of the trade in this period occurred among rich nations and was dominated by the U.S.-Europe relationship. Unbiased. Nonpartisan. Factual. By calling Europe a “foe,” Trump makes clear that he simply doesn’t understand why rich countries trade with one another, which, to be fair, is something that also puzzled economists for many years. Trump and one of his ‘foes.’ Reuters/Jack Taylor Why rich countries trade Though in some ways it seems obvious why the U.S. and Europe trade with one another – some might enjoy Parmigiana from Italy, while others prefer Wisconsin cheddar – economists initially had trouble explaining exactly why there was so much trade among rich countries. Surely, they thought, the U.S. can produce good quality cheese at a cost that is similar to producers in Italy, and vice versa, so why would we need to go abroad to satisfy our palettes? In 1979, economist Paul Krugman provided a clear answer that would eventually win him the Nobel Prize in economics. The first part of his answer was simple but important and boils down to the fact that consumers benefit from having a wide range of product varieties available to them, even if they are only small variations on the same item. For instance, in 2016 the top U.S. exports to the EU were aircraft (US$38.5 billion), machinery ($29.4 billion) and pharmaceutical products ($26.4 billion). The top imports from the EU seem almost identical: machinery ($64.9 billion), pharmaceutical products ($55.2 billion) and vehicles ($54.6 billion). Although the product categories clearly overlap, there are important differences in the types of pharmaceuticals and machinery that are sold in each market. Consumers benefit from having all these options available to them. The second part of Krugman’s answer was that, by producing for both markets, companies in Europe and the U.S. could reap greater economies of scale in production and lower their prices as a result. This has been found to indeed be what happens when countries trade. And more recent research has shown that increased foreign competition can also lower domestic prices. These benefits have been quantified. For instance, the gains to the U.S. from new foreign product varieties and lower prices over the period 1992 to 2005 were equal to about one percent of U.S. GDP – or about $100 billion. In short, Krugman’s answer emphasized the extent to which international trade between equals increases the overall size of the economic pie. And no pie has ever grown larger than the combined economies of the U.S. and Europe, which now constitute half of global GDP. Largest trading partner The European Union is the largest U.S. trading partner in terms of its total bilateral trade and has been for the past several decades. Overall, the U.S. imported $592 billion in goods and services from the EU in 2016 and exported $501 billion, which represents about 19 percent of total U.S. trade and also represents about 19 percent of American GDP. A key feature of this trade is that almost a third of it happens within individual companies. In other words, it reflects multinational companies shipping products to themselves in order to serve their local market, or as inputs into local production. This type of trade is critical as it serves as the backbone of a vast network of business investments on both sides of the Atlantic, supporting hundreds of thousands of jobs. It is also a network that propels the global economy: the EU or U.S. serves as the primary trading partner for nearly every country on Earth. Shipping and new institutions The U.S.-Europe trade relationship also laid the groundwork for the modern system of international trade via two distinct innovations: new shipping technologies and new global institutions. On the technological front, the introduction of the standard shipping container in the 1960s set off the so-called second wave of globalization. This under-appreciated technology was conceived by the U.S Army during the 1950s and was perfected over Atlantic shipping routes. In short, by simply standardizing the size and shape of shipping containers, and building port infrastructure and ships to move them, massive economies of scale in shipping were realized. As a result, today container ships the size of small cities are routed via sophisticated logistics to huge deepwater ports around the world. These routes eventually made it profitable for other countries to invest in the large-scale port infrastructure that could handle modern container ships. This laid the groundwork for the eventual growth of massive container terminals throughout Asia, which now serve as the hubs of the modern global supply chain. At the same time that these new technologies were reducing the physical costs of doing business around the world, the U.S. and Europe were also creating institutions to define new international rules for trade and finance. Perhaps the most important one was the post-war General Agreement on Trade and Tariffs, which eventually became the World Trade Organization, creating the first rules-based multilateral trade regime. A large body of research shows that these agreements have increased trade and, more importantly, raised incomes around the world. Overall, these advancements contributed to the subsequent enrichment of hundreds of millions of workers in Asia, Latin America and Africa by helping to integrate them into the global economy. And when the world gets richer, the U.S. also benefits for many of the same reasons noted above: demand for U.S. products increases as incomes rise around the world, as does the variety of products the U.S. can import, and the prices of these goods typically fall. Taking the long view But it appears that President Trump sees the U.S. on the losing end of a failed relationship. It is unsurprising that tensions with Europe have come to the forefront over perceived imbalances in trade, particularly for a president who is not afraid to take long-time allies to task. This is because U.S. trade policy has arguably been overly optimistic in recent years, particularly with respect to China, whose accession to the WTO proved to be much more disruptive to labor markets around the world than was predicted. Previous U.S. administrations preferred patience over confrontation, leading to a perhaps inevitable backlash that has spilled into other relationships, such as the one with Europe. However, the U.S. relationship with Europe is clearly different, primarily because it is longstanding and has been largely one of equals. But also because their shared values mean that there are many non-economic issues — such as the spread of liberal democracy and the promotion of human rights — that get advanced by the close economic ties. It’s important to not underestimate what is at stake if the U.S.-Europe alliance is allowed to falter. Americans are likely in the midst of the most peaceful era in world history, and global economic integration, led from the beginning by the U.S. and Europe, has been a key contributing factor. Global extreme poverty is also at its lowest point ever, again in large part due to globalization. These are the byproducts and legacies of seven decades of expanding international trade and should not be taken for granted.

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Horse-trading DA

#### The plan only passes if it’s horse-traded for censorship prohibitions.

Perera 3-12-2021, veteran cybersecurity reporter, Data security & privacy reporter for MLex (Dave, “US antitrust legislation faces uphill battle despite unified Democratic government,” <https://mlexmarketinsight.com/news-hub/editors-picks/area-of-expertise/antitrust/us-antitrust-legislation-faces-uphill-battle-despite-unified-democratic-government>)

Renewed interest among US lawmakers in antitrust legislation is unlikely to produce radical policy shifts, notwithstanding the Democratic Party’s unified control of the federal government. Democrats promised a “big, bold agenda” after they captured the Senate by a hairsbreadth in January. Democratic lawmakers may very well stick to those ambitions and announce audacious legislative proposals. But the fate of those bills is at the mercy of a political dynamic ensuring that the more liberal the policy prescriptions, the less likely they are to become law. The most likely outcome over the next two years is more funding for enforcers at the Department of Justice and Federal Trade Commission, whether directly through appropriated funds, steeper merger notification filing fees, or both. It’s also possible Congress could incrementally tinker along the edges of antitrust. It might lower the threshold for challenging mergers, or mandate data portability requirements for social media companies. Those expecting — or fearing — more ambitious outcomes likely won’t see them enacted. So until America’s November 2022 election, scratch from the list of high probabilities reforms such as requiring dominant firms to separate lines of business, or shifting the burden of proof onto an acquiring company. Put another way, unless a bill can attract significant Republican support, not even two years of unified Democratic government can guarantee reforms. — American exceptionalism — Single party control of both congressional chambers and the presidency is relatively rare in American politics. It has occurred in fewer than a third of legislative sessions since 1980. When it strikes, it doesn’t last long — typically just the two years between one congressional election and another. Historically, unified control is a fertile period for new regulations. President George W. Bush overhauled Medicare. President Barack Obama ushered in financial sector reforms and the Affordable Care Act. Indications are that President Joe Biden is emboldened by his party’s last-minute capture of the Senate. History, of course, isn’t a blueprint. Even a brief look at past episodes of unified control reveals that not even single-party capture of the executive and legislative branches of the US government can assure the enactment of a partisan agenda. For one thing, neither political party is a monolith. Although far more politically aligned than when Democratic conservatives found common cause in the 20th century with Republicans, the major American parties nonetheless are coalitions of centrist and activist wings. For Democrats, the tensions inherent in appeasing all sides became apparent earlier this month when centrists trimmed benefits in the $1.9 trillion coronavirus stimulus package. Neither is single party grip on power secure unless it commands an overwhelming majority in the Senate, thanks to a uniquely American institution: the filibuster. In the Senate, the rules mandate a three-fifths vote before debate over a bill is cut off. In recent decades, it’s become a weapon routinely wielded by the minority party to kill legislation. The upshot is that policy legislation needs supermajority support before it can proceed, meaning the 50 Democrats of today’s Senate have little choice but to resign themselves to the grind of finding Republican supporters. There are limited exceptions. Assuming Democrats stay in unison, they don’t need Republican votes to appoint judges, approve executive branch nominations or pass fiscal legislation such as the coronavirus stimulus that just became law. It’s within Democrats’ power to abolish the filibuster, but for now, the maneuver appears safe. Asked just days ago about the matter, White House spokeswoman Jen Psaki told reporters that the president’s preference is for it to stay in place. “The president is an optimist by nature,” Psaki added. — Hunting for bipartisan consensus — Not every bill introduced in Congress, nor even every bill approved by a committee or even an entire single chamber, makes it through the process because its sponsors believe it’ll become law. There are a host of bills drafted with the intent of sending a message to industry, to independent regulators, to donors, to constituents. There are bills that lawmakers view as setting out a position to influence an ongoing policy debate. Even if it won’t become law this year, it might the next year, or the next, reintroduced and refined along the way. Telltale signs of whether a bill is a serious attempt at law are the number of cosponsors, and whether that list of names includes members of both parties in good stead with their party’s leadership. Bipartisan support is important even in the House, where Democrats have the votes to completely bypass Republicans. Because the House doesn’t have the filibuster to contend with, those with the majority of seats control the chamber. House Democrats can and do pass bills in the face of absolute House Republican opposition, but — special exceptions for fiscal bills aside — those bills are dead on arrival in the Senate. As long as the filibuster exists or Democrats lack a Senate supermajority, the House Judiciary antitrust subcommittee must court Republican support if its intention is to make new law. Finding clues of what House Democrats might seriously achieve, then, may be little more difficult than looking up the policy prescriptions House Republicans favor: giving regulators more resources, shifting the burden of proof in merger cases and boosting data portability and interoperability. A report issued by now-ranking Republican Ken Buck as a rejoinder to last year’s Democratic House Judiciary antitrust subcommittee staff report on competition in digital markets allowed that the GOP shares other Democratic concerns, including predatory pricing, monopoly leveraging and control over marketplace platforms. That conciliatory signal also came weighted, with warnings that Congress should be wary of “handing additional regulatory to agencies in an attempt to micromanage.” Instead, try instead telling enforcers they should return to first principles, the Colorado lawmaker advised. Whether Republicans and Democrats in the Senate can find common cause is an even more fraught question. Unlike its House counterpart, the Senate Judiciary subcommittee on antitrust hasn't conducted a 16-month investigation into digital monopolization. The subcommittee’s senior Republican, Utah’s Mike Lee, is prone to touting the importance of the consumer welfare standard and rails against online platforms “eager to impose the ideological censorship called for by their political benefactors.” Lee also says he’s open to working with subcommittee Chairwoman Amy Klobuchar on strengthening enforcement, adding the caveat that current antitrust laws are sufficient. Klobuchar, a Minnesota Democrat, doesn’t need Lee to get a bill through her subcommittee, but failing to find consensus with Republicans imperils her chances of making law. The prospects for her Competition and Antitrust Law Enforcement Reform Act becoming law as current written aren't good. — 'Big tech is out to get conservatives' — A looming question hanging over any bill, even one tailored to win bipartisan support, is whether it could be derailed by Republican anger at online platforms for alleged anti-conservative bias. A right-wing trope especially spread by President Donald Trump during his last year in office — the belief that platforms use their content moderation powers to silence conservatives — has mainstream acceptance in Republican circles. It’s a refrain almost obligatory for Republican lawmakers to repeat when discussing any issue related to online platforms. “Big tech is out to get conservatives,” House Judiciary Committee ranking member Jim Jordan of Ohio has said more than once. Democrats have their own share of anger at online platforms’ content-moderation practices, to be sure. They accuse online platforms of circumventing consumer protections, undermining civil rights laws and not doing enough to stymie disinformation. It’s Republicans, though, who appear the angriest, and are the more likely to insist that any legislative reform touching online platforms address content moderation, with the intention of making it harder, not easier, for online platforms to remove users, potentially imperiling a compromise measure.

#### That allows the GOP to weaponize misinformation---triggers epistemic decay and cements a perma-GOP government

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Natali Fierros Bock says she could feel this mass delusion calcifying in the wake of the election in Pinal County, a rural area between Phoenix and Tucson where she serves as co–executive director of the group Rural Arizona Engagement. “It feels like an existential crisis,” Bock adds. Many of the Sharpiegate claims online referred to Pinal County, and Gosar, whose district includes a portion of the area, was reportedly responsible for helping organize the January 6 “Stop the Steal” rally in Washington that resulted in the deaths of five people. Mark Finchem, a Republican who represents part of Pinal County in the statehouse, was also in Washington on January 6. The Capitol insurrection threw into relief the real-world consequences of America’s increasingly siloed media ecosystem, which is characterized on the right by an expanding web of outlets and platforms willing to entertain an alternative version of reality. Social media companies, confronted with their role in spreading misinformation, scrambled to implement reforms. But right-wing misinformation is not just a technological problem, and it is far from being fixed. Any hope that the events of January 6 might provoke a reckoning within conservative media and the Republican Party has by now evaporated. The GOP remains eager to weaponize misinformation, not only to win elections but also to advance its policy agenda. A prime example is the aggressive effort under way in a number of states to restrict access to the ballot. In Arizona, Republicans have introduced nearly two dozen bills that would make it more difficult to vote, with the big lie about election fraud as a pretext. “When you can sell somebody the idea that their elections were stolen, they’ve been violated, right? So then you need protection,” Bock says, explaining the conservative justification for the suite of new restrictions in her state. Voting rights is her organization’s “number one concern” at the moment. But Bock’s fears about political misinformation are more sweeping. Community organizing is difficult in the best of times. “But when you can’t agree on what is true and not true, when my reality doesn’t match the reality of the person I’m speaking to, it makes it more difficult to find common ground,” she says. “If we can’t agree on a common truth, if we can’t find a starting place, then how does it end?” Around the time of the 2016 election, Kate Starbird, a professor at the University of Washington who studies misinformation during crises, noticed that more and more social media users were incorporating markers of political identity into their online personas—hashtags and memes and other signifiers of their ideological alignment. In the footage from the Capitol she saw the same symbols, outfits, and flags as those she’d been watching spread in far-right communities online. “To see those caricatures come alive in this violent riot or insurrection, whatever you want to call it, was horrifying, but it was all very recognizable for me,” Starbird says. “There was a time in which we were like, ‘Oh, those are bots, those aren’t real people,’ or ‘That’s someone play-acting,’ or ‘We’re putting on our online persona and that doesn’t really reflect who we are in an offline sense.’ January 6 pretty much disabused us of that notion.” It was a particularly rude awakening for social media companies, which had long been reluctant to respond to the misinformation that flourished on their platforms, treating it as an issue of speech that could be divorced from real-world consequences. Facebook, Twitter, and other platforms had made some changes in anticipation of a contested election, announcing plans to label or remove content delegitimizing election results, for instance. Facebook blocked new campaign ads for the week leading up to the election; Twitter labeled hundreds of thousands of misleading tweets with fact-checking notes. Yet wild claims about election fraud spread virally anyway, ping-ponging from individual social media users to right-wing influencers and media. During the 2016 campaign, most public concern about misinformation centered on shadowy foreign actors posing as news sources or US citizens. This turned out to be an oversimplification, though many on the center and left offered it as an explanation for Hillary Clinton’s defeat in 2016; blaming Russian state actors alone ignored factors like sexism, missteps made by the Clinton campaign itself, and the home-grown feedback loop of right-wing media. In 2020, according to research done by Starbird and other contributors to the Election Integrity Project, those most influential in disseminating misinformation were largely verified, “blue check” social media users who were authentic, in the sense that they were who they said they were—Donald Trump, for example, and his adult sons. DONATE NOW TO POWER THE NATION. Readers like you make our independent journalism possible. Another key aspect in the creation of the big lie was what Starbird calls “participatory disinformation.” Trump was tweeting about the election being stolen from him months beforehand, but once voting got under way, “what we see is that he kind of relies on the crowd, the audiences, to create the evidence to fit the frame,” Starbird explains. Individuals posted their personal experiences online, which were shared by more influential accounts and eventually featured in media stories that placed the anecdotes within the broader narrative of a stolen election. Some of the anecdotes that fueled Sharpiegate came from people who used a felt-tip pen to vote in person, then saw online that their vote had been canceled—though the “canceled” vote actually referred to mail-in ballots that voters had requested before deciding to vote in person. “It’s a really powerful kind of propaganda, because the people that were helping to create these narratives really did think they were experiencing fraud,” Starbird says. Action by content moderators usually came too late and was complicated by the fact that many claims of disenfranchisement by individual users were difficult to verify or disprove. The Capitol riot led the tech giants to take more aggressive action against Trump and other peddlers of misinformation. Twitter and Facebook kicked Trump off their platforms and shut down tens of thousands of accounts and pages. Facebook clamped down on some of its groups, which the company’s own data scientists had previously warned were incubating misinformation and “enthusiastic calls for violence,” according to an internal presentation. Google and Apple booted Parler, a social media site used primarily by the far right, from their app stores, and Amazon stopped hosting Parler’s data on its cloud infrastructure system, forcing it temporarily offline. But these measures were largely reactions to harm already done. “Moderation doesn’t reduce the demand for [misleading] content, and demand for that content has grown during some periods of time when the platforms weren’t moderating or weren’t addressing some of the more egregious ways their tools were abused,” says Renée DiResta, technical research manager at the Stanford Internet Observatory. Deplatforming individuals or denying service to companies that tolerate violent rhetoric, as Amazon did with Parler, can have an impact, particularly in the short term and when done at scale. It reduces the reach of influential liars and can make it more difficult for “alt-tech” apps to operate. A notorious example of deplatforming involved Alex Jones, the conspiracy theorist behind the site Infowars. Jones was kicked off Apple, Facebook, YouTube, and Spotify in 2018 for his repeated endorsement of violence. He lost nearly 2.5 million subscribers on YouTube alone, and in the three weeks after his accounts were cut off, Infowars’ daily average visits dropped from close to 1.4 million to 715,000. But Jones didn’t disappear—he migrated to Parler, Gab, and other alt-tech platforms, and he spoke at a rally in Washington the night before the Capitol attack. One outcome of unplugging Trump and other right-wing influencers has been a surge of interest in those alternative social media platforms, where more dangerous echo chambers can form and, in encrypted spaces, be more difficult to monitor. “Isn’t this just going to make the extreme communities worse? Yes,” says Ethan Zuckerman, founder of the Institute for Digital Public Infrastructure at the University of Massachusetts at Amherst. “But we’re already headed there, and at least the good news is that [extremists] aren’t going to be recruiting in these mainstream spaces.” The bad news, in Zuckerman’s view, is that the far right is now leading the effort to create new forms of online community. “The Nazis right now have an incentive to build alternative distributed media, and the rest of us are behind, because we don’t have the incentive to do it,” Zuckerman explains. He argues that a digital infrastructure that is smaller, distributed, and not-for-profit is the path to a better Internet. “And my real deep fear is that we end up ceding the design of this way of building social networks to far-right extremists, because they are the ones who need these new spaces to discuss and organize.” In March, Trump spokesman Jason Miller said on Fox that the former president was likely to return to social media this spring “with his own platform.” A more fundamental problem than Trump’s presence or absence on Twitter is the power that a single executive—Jack Dorsey, in the case of Twitter—has in making that decision. Social media companies have become so big that they have little fear of accountability in the form of competition. “To put it simply, companies that once were scrappy, underdog startups that challenged the status quo have become the kinds of monopolies we last saw in the era of oil barons and railroad tycoons,” concluded a recent report by the staff of the Democratic members of the House Judiciary Subcommittee on Antitrust. For now, the reforms at Facebook and other companies remain largely superficial. The platforms are still based on algorithms that reward outrageous content and are still financed via the collection and sale of user data. Karen Hao of MIT Technology Review recently reported that a former Facebook AI researcher told her “his team conducted ‘study after study’ confirming the same basic idea: models that maximize engagement increase polarization.” Hao’s investigation concluded that Facebook leadership’s relentless pursuit of growth “repeatedly weakened or halted many initiatives meant to clean up misinformation on the platform.” The modest “break glass” measures Facebook took during the election in response to the swell of misinformation, which included tweaks to its ranking algorithm to emphasize news sources it considered “authoritative,” have already been reversed. Tech companies could do more, as the election-time tweaks revealed. But they still “refuse to see misinformation as a core feature of their product,” says Joan Donovan, research director for the Shorenstein Center on Media, Politics and Public Policy at Harvard University. The problem of misinformation appears so vast “because that’s exactly what the technology allows.” There are some signs of a growing appetite for regulation on Capitol Hill. Democrats have proposed reforms to Section 230 of the Communications Decency Act, which insulates tech companies from legal liability for content posted to their platforms, such as requiring more transparency about content moderation and opening platforms to lawsuits in limited circumstances when content causes real-world harm. (GOP critiques of Section 230, on the other hand, make the false argument that it allows platforms to discriminate against conservatives.) Another legislative tactic would focus on the algorithms that platforms use to amplify content, rather than on the content itself. A bill introduced by two House Democrats would make companies liable if their algorithms promote content linked to acts of violence. Democratic lawmakers are also eyeing changes to antitrust law, while several antitrust lawsuits have been filed against Facebook and Google. But litigation could take years. Even breaking up Big Tech would leave intact its predatory business model. To address this, Zuckerman and other experts have called for a tax on targeted digital advertising. Such a tax would discourage targeted advertising, and the revenue could be used to fund public-service media. Held to account? Twitter CEO Jack Dorsey testified remotely before the Senate Judiciary Committee in November 2020. (Matt York / AP) Social media plays a key role in amplifying conspiracy theories and political misinformation, but it didn’t create them. “When we think of disinformation as something that appeared [only in the Trump era], and that we used to have this agreed-upon narrative of what was true and then social platforms came into the picture and now that’s all fragmented… that makes a lot of assumptions about the idea that everyone used to agree on what was true and what was false,” says Alice E. Marwick, an assistant professor at the University of North Carolina who studies social media and society. Politicians have long leveraged misinformation, particularly racist tropes. But it’s been made particularly potent not just by social media, Marwick argues, but by the right-wing media industry that profits from lies. “The American online public sphere is a shambles because it was grafted onto a television and radio public sphere that was already deeply broken,” argue Yochai Benkler, Robert Faris, and Hal Roberts of Harvard’s Berkman Klein Center for Internet and Society in their book Network Propaganda. The collapse of local news left a vacuum that for many Americans has been filled by partisan outlets that, on the right, are characterized by blatant disregard for journalistic standards of sourcing and verification. This insulated world of right-wing outlets, which stretches from those that bill themselves as objective sources, Fox News chief among them, to talk radio and extreme sites like Infowars and The Gateway Pundit, “represents a radicalization of roughly a third of the American media system,” the authors write. The conservative movement spent decades building this apparatus to peddle lies and fear along with miracle cures and pyramid schemes, and was so successful that Fox and other far-right outlets ended up in a tight two-step with the White House. Fox chairman Rupert Murdoch maintained a close relationship with Trump, as did Sean Hannity and former Fox News copresident Bill Shine, who became White House communications director in 2018. The backlash against Fox in the wake of the election hinted at a possible dethroning of the ruler of the right’s media machine. Its farther-right rival Newsmax TV posted a higher rating than Fox for the first time ever in the month after the election, following supportive tweets from Trump, and during the week of November 9 it passed Breitbart as the most-visited conservative website. But Fox quickly regained its perch. The network backpedaled rapidly during its post-election ratings slump, firing an editor who’d defended the projection of a Biden win in Arizona and replacing news programming with opinion content. According to Media Matters, Fox News pushed the idea of a stolen election nearly 800 times in the two weeks after declaring Biden the winner. The network’s ad revenue increased 31 percent during the final quarter of 2020, while its parent company, Fox Corporation, saw a 17 percent jump in pretax profit. The far-right media ecosystem has become so powerful in part because there’s been no downside to lying. Instead, the Trump administration demonstrated that there was a market opportunity in serving up misinformation that purports to back up what people want to believe. “In this day and age, people want something that tends to affirm their views and opinions,” Newsmax CEO Chris Ruddy told The New York Times’ Ben Smith in an interview published shortly after the election. Claims of a rigged election were “great for news,” he said in another interview. Trump’s departure from the White House won’t necessarily reduce the demand for this kind of content. Since the Capitol riot, two voting-systems companies have launched an unusual effort to hold right-wing outlets and influencers accountable for some of the lies they’ve spread. Dominion Voting Systems, a major provider of voting technology, and another company called Smartmatic were the subjects of myriad outlandish claims related to election fraud, many of which were used in lawsuits filed by Trump’s campaign and were repeatedly broadcast on Fox, Newsmax TV, and OAN. Since January the companies have filed several defamation suits against Trump campaign lawyers Sidney Powell and Rudy Giuliani, MyPillow CEO Mike Lindell, and Fox News and three of its hosts. Dominion alleges that as a result of false accusations, its “founder and employees have been harassed and have received death threats, and Dominion has suffered unprecedented and irreparable harm.” The threat of legal action forced a number of media companies to issue corrections for stories about supposed election meddling that mentioned Dominion. The conservative website American Thinker published a statement admitting its stories about Dominion were “completely false and have no basis in fact” and “rel[ied] on discredited sources who have peddled debunked theories.” OAN simply deleted all of the stories about Dominion from its website without comment. These lawsuits will not dismantle the world of right-wing media, but they have prompted a more robust debate about how media and social media companies could be held liable for lies that turn lethal—and whether this type of legal action should be pursued, given the protections afforded by the First Amendment and the fact that the powerful often use libel law to bully journalists. Alternative reality: Trump supporters in Maricopa County derided Fox for reporting on election night that Biden had won the state. (Hannah McKay / Pool / Getty Images) Ethan Zuckerman has been thinking about how to build a better Internet for years, a preoccupation not unrelated to the fact that, in the 1990s, he wrote the code that created pop-up ads. (“I’m sorry. Our intentions were good,” he wrote in 2014.) Still, he believes that framing misinformation as a problem of media and technology is myopic. “It’s very hard to conclude that this is purely an informational problem,” Zuckerman says. “It’s a power problem.” The GOP is increasingly tolerant of, and even reliant on, weaponized misinformation. “We’re in a place where the Republican Party realizes that as much as 70 percent of their voters don’t believe that Biden was legitimately elected, and they are now deeply reluctant to contradict what their voters believe,” Zuckerman says. Republicans are reluctant, at least in part, because of a legitimate fear of primary challenges from the right, but also because they learned from Trump the power of using conspiracy theories to mobilize alienated voters by preying on their deep mistrust of public institutions. It’s one thing for an ordinary citizen to retweet a false claim; it’s another for elected officials to legitimize conspiracy theories. But holding the GOP to account may prove to be even harder than reforming Big Tech. The radical grass roots have been empowered by small-dollar fundraising and gerrymandering, while more moderate Republicans are retiring or leaving the party. Writer Erick Trickey argued recently in The Washington Post that what undercut a similar wave of conservative crackpot paranoia driven by the John Birch Society in the 1960s was explicit denunciation by prominent conservatives like William Buckley and Ronald Reagan as well as Republican congressional leaders. But today’s party leaders have been unwilling to excommunicate conspiracy-mongers. In the aftermath of the Capitol riot, elected officials who spread rumors that the violence was actually the result of antifascists—including Arizona’s Paul Gosar and Andy Biggs—gained notoriety, while those critical of Trump were publicly humiliated. The embrace of conspiratorial narratives has been particularly pronounced in state GOP organizations. The Texas GOP recently incorporated the QAnon slogan “We are the storm” into official publicity media, and the Oregon GOP’s executive committee endorsed the theory that the riot had been a “false flag” operation. In March, members of the Oregon GOP voted to replace its Trump-supporting chairman with a candidate even farther out on the extremist fringe. Weaponized misinformation could have a lasting impact not only on the shape of the GOP but also on public policy. Republicans are now using the big lie to try to restrict voting rights in Arizona, Georgia, and dozens of other states. As of February 19, according to the Brennan Center for Justice, lawmakers in 43 states had introduced more than 250 bills restricting access to voting, “over seven times the number of restrictive bills as compared to roughly this time last year.” In late March, Georgia Governor Brian Kemp signed a 95-page bill making it harder to vote in that state in a number of ways. Many of the far-right extremists, politicians, and media influencers who spread misinformation about the presidential election are now pushing falsehoods about Covid-19 vaccines. The rumors, which have spread on social media apps like Telegram that are frequented by QAnon adherents and militia groups, among others, range from standard anti-vax talking points to absurd claims that the vaccines are part of a secret plan hatched by Bill Gates to implant trackable microchips, or that they cause infertility or alter human DNA. Sidestepping the craziest conspiracies, prominent conservatives like Tucker Carlson and Wisconsin Senator Ron Johnson, who has become one of the GOP’s leading purveyors of misinformation, are casting doubt about vaccine safety under the pretense of “just asking questions.” Vaccine misinformation plays into the longstanding conservative effort to sow mistrust in government, and it appears to be having an effect: A third of Republicans now say they don’t want to get vaccinated. These are the true costs of misinformation: deadly riots, policy changes that could disenfranchise legitimate voters, scores of preventable deaths. These translate into financial externalities: the additional expense of securing the Capitol, additional dollars devoted to the pandemic response. More abstract but no less real are the social costs: the parents lost down QAnon rabbit holes, the erosion of factual foundations that permit productive argument. The problem with the far right’s universe of “alternative facts” is not that it’s hermetically sealed from the universe the rest of us live in. Rather, it’s that these universes cannot truly be separated. If we’ve learned anything in the past six months, it’s that epistemological distance doesn’t prevent collisions in the real world that can be lethal to individuals—and potentially ruinous for democratic systems.

#### Extinction. Outweighs and encompasses all other threats.

Roston 21, citing Bak-Coleman, PhD, postdoctoral fellow at the University of Washington Center for an Informed Public (Eric, “As Climate Change Fries the World, Social Media Is Frying Our Brains,” *Bloomberg News*, <https://www.bloomberg.com/news/articles/2021-06-29/as-climate-change-fries-the-world-social-media-is-frying-our-brains>)

Amid emergency heat, flooding, and famine, it’s even more critical that people recognize and agree at least on the big picture. And yet, as recent history has shown us time and again, they don’t. Much of that can be blamed on the pandemic of misinformation—concerning climate change, Covid-19, vaccines, and so much more— now running rampant on social media. It reminds Joseph Bak-Coleman of fish. Bak-Coleman is the lead author of a provocative new article in Proceedings of the National Academy of Sciences about scientists’ inability thus far to adequately inform policymakers about how digital technology is impeding efforts to solve climate change and other collective-behavior problems. Individual fish swimming in a school intuit each other so rapidly and clearly that they can instantaneously and in unison pivot away from whatever dangers they encounter. Insofar as that is true, they have a limited error margin for passing along bad information. “It costs energy when you get scared for no reason, and it also costs life if you don’t get scared when you should,” said Bak-Coleman, a University of Washington postdoctoral scholar with expertise in neuroscience and evolutionary biology. “Animal groups are highly tuned to do these really fantastic feats of behavior. But it’s all quite fragile.” The development of digital communications has eroded or vaporized community protections developed over millennia to ensure at least a minimally healthy flow of information, which leads to healthy decision-making. That loss, Bak-Coleman and his co-authors write, “combined with rapid distribution of falsehood, may present one of the larger threats to human well-being.” Think of it like this. If you wanted to make the most obvious statement in the world, you could do worse than: “Technology now allows people to communicate instantaneously and across great distances.” Yet if you wanted to elicit the most tortured answer in the world, you might ask something incredibly similar: “What happens when people can communicate instantaneously and across great distances?” The tension between the obvious statement and the unanswerable question—which holds within it just about all of the world’s large-scale problems, including climate change—is so great, Bak-Coleman and his colleagues propose a whole new academic discipline just to try to understand it. As physiology has medicine and climate science has emissions-mitigation and adaptation–planning, they argue, the digital-misinformation pandemic requires an applied science—or as they call it, a “crisis discipline.” The need for such a discipline is also urgent, they argue, because “given that algorithms and companies are already altering our global patterns of behavior for financial reasons, there is no safe hands-off approach.” Despite the many joys and productive uses of digital communication, it routinely conveys so many falsehoods, so quickly, that many people are left either unable to see or unwilling to fix existential dilemmas, leaving humanity overall in a precarious condition.

### Advantage 1

#### Hegemony is unsustainable---military dominance is declining and China has overtaken an economic lead---current transition will be smooth and stable.

Layne 18—Christopher Layne, University Distinguished Professor of International Affairs, Robert M. Gates Chair in National Security at the Bush School of Government and Public Service at Texas A&M University, Ph.D. in Political Science from the University of California, Berkeley, 2018 (“The US–Chinese power shift and the end of the Pax Americana,” *International Affairs—Oxford University*, January, <https://www.chathamhouse.org/sites/default/files/images/ia/INTA94_1_6_249_Layne.pdf>, Volume 94, AIvackovic)

American decline redux

Today the military, economic, institutional and ideational pillars that have supported the Pax Americana are being challenged by China. This raises two fundamental and intimately connected questions: if China surpasses, equals or even approximates the United States in these dimensions of power, can the Pax Americana endure? And, if it cannot, what will replace it? Posing these questions raises the contentious issue—contentious at least in the US—of whether American power is, in fact, declining. During his abortive 2012 run for the Republican presidential nomination, Jon Huntsman—President Obama's Ambassador to China, and now President Trump's Ambassador to Russia—succinctly expressed the prevailing view of the US foreign policy establishment when he said: ‘Decline is un-American.’ Leading US security studies experts agree. These primacists argue that the extent of China's rise—and hence of America's decline—are, like premature reports of Mark Twain's death, greatly exaggerated. Primacists believe the international system is still unipolar, and that US power will keep it that way for a long time to come.

This claim is increasingly dubious. Indeed, the case made by the ‘declinists’ of the 1980s—notably Paul Kennedy, Robert Gilpin, David Calleo and Samuel P. Huntington—looks stronger every day.23 Contrary to the portrayal of their argument by many of their critics, the 1980s declinists did not claim either that America's post-Second World War power advantages had already dissipated, or that the United States was on the brink of a rapid, catastrophic decline. Rather, they pointed to domestic and international economic drivers that, over time, would cause American economic power to diminish relatively, thereby shifting the balance of power. In essence, the declinists believed that the United States was experiencing a slow—‘termite-like’—decline caused by fundamental structural weaknesses in the American economy that were gradually nibbling at its foundations.24 Kennedy himself was explicitly looking ahead to the effects this termite decline would have on the US world role in the early twenty-first century. As he wrote:

The task facing American statesmen over the next decades … is to recognize that broad trends are under way, and that there is a need to ‘manage’ affairs so that the relative erosion of the United States' position takes place slowly and smoothly, and is not accelerated by policies which bring merely short-term advantage but longer-term disadvantage.25

The unwinding of the Pax Americana

Decline may be ‘un-American’, but that does not mean it isn't happening. America's ‘unipolar moment’ has turned out to be rather—well, momentary.26 The Great Recession that began in 2007–2008 did not end America's unipolar ascendancy. It did, however, focus attention on, and accelerate, the ebbing of American power—the evidence of which has cumulated rapidly over the ensuing ten years. This slippage of US dominance is chipping away at each of the four pillars on which the Pax Americana was erected: military power; economic power; institutions; and soft power. As these pillars erode, it becomes increasingly doubtful that the Pax Americana can endure.

China's challenge to American military power

Until now the dominant view within the US foreign policy establishment has been that military strength is the one area in which America's advantage is insurmountable (at least within any meaningful time-frame). American military power is considered by US policy-makers and many security studies scholars to be the geopolitical trump card—no pun intended—that will ensure continuing American dominance even if China closes the economic and technological gaps separating it from the United States.27 However, some within the foreign policy establishment are beginning to question this viewpoint. Important recent studies of the Sino-American military balance suggest that some analysts are taking a fresh look at the question of how long it will take China to catch up with the US militarily.

China and the United States face different grand strategic challenges. As self-styled global hegemon, America must be able project decisive military power to the three regions it considers vital to both its security and its prosperity: Europe, the Middle East and east Asia. In contrast, China's strategic goals, at least for now, are more limited. China aims at dominating its own geographic backyard: that is, it seeks regional hegemony in east and south-east Asia, which have become the focal points of Sino-American geopolitical competition. Even if China is not at present able to mount a global challenge to the US, there is evidence that it is beginning to draw level with the United States in regional military power in east Asia.

In a recent report on the Sino-American military balance, the RAND Corporation refers to the ‘receding frontier of US military dominance’ in east Asia.28 According to RAND, the trend lines in the Sino-American military rivalry in east Asia are not favourable for the United States: ‘Although China has not closed the gap with the United States, it has narrowed it—and it has done so quite rapidly. Even for many of the contributors to this report, who track military developments in Asia on an ongoing basis, the speed of change … was striking.’29 In a recent book, Roger Cliff, an east Asian security expert at RAND, says that by 2020 China's military establishment will be almost on an equal footing with America's with respect to doctrine, equipment, personnel and training (though still lagging behind in organizational structure, logistics and organizational culture). Consequently, he predicts that by 2020 American military dominance in east Asia will be significantly eroded.30 He predicts that the 2020s will witness a power transition in east Asia and that at this point China will be able to challenge the regional status quo.31

American economic decline and the impairment of US economic hegemony

During the past decade, signs of waning US economic power—and China's growing economic muscle—have become too numerous to ignore. Since the onset of the Great Recession, China has successively taken top position in the world in exports (passing Germany); in trade (passing the United States); and in manufacturing (claiming a title the United States had held for a century). In 2014 the World Bank made the stunning announcement that China had vaulted past the United States to become the world's largest economy (measured by purchasing power parity (PPP);32 and in the early to mid-2020s China is predicted to overtake the United States in GDP measured by market exchange rate.33 These shifts in the relative economic power of China and the United States have enormous economic and geopolitical implications. Indeed, in July 2017 Christine Lagarde, managing director of the IMF, stated that in ten years' time the organization's headquarters—which are required by its by-laws to be located in its member country with the largest economy—could be in Beijing.34 Taken together, these indicators paint a clear picture of relative economic decline.

American primacists have advanced a number of clever but unconvincing arguments in an attempt to downplay the significance of the ongoing economic power shift from America to China. For example, some primacists assert that per capita GDP is a better yardstick of national power than aggregate GDP; that newly developed metrics of national power have diminished the importance of GDP as a measure of a state's economic power; that China is far behind the United States in advanced technology; and that China is incapable of doing innovation.35

This last claim is ubiquitous among primacists.36 It is, however, undermined by recent developments. For example, in September 2016 China began operating the world's largest radio telescope, which is intended to project China's ambitions deep into the universe, and bring back the kind of dramatic discoveries that win honours such as Nobel Prizes.37 In August 2016 China launched the world's first quantum satellite, which could lead ‘to new, completely different methods for transmitting information’.38 In another example of how China is catching up with the United States in innovation and technology, in June 2016 a Chinese computer (using made-in-China microprocessors) topped the ranking of the world's fastest supercomputers.39 In July 2017 China's State Council announced an ambitious plan to sprint to the front of the pack in artificial intelligence (AI), including both military and civilian applications.40 Indeed, The Economist recently observed that already ‘China could be a close second to America—and perhaps even ahead of it—in some areas of AI’.41 And China is moving to the forefront in green technologies (solar panels and wind-generated power) and in electric cars.42

The waning of US economic dominance may not be obvious to primacists, but it is perfectly apparent to many observers in the real world.43 The weakening of US relative economic power, which became unmistakably clear during the Great Recession, has undercut the Pax Americana both by compromising the United States' ability to manage the international economy and by shifting the Sino-American geopolitical balance in east Asia.

#### Clinging causes great power war.

Beinart 18 Peter Beinart is a Professor of political science at the City University of New York M.Phil. in international relations from Oxford University; 2018; America Needs an Entirely New Foreign Policy for the Trump Age; The Atlantic; <https://www.theatlantic.com/ideas/archive/2018/09/shield-of-the-republic-a-democratic-foreign-policy-for-the-trump-age/570010/> - BS

In the decades since the cold war ended, this once-familiar logic has been largely forgotten. When the Soviet Union fell, the specter that haunted Roosevelt and his successors—a hostile power or powers dominating Europe and Asia and setting their sights on the Western Hemisphere—became so remote that it could no longer guide foreign-policy debate. What filled the gap was a bipartisan ethic of “more.” If the Soviet empire had demarcated the limits of American power, then a world without those limits—in which America and Americanism dominated ever larger swaths of the globe—constituted progress. If some American hegemony was good, more American hegemony was better. In the 1940s, foreign-policy elites generally asked: What must America do overseas to ensure its freedom and prosperity at home? Since the 1990s, they have more often asked: What must America do at home to ensure its preeminence overseas?

Over the past quarter century, this ethic of “more” has contributed to a vast expansion of America’s international commitments—commitments the American people have repeatedly proved unwilling to bear. The Bush administration greased public support for invading Iraq by insisting that within months the U.S. would withdraw most of its troops. But as those predictions proved untrue—and the war grew ever costlier and bloodier—public opinion soured. George W. Bush held out against the demand to withdraw troops for a few years, even sending reinforcements in the 2007 “surge.” By 2008, however, with violence down but Iraq still extremely fragile, he caved to popular opinion and agreed to withdraw all U.S. troops by the end of 2011. Obama carried out that agreement and Iraq plunged back into civil war.

Because Afghanistan was al-Qaeda’s base on 9/11, and because the U.S. has kept its troop levels there comparatively low, popular support for that war has proved easier to sustain. But the Afghan War also underscores America’s solvency problem. It is politically sustainable because the United States currently deploys only 15,000 troops there. However, few military experts believe that is enough to defeat the Taliban or even force them into a political settlement. So the United States can continue fighting in Afghanistan only because America’s leaders do not ask Americans to expend the blood and treasure there necessary to achieve Trump’s stated goal of “creat[ing] the conditions for a political process to achieve a lasting peace.”

Still, foreign-policy elites keep proposing interventions that enjoy too little public support to succeed. In 2011, despite polling suggesting public wariness, Obama helped nato facilitate the overthrow of Muammar Qaddafi. Libya soon dissolved into chaos. It’s questionable whether any amount of nation building could have stabilized the country after Qaddafi’s fall. But either way, Americans lacked the appetite for it, and so the United States failed to secure Libya, too.

The exception to this pattern has been the military campaign America launched in 2014 against isis, which, like the Afghan War, enjoyed public support because Americans viewed it as a response to direct attacks on them. Now that that war is largely over, Trump advisers have proposed keeping U.S. troops in Syria to counter Iran. Trump himself seems skeptical, likely because he grasps what polls show: that absent a direct threat, Americans remain opposed to expanding America’s military footprint in the Middle East.

With the war against isis dying down, Defense Secretary James Mattis declared in January that “great-power competition—not terrorism—is now the primary focus of U.S. national security.” But in its relationships with great powers, America’s solvency problems are, if anything, worse. That’s because the United States—in keeping with its general post–Cold War reluctance to grant competitors a sphere of influence—has tried to extend its power right up to the borders of Russia and China. That risks sparking conflict in places that the Russian and Chinese governments consider crucial to their security but the American people do not consider crucial to theirs. Which means yet more promises the American government cannot keep.

Consider american policy toward russia. During the Cold War, no American president considered Eastern Europe important enough to American security to risk war over. But in the 1990s, with Russia enfeebled, many policy makers assumed that risk had disappeared. So the Clinton administration moved to admit the former Warsaw Pact countries of Poland, Hungary, and the Czech Republic into nato, thus making their defense an American obligation.

When Trump recently questioned America’s obligation to nato’s newest member, Montenegro, he provoked outrage. But it’s worth remembering that in the 1990s, Americans far wiser than Trump considered even Clinton’s nato expansion a dangerous extension of America’s commitments. George Kennan, America’s most famous Cold War strategist, warned that the move would “inflame the nationalistic, anti-Western and militaristic tendencies in Russian opinion.” John Lewis Gaddis, America’s most famous Cold War historian, insisted it was “short-sighted” for Americans to believe that “the Russians have no choice but to accept what nato has decided to do” because Russia “retains a considerable capacity to do harm.”

More than 20 years later, nato’s expansion to include Montenegro and the former Soviet Republics of Estonia, Latvia, and Lithuania makes Kennan’s and Gaddis’s concerns all the more relevant. Could an American president rally the American people to defend a country near Russia’s border that some of them may never have heard of? Is that commitment solvent? We simply don’t know.

This doesn’t mean Democrats should abrogate America’s nato commitments—or even publicly question them, as Trump has. nato has helped undergird an unprecedented era of European freedom, prosperity, and peace. Reneging on America’s commitment to any member could destroy the alliance as a whole, with consequences no one can foresee. So honoring America’s commitment to its newest members is a risk Democrats must take.

But since it is a risk, the post–Cold War pattern of expanding nato with little public discussion—since 1996, the subject has rarely come up in presidential debates—should end. The lesson of the past decade is that pushing nato ever closer to Russia’s borders dangerously exacerbates America’s solvency gap.

Consider what has happened in Georgia and Ukraine. In 2008, the Bush administration convinced its European allies to pledge that both countries would eventually enter nato. Enraged, Russian officials threatened to help Georgia’s two autonomous and largely pro-Russian regions, Abkhazia and South Ossetia, secede. And when Georgia’s pro-American president sent troops into South Ossetia that August, Russia did just that—it recognized Abkhazian and South Ossetian independence, blockaded Georgia’s coast, and bombed its capital. Moscow made the same point, even more harshly, a half-decade later in Ukraine, when protesters helped replace a pro-Russian government with a pro-Western one. The United States celebrated the shift of power. But Vladimir Putin responded by seizing the Crimean peninsula and fomenting an armed secessionist movement in Ukraine’s heavily Russian-speaking east, thus plunging the country into civil war.

In 2015, Joe Biden told the Ukrainian Parliament, “We will not recognize any nation having a sphere of influence. Sovereign states have the right to make their own decisions and choose their own alliances.” That sentiment still governs the attitude of many congressional Democrats today. It’s why they demand that Trump maintain American sanctions until Russia relinquishes Crimea—even though barely anyone believes American sanctions can bring that about. It’s why they support arming Ukraine with lethal weapons. And it’s why they insist on keeping open the possibility of nato expansion into Ukraine even as Russia stations troops on Ukrainian soil.

But Biden’s words, while stirring, were delusional. The United States does not oppose spheres of influence. It has had its own in the Western Hemisphere since 1823. It’s called the Monroe Doctrine, which declares that the U.S. will not tolerate military alliances between foreign powers and the countries to America’s south. It’s the reason Mexico cannot enter into a military alliance with Russia.

Until today’s Democrats recognize—as Cold War presidents did—that the United States cannot prevent a Russian sphere of influence in those territories in which the Russian government is willing to lose lives but the American people are not, Democratic foreign policy will produce more insolvency, more promises America can’t keep.

But the pursuit of unipolarity poses its greatest danger in America’s relations with China. U.S.-Chinese relations are U.S.-Russian relations in reverse. Although geopolitically aggressive, Russia is economically and demographically a declining power. It lost a large sphere of influence, and America is now seeking to deny it a smaller one. China is a rising power. It is trying to establish a sphere of influence, which America opposes. The key difference is that in the case of Russia, America’s solvency problem is static: Because Russia is not gaining economic and military strength relative to the United States and its European allies, America’s solvency problem will not grow unless it incurs new obligations. In East Asia, by contrast, China’s relative power is growing. That means America’s solvency problem—the gap between its commitment to deny China a sphere of influence and its power to do so—is growing, too.

The balance of economic power is shifting decisively in China’s favor. When the Soviet Union collapsed, America’s share of the global economy was 15 times as large as China’s. Today, it’s roughly 1.5 times as large. Experts predict that by 2040, China’s economy will be 1.5 times as large as America’s.

This economic shift is producing a military shift. Washington still spends far more than Beijing on defense, but over the past two decades the Chinese military has dramatically improved. And while the American military is spread across the world, China focuses on its own neighborhood. Thus, a 2017 Rand Corporation study concluded that “while the United States maintains unparalleled military forces overall, it faces a progressively receding frontier of military dominance in Asia. Chinese military modernization, combined with the advantages conferred by geography, have endowed China with a strong military position vis-à-vis the United States in areas close to its own territory. As a result, the balance of power between the United States and China may be approaching a series of tipping points.” The first tipping point, Rand suggests, will be Taiwan.

Taiwan is the most dangerous example of American foreign-policy insolvency in the world. The 1979 Taiwan Relations Act, signed when China’s economy was smaller than Spain’s, commits the U.S. “to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.” As Hofstra University’s Julian Ku has observed, the language is almost as strong as the language in America’s treaties with Japan, South Korea, and Australia.

This quasi-obligation is insolvent for two reasons. First, the people of mainland China care far more about Taiwan than Americans do. China’s government doesn’t merely consider Taiwan part of its sphere of influence. It considers it part of China, and has since the 17th century. In the centuries that followed, the Western powers and Japan repeatedly invaded and divided China, and many Chinese see the reunification of Taiwan as crucial to overcoming that humiliating history. This creates a vast asymmetry of public will. In 2017, the Committee of 100, a Chinese American group, asked people in both countries to name their “two greatest concerns about the U.S.-China relationship.” Among mainland Chinese, Taiwan came in first. Among Americans, it didn’t make the top seven. In fact, when asked whether the United States should defend Taiwan if it declares independence, Americans consistently, by substantial margins, say no.

Alongside this asymmetry of public will is a growing asymmetry of military power. Lyle Goldstein, a China expert at the Naval War College, notes that “China’s military modernization has steadily outstripped Taiwan’s armed forces.” And it’s not just Taiwan that’s increasingly outclassed. The United States is, too. Within 500 miles of Taiwan’s capital, notes the Rand study, China maintains 39 air-force bases. The United States maintains one, which, according to Rand, “even a relatively small number of accurate [Chinese] missiles could shut … at the outset of hostilities.” In the words of the Australian military strategist Hugh White, “America can no longer defend Taiwan from China and a policy towards Taiwan that presumes that it can is unsustainable.” In the years to come, America must either take steps to alter this unsustainable commitment or risk the possibility that China will do so itself.

So what might a democratic alternative to both Trump and his hawkish critics—an alternative built upon the sacrifices Americans are actually willing to make rather than the obligations that unipolarity requires—look like?

It would start with the question inherent in Walter Lippmann’s phrase: What kind of shield does the American republic require in order to thrive? When Roosevelt and Kennan pondered this question in the 1940s, even America’s most powerful adversaries had trouble reaching the United States directly. The Atlantic and Pacific were formidable moats. That’s why both men worried primarily about a two-step process in which Nazi Germany or the Soviet Union first consolidated power over Eurasia and then crossed the oceans.

But since World War II, two technologies have made it easier for adversaries to bypass step one and threaten the United States without first dominating other continents. The first is nuclear weapons. Luckily, since the mid-20th century, America has pursued a strategy that has protected it against nuclear strikes by even its most fearsome foes. That strategy is nuclear deterrence, and it merely requires the United States to possess enough nuclear weapons, and sufficient means to deliver them, to credibly declare that America will destroy any regime that uses nuclear weapons against the United States. The strategy does not require foreign leaders to care about their people’s lives, only their own. Which helps explain why it worked against Joseph Stalin and Mao Zedong. And why there is every reason to believe it will work—indeed, has been working in the 12 years since North Korea’s first nuclear test—against Kim Jong Un.

Nuclear deterrence is less effective against a terrorist group with no regime or territory to protect, led by people who welcome death. But almost 17 years after September 11, the United States and its allies have proved capable of keeping nuclear weapons out of the hands of terrorists. In fact, the United States has prevented any 9/11-scale terrorist attack on American soil: Since 2001, foreign-born terrorists have killed on average one American a year inside the U.S.

Unfortunately, the United States is less shielded from a second, more recent technology that enables direct attack: cyberwarfare. If the 2017 Intelligence Community Assessment that “Russian President Vladimir Putin ordered an influence campaign in 2016 … to undermine public faith in the US democratic process” is correct, then preventing another such attack—either on America’s elections or America’s critical infrastructure—should be among America’s highest foreign-policy priorities. Roosevelt and Kennan worried that if a hostile power dominated Europe or Asia, it could dominate the great oceans, thus leaving America so insecure that its democracy crumbled or so isolated that its economy did. Now Russia—or another adversary—can threaten American freedom and prosperity by attacking the machinery that undergirds America’s elections, banking system, or electricity grid. Few other threats put the republic itself at such risk.

So Democrats are right to blast Trump for not making cyberdefense a priority. They’re right to demand reprisals against Russia in hopes of deterring its government from repeating in 2018 and 2020 what it did in 2016. And they are right to work with America’s allies to try to deter Russia from undermining their democratic systems, too.

But in their desire to be tough on Putin, congressional Democrats are conditioning sanctions relief not only on Russia stopping its interference in American elections, but on Russia stopping its interference in Ukraine and even Syria. This combines a subject that is crucial to America’s security with subjects that are not, and defines America’s goals so expansively that they exceed America’s means. Truly guarding against Russia’s threat to the American homeland requires prioritizing it.

To protect what matters most—the integrity of its elections and those of its allies—America should compromise where it matters less: in Russia’s backyard. If Russia stops sabotaging elections in nato countries, nato should pledge to push no closer to Russia’s borders. Instead, the United States and its allies should pursue a status for Ukraine and Georgia similar to the status that Austria and Finland enjoyed during the Cold War. Because Soviet troops entered both countries during World War II, the United States could not deny Moscow some influence over them after the war. So each country struck a deal that granted it control over its domestic affairs (both became democracies) in return for not pursuing an anti-Soviet foreign policy. That should be America’s goal for Ukraine and Georgia today. Recognizing that U.S. sanctions almost certainly won’t reverse Russia’s annexation of Crimea, the United States might ultimately accept it as part of a deal that removed Russian troops and weaponry from Ukrainian soil.

This would not be another Warsaw Pact. It would be more like the Monroe Doctrine, as America’s leaders interpret it today. Few Americans now claim the Monroe Doctrine gives the United States the right to dictate the internal affairs of America’s neighbors to the south. If the Dominican Republic nationalizes its banks, the U.S. will not send in the Marines. But America will not permit the Dominican Republic to join a military alliance with Moscow or Beijing. America’s goal should be for Russia to follow that same principle when it comes to Georgia and Ukraine.

A similar approach should guide America’s relations with China. The U.S. must try to deter China from threatening the American homeland militarily and politically, through cyberattacks or other forms of interference. But it must also prevent China from threatening the homeland through an economic relationship that benefits American elites while weakening the American middle class.

In his book The American Way of Strategy, Michael Lind quotes Franklin D. Roosevelt as declaring in 1936 that “the very nature of free government demands that there must be a line of defense held by the yeomanry,” what we would today call the middle class. “Any elemental policy, economic or political, which tends to eliminate these dependable defenders of democratic institutions, and to concentrate control in the hands of a few small, powerful groups is directly opposed … to democratic government itself.” This concentration certainly threatens democratic government today. And preventing it should thus be central not only to American domestic policy, but to American foreign policy as well.

Trump won the presidency in part by arguing that American foreign policy focused too much on extending America’s global footprint and not enough on safeguarding America’s middle class. And he was partially right. A “shield of the republic” foreign policy would use America’s limited influence over China to protect, to whatever degree possible, American workers from competing with workers who lack even minimal labor protections. One way to do that would be to adopt a suggestion made by the Harvard economist Dani Rodrik. Rodrik notes that the United States has laws against “dumping”: It imposes tariffs on foreign goods sold in the United States for less than they cost to produce. He suggests extending such tariffs to “social dumping”: goods exported to the United States by workers without basic labor rights.

Any tariffs would have to be wielded carefully—not in the rash, jumbled way Trump has deployed them. (And certainly not against democracies whose labor protections are often better than America’s). But, as with Russia, jettisoning the assumption that America must deny China a sphere of influence might help policy makers husband American leverage for the things that matter most.

A 1949 State Department planning paper declared that the U.S. should seek to prevent the “domination of Asia by a nation or coalition of nations.” Since such domination could threaten American trade across the Pacific, and even the safety of the Western Hemisphere, precluding it should remain America’s goal. The United States can achieve that goal by maintaining its alliances with Australia, South Korea, the Philippines, and Japan and deepening its relationship with India, whose population will soon surpass China’s.

America’s commitments to these countries will only grow insolvent if the U.S. defines them as requiring it to defend disputed islands like Scarborough Shoal in the South China Sea (claimed by both China and the Philippines) or the Senkaku/Diaoyu Islands in the East China Sea (claimed by both China and Japan)—islands far from the heartlands of both U.S. allies. And that insolvency will grow worse if the United States, in its zeal to deny China a sphere of influence, takes on a new obligation—the East Asian equivalent of Ukraine and Georgia—by agreeing to defend Vietnam. Vietnam has a roughly 800-mile-long land border with China, a bevy of maritime disputes with Beijing, and a tradition of fierce anti-Chinese nationalism. The U.S. is better off helping Hanoi—in the tradition of Austria and Finland vis-à-vis the Soviet Union or, for that matter, Mexico vis-à-vis the United States—accommodate its foreign policy to the giant next door while preserving its right to manage its domestic affairs.

The most wrenching element of this strategy involves Taiwan. The island is an extraordinary success story, a powerful testament to the compatibility of democracy and Chinese culture. But the United States probably cannot defend Taiwan today. It almost certainly won’t be able to in a decade or two. If America does not face the insolvency of its current commitment to Taiwan now, it may eventually be made to face it, perhaps through war.

If China renounces the use of force, the United States should support its reunification with Taiwan along the principle of “one country, two systems.” The U.S. should ask China to commit publicly not to station troops or Communist Party officials in Taiwan, and to let Taiwan manage its domestic political affairs. Would Beijing adhere to such an agreement once unification occurred? The best precedent is Hong Kong. Two decades after reunification, it remains substantially freer than the rest of China. (Freedom House rates countries on a scale of one to seven, with one being freest and seven being least free. In 2018, Hong Kong received a 3.5 and China got a 6.5.) But Hong Kong would almost certainly be freer were it not under Beijing’s control.

It’s likely that under reunification people in Taiwan would lose some of their freedom as well. But, even if Taiwan sunk to Hong Kong’s level, it would remain far freer than Vietnam, a country some Washington hawks are clamoring to ally with in order to contain China.

There are two primary arguments against the Democratic foreign policy outlined above. The first involves credibility. If the United States abandons Taiwan, the argument goes, it will undermine the credibility of its commitment to South Korea, the Philippines, and Japan. Similarly, if America won’t fight Russia in Ukraine, neither Moscow nor Riga will believe America’s promises to fight Russia in Latvia. During the Vietnam War, this logic was dubbed the “domino theory”: If the United States didn’t defend Vietnam, its credibility would collapse and other anti-communist “dominoes” would soon fall.

But the theory is wrong. Decades of academic research show that, in the words of the Dartmouth College political scientists Daryl Press and Jennifer Lind, “there’s little evidence that supports the view that countries’ record for keeping commitments determines their credibility.” The Soviets and West Germans did not conclude that because America would not defend South Vietnam it would not defend West Berlin, because they understood that America cared more about West Berlin than it cared about South Vietnam, and had a greater capacity to defend it. Similarly, when predicting whether the United States will defend Japan, neither Beijing nor Tokyo will look at whether America defends Taiwan. They will look at whether it is in America’s interests, and within America’s power, to defend Japan.

Far from bolstering a country’s credibility, insolvent commitments drain its finances, overstretch its military, and undermine its reputation for sound judgment. As Kennan put it, “There is more respect to be won in the opinion of this world by a resolute and courageous liquidation of unsound positions than by the most stubborn pursuit of extravagant or unpromising objectives.”

The other major critique is moral: How can America let authoritarian powers bully their neighbors, especially when those neighbors only want the same freedoms that we prize in the United States? The answer begins with John F. Kennedy’s reminder that peace, too, is “a matter of human rights.” People’s lives don’t generally improve when their country becomes a battlefield. If the United States could actually defend Ukraine, Georgia, or Taiwan, then perhaps the horror of war might be worth it. But America cannot, at least not at a cost the American people would be willing to pay. Morally, therefore, America better serves these countries by helping them reach the best possible accommodation with their great-power neighbors than by encouraging their defiance with promises America can’t keep. Prudence, argued Edmund Burke, is “not only the first in rank of the virtues political and moral but … is the director, the regulator, the standard of them all.” In other words, what truly matters morally is not the purity of America’s rhetoric but the consequences of America’s policies for the people they affect most.

Morally, Americans must also consider something else: Risking conflict to deny great powers a sphere of influence in their own neighborhoods undermines the chances of cooperating with them everywhere else.

Over the past decade, American cooperation with China and Russia has proved crucial to mitigating some of the world’s greatest threats. In 2010, China, along with Russia, backed the United Nations sanctions that helped pave the way for the Iran nuclear deal. In 2014, Beijing and Washington cooperated to quell the Ebola crisis, which experts warned might infect 1.4 million West Africans. In 2016, U.S.-Chinese cooperation proved crucial to the ratification of the Paris climate-change agreement (from which Trump has subsequently withdrawn).

The more America challenges Beijing and Moscow on their borders, the harder it will be to sustain, let alone deepen, this cooperation. Only U.S.-Russian diplomacy can extend the Strategic Arms Reduction Treaty, which expires in 2021, and thus avert a costly and dangerous nuclear-arms race. Only great-power cooperation can end Syria’s monstrous civil war. The United States has some influence over the Kurds and Gulf-backed Sunni Arab rebel groups. But only Moscow, along with Iran, can deliver concessions from Bashar al-Assad’s regime. It’s the same in Afghanistan. The United States enjoys more leverage over the government in Kabul, but Russia enjoys more influence over the Taliban and China wields more influence over Pakistan.

Great-power cooperation is also crucial to easing the crisis on the Korean peninsula. No matter what he tells Trump, Kim Jong Un is unlikely to give up his nuclear weapons. But preventing further nuclear and missile tests would reduce the chances of war and facilitate the reconciliation with South Korea that could improve North Korean lives. The U.S. can’t do that alone. It can tempt Kim by promising an end to North Korea’s diplomatic and economic isolation. But it can’t fully reassure him that the United States—which turned on Qaddafi after he abandoned his own nuclear program—won’t do the same to him. Only Beijing—North Korea’s longtime ally—can do that. The more protected North Korea feels by China, the less it may feel the need to advance its nuclear program. The Naval War College’s Lyle Goldstein has suggested that Pyongyang might be more likely to permit inspection of its nuclear program if China takes part. This defies the logic of unipolarity, which mandates that the U.S. try to reduce China’s influence on the Korean peninsula. But here, too, America can better serve the cause of peace and human dignity by cooperating with great powers than seeking to supplant them.

What america needs from its foreign policy has not changed since the nation’s founding: to promote the external conditions that give Americans the best chance to become prosperous and free. What has changed, at key moments, is the strategy the United States pursues to realize those goals. In the early-19th century, via the Monroe Doctrine, the United States entered a de facto alliance with Britain—the world’s greatest naval power—to prevent Europe’s land powers from establishing beachheads in the Americas. Beginning in the early-20th century, as Britain’s ability to enforce the Monroe Doctrine waned, the United States entered two European wars, and then fought the Cold War, to prevent adversaries from dominating Europe and Asia.

Now, to achieve its enduring goals, America needs to change strategy once again. The unipolar strategy that America has pursued since the Soviet Union’s demise—of preserving if not extending American dominance in every region of the world—is increasingly insolvent. It is insolvent because America lacks the power to quell uprisings in the countries it has invaded. It is insolvent because America lacks the power to deny Russian influence over the countries on its border. It is insolvent because America lacks the power to enforce a status quo in East Asia established when China’s economy was slightly larger than Holland’s. And, above all, it is insolvent because it lacks support from the American people, who for good reason largely do not believe it has served their needs.

#### No impact and retrenchment’s stabilizing.

Fettweis 18—Associate professor of political science at Tulane University [Christopher J., 2018, *Psychology of a Superpower: Security and Dominance in U.S. Foreign Policy*, Chapter 1: Unipolarity and the System, pgs 28-34, Columbia University Press, Accessed through the Wake Forest Library]

Even the most ardent supporters of the hegemonic-stability explanation do not contend that U.S. influence extends equally to all corners of the globe. The United States has concentrated its policing in what George Kennan used to call the "strong points," or most important parts of the world: Western Europe, the Pacific Rim, and the Persian Gulf.70 By doing so, Washington may well have contributed more to great-power peace than to the overall global decline in warfare. If the former phe-nomenon contributed to the latter, by essentially providing a behavioral model for weaker states to emulate, then perhaps this lends some sup-port to the hegemonic-stability case.71 In general, Washington has shown less interest in the affairs of the global South since the end of the Cold War, and the level of violence in almost all regions has declined. The United States intervenes far less in the political and military affairs of Latin America compared to any time in the twentieth century, for instance, and the states of the region are more peaceful. Warfare in Africa is at an all-time low, as noted above, as is relative U.S. interest outside of counterterrorism and security assistance. Regional peace and stability exist where there is active U.S. intervention, in other words, as well as where there is not. No direct relationship seems to exist across regions. The U.S. sheriff certainly appears to have enforced rules upon the great powers. Since we do not have a "control" Europe, however, one without the presence of U.S. troops and alliance commitments, it is dif-ficult to know what is causing those states to behave. In much of the rest of the world, the United States has not been especially eager to enforce any particular rules. Even rather incontrovertible evidence of genocide has not been enough to inspire action. Washington's intervention choices have at best been erratic: crises in Libya and Kosovo inspired responses, but much more blood flowed uninterrupted in Rwanda, Dar-fur, Congo, Sri Lanka, and Syria. When U.S. intervention has occurred, its wisdom and efficacy have not been encouraging. The security situation in the Persian Gulf and broader Middle East, to cite the most obvious example, would be better off if U.S. troops had stayed home.72 In recent years, substantial hard-power investments (Somalia, Afghanistan, Iraq), moderate intervention (Libya), and reliance on diplomacy (Syria) have been equally ineffective in stabilizing states torn by conflict. The region may well be essentially unpacifiable and immune to outside policing. At the very least, it seems hard to make the case that the U.S. presence has improved matters. In this strong point, unipolarity has failed to bring peace. To say that the United States has not always been successful in impos-ing peace on willing combatants would be to understate. The fruitless effort to encourage the various combatants in Syria to stop killing one another is a prominent example, and there are others. The United States also took the peacemaking lead during one of the rare interstate conflicts of the New Peace era, the war between Eritrea and Ethiopia. A high-level U.S. delegation containing former and future national-security advisors (Anthony Lake and Susan Rice) made a half-dozen trips to the region, but it was unable to prevent either the outbreak or recurrence of the con-flict. Lake and his team shuttled back and forth between the capitals with some frequency, and President Clinton made repeated phone calls to the leaders of the respective countries, offering to hold peace talks in the United States, all to no avail.73 The war did not end until the Ethiopians essentially won in late 2000. The globocop was irrelevant. The Horn of Africa is hardly the only region where states are free to fight one another today without fear of serious U.S. involvement. Since they are choosing not to do so with increasing frequency, something else is probably affecting their calculations. Stability exists even in those places where the potential for intervention by the sheriff is minimal. Hegemonic stability can only take credit for influencing those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. It seems hard to make the case that the relative peace that has descended on so many regions is primar-ily attributable to the kind of heavy hand of the neoconservative levia- than or that of its lighter, more liberal cousin. Something else appears to be at work. CONFLICT AND U.S. CHOICES If U.S. power is the only thing holding back the forces of global chaos, then we would expect to see some variation in violence as the relative capabilities of the United States wax and wane. During the 1990s, the United States cut back on defense by about 25 percent, spending $100 billion less in real terms in 1998 than it did in 1990.74 To those believers in the neoconservative version of hegemonic stability, this irresponsible "peace dividend" endangered both national and global security. "No serious analyst of American military capabilities doubts that the defense budget has been cut much too far to meet America's responsibilities to itself and to world peace," argued Kristol and Kagan at the time.75 The world grew dramatically more peaceful while the United States cut its forces, however, and it stayed just as peaceful even as spending rebounded after the 9/11 terrorist attacks. The incidence and magnitude of global conflict declined while the military budget was cut under President Clin-ton, kept declining (though more slowly) as the Bush administration ramped it back up, and stayed steady as Obama cut back again. U.S. mili-tary spending has varied during the New Peace from a low in constant dollars of less than $400 billion to a high of more than $700 billion, but war does not seem to have noticed. The same nonrelationship exists between other potential proxy mea-surements for U.S. power and conflict. No connections exist between warfare and fluctuations in U.S. GDP, or alliance commitments, or for-ward military presence. Europe experienced very little fighting when there were 300,000 American troops stationed there, for example, and very little after 90 percent of those troops were removed. It is hard to find much correlation between U.S. actions and systemic stability. Noth-ing the United States actually does seems to matter to the New Peace. Absolute military spending might not be as important as relative. Although Washington cut back on spending during the 1990s, its advan-tage over all possible rivals never wavered. The United States has accounted for between 35 and 41 percent of global military spending every year since the collapse of the Soviet Union.76 Perhaps perceptions of U.S. power, as well as its willingness to use it, keep the peace. Fluc-tuations in its enormous defense budget might be unimportant com-pared to how the United States chooses to employ that budget. In other words, perhaps the grand strategy of the United States, rather than its absolute capability, is decisive in maintaining stability. Perceptions of U.S. power and the strength of its hegemony are to some degree functions of its willingness to use that power. A strong United States that chose to stand on the sidelines during crises would not encourage or enforce international cooperation. If indeed U.S. stra-tegic choices are directly related to international stability, then variation in its choices ought to have consequences for levels of conflict. A restrained United States would presumably be less likely to play the role of sheriff than one following a more activist approach. Indeed, hege-monic-stability theorists warn that following a grand strategy that did not make global policing a priority would court disaster. The "present danger" about which Kristol, Kagan, and their fellow travelers warned is that the United States "will shrink its responsibilities and—in a fit of absentmindedness, or parsimony, or indifference—allow the interna-tional order that it created and sustains to collapse."77 The Pulitzer Prize—winning journalist Brett Stephens predicted that an insufficiently activist U.S. grand strategy would result in "global pandemonium." 78 Liberals fear restraint as well and also warn that a militarized version of primacy would also be counterproductive in the long run. Washing-ton can undermine its creation over time through thoughtless unilat-eral actions that violate its own rules. Many liberals predicted that the invasion of Iraq and its general contempt for international institutions and law would call the legitimacy of the order into question. Ikenberry worried that Bush's "geostrategic wrecking ball" would lead to a more hostile, divided, and dangerous world.79 Thus while all hegemonic- stability theorists expect a rise of chaos during a restrained presidency, liberals also have grave concerns regarding primacy. If either version is correct—that global stability is provided by U.S. hegemony—then maintaining that stability through a grand strategy based on either primacy (to neoconservatives) or "deep engagement" (to liberals) is clearly wise.80 If, however, U.S. actions are only tangentially related to the outbreak of the New Peace or if any of the other proposed explanations are decisive, then the United States could retrench with-out fear of negative consequences. The grand strategy of the United States is therefore crucial to theo-ries of hegemonic stability. And, once again, there is no evidence that U.S. choices matter much. Although few observers would agree on the details, most would probably acknowledge that post—Cold War grand strategies of American presidents have differed in some important ways. As it happens, each administration is a reasonable representation of one the four ideal types of grand strategy laid out by Posen and Ross in 1996.81 Under George H.W. Bush, the United States followed the path of "selective engagement," which is sometimes referred to as "balance-of- power realism"; Bill Clinton's grand strategy looks a great deal like what Posen and Ross call "cooperative security" and others call "liberal inter- nationalism"; George W. Bush, especially in his first term, forged a strat-egy that was as close to "primacy" as any president is likely to get; and Barack Obama, despite some early flirtation with liberalism, followed a restrained realist path, which Posen and Ross label "neoisolationism" but its proponents refer to as "strategic restraint."82 In the lingo of political science, we have substantial variation in the independent variable, more than enough to determine its effect on the phenomenon under consider-ation. The result is clear (see table 1.1). Armed-conflict levels fell steadily throughout the post—Cold War era, irrespective of the grand strategic path Washington chose. Neither the primacy of George W. Bush nor the restraint of Barack Obama had much effect on the level of global violence. Despite continued warnings (and the high-profile mess in Syria), the world has not experienced an increase in violence while U.S. behavior became more restrained. Once again, if the grand strategy of the United States is responsible for the New Peace, it is leaving no trace in the evidence. If a correlation did exist between U.S. actions and international stabil-ity, if other states had reacted differently to fluctuations in U.S. military spending or grand strategy, then surely hegemonic-stability theorists would argue that their expectations had been fulfilled. Many liberals were on the lookout for chaos while George W. Bush was in the White House, just as neoconservatives have been quick to identify apparent worldwide catastrophe under President Obama.83 If increases in vio-lence would have been evidence for the wisdom of hegemonic strate-gies, then logical consistency demands that the lack thereof should at least pose a problem. As it stands, the only evidence we have regarding the relationship between U.S. power and international stability suggests that the two are unrelated. The rest of the world appears quite capable and willing to operate effectively without the presence of a global police~~man~~. Those who think otherwise base their view on faith alone. Hegemonic stability is a belief, in other words, rather than an estab-lished fact, and as such it deserves a different kind of examination.

#### Pursing military dominance locks in overstretch and a Russia-China axis.

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There is little sign of active “splitting” currently, however. (A notable exception is recent collaboration with Beijing over North Korea’s nuclear program, even if it is marred by tension and distrust.) Rather, the United States is encouraging the perception of a common enemy. By militarily positioning itself within striking distance of Russia and China through a semi-encircling presence in eastern Europe and north-east Asia, expanding alliances, entertaining further expansion, ramping up freedom-of-navigation operations (FONOP) in the South China Sea, reviving the pursuit of an antiballistic missile shield, establishing a reputation as a sponsor of “color revolutions” and as an overthrower of regimes, Washington helps draw Beijing and Moscow closer together into a balancing coalition. A nascent Russia-China alliance is suggested by Russia’s own interagency inquiry into the possibility, the frequency of Putin-Xi contact, deliberate tightening of economic interaction, and overt displays and declarations of close military ties through joint exercises and arms sales.24

It does not have to be this way. The United States has a geopolitical advantage—its distant location. Most powers, most of the time, are more concerned by the potential threat of other nearby land powers than distant sea powers.25Based in the Western hemisphere, the United States has less of a compelling security interest in adversaries ’backyards, allowing Washington the choice of adopting a more distant pose. Russia and China, by contrast, are neighbors so cannot withdraw, both are primarily continental land-based military powers, and historically such proximity can exacerbate rivalries and mutual fears. Sino-Russian antagonism remains a built-in possibility. Only under the right conditions, though, can the rivalries again grow. This is not a plea for a trilateral realignment whereby one state agrees to be the United States’ “geopolitical hammer” and teams up with Washington to contain the other. Rather, it is to suggest that more American restraint in one theater could make space for Russia-China frictions to take effect in another.

This geopolitical principle will prove controversial. The bipartisan consensus among security experts in Washington is to assume that only a state of preponderance over all rivals will suffice. Policymakers assume that the problem lies in Washington’s failure to apply enough power, or to apply enough power efficiently enough. They then call for the allocation of more resources and their smarter use in order to sustain U.S. dominance. The congressionally-mandated2018National Defense Strategy Commission report, appointed to make recommendations, is a case in point. It takes dominance as the obvious U.S. national interest. It complains that as rivals challenge American power, U.S. military superiority and its capacity to wage concurrent wars has eroded, due tor-educed defense expenditure, and advises that it spend more while cutting entitlements.26On this logic, a defense budget that is already10 times the size of Russia’s and four times the size of China’s is not enough, for U.S. grand strategy must go beyond defense and deterrence to achieve unchallengeable strength. That the pursuit of dominance could be the source of the problem, not the answer, is not considered.

Even the United States cannot prudently take on every adversary on multiple fronts. The costs of military campaigns against these adversaries in their backyards, whether in the Baltic States or Taiwan, would outstrip the losses that the U.S. military has sustained in decades. Short of all-out conflict, to mobilize for dominance and risk escalation on multiple such fronts would court several dangers. It would overstretch the country. The U.S. defense budget now approaches $800 billion annually, not including deficit-financed military operations. This is a time of ballooning deficits, where the Congressional Budget Office warns that “the prospect of large and growing debt poses substantial risks for the nation.”27 If in such conditions, current expenditure is not enough to buy unchallengeable military preponderance—and it may not be—then the failure lies not in the failure to spend even more.

Neither is the answer to sacrifice the quality of civic life at home to service the cause of preponderance abroad. The old “two war standard,” a planning construct whereby the United States configures its forces to conduct two regional conflicts at once, would be unsustainably demanding against more than one peer competitor, or potentially with a roster of major and minor adversaries all at once.28After all, the purpose of American military power is ultimately to secure a way of life as a constitutional republic. To impose ever-greater debts on civil society and strip back collective provision at home, on the basis that the quality of life is expend-able for the cause of hegemony, is perversely to set up power-projection abroad as the end, when it should be the means. The problem lies, rather, in the inflexible pursuit of hegemony itself, and the failure to balance commitments with scarce resources.

To attempt to suppress every adversary simultaneously would drive adversaries together, creating hostile coalitions. It also may not succeed. Counterproliferation in North Korea is difficult enough, for instance, but the task becomes more difficult still if U.S. enmity with China drives Beijing to refuse cooperation over enforcing sanctions on Pyongyang. Concurrent competitions would also split American resources, attention and time. Exacerbating the strain on scarce resources between defense, consumption and investment raises the polarizing question of whether preponderance is even worth it, which then undermines the domestic consensus needed to support it. At the same time, reduced investment in infrastructure and education would damage the economic foundations for conducting competition abroad in the first place.

Taken together, indiscriminate competition risks creating the thing most feared in traditional U.S. grand strategy: a hostile Eurasian alliance leading to continuous U.S. mobilization against hostile coalitions, turning the U.S. republic into an illiberal garrison state. If the prospect for the United States as a great power faces a problem, it is not the size of the defense budget, or the material weight of resources at the U.S. disposal, or popular reluctance to exercise leadership. Rather, the problem lies in the scope of the policy that those capabilities are designed to serve. To make the problem smaller, Washington should take steps to make the pool of adversaries smaller.

#### Russia-China coordination triggers global war.

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While Washington takes a wait-and-see approach, Moscow and Beijing could be coordinating to significantly thwart U.S. interests over the next 15 to 25 years. The two powers may never forge a formal military alliance, but they could still work together in ways that cause major headaches for the United States. Imagine, for example, that Russia and China coordinate the timing of hostile actions on their peripheries. If China made aggressive moves in support of its sovereignty claim in the South China Sea at the same time that Russia made further incursions into Ukraine, U.S. forces would struggle to respond effectively to either gambit.

Nonmilitary collaboration between Russia and China could weaken the United States and even threaten its way of life. Both countries are likely to use their cyber and disinformation capabilities to, as the director of national intelligence put it in January, “steal information, to influence our citizens, or to disrupt critical infrastructure.” China currently does not exhibit Russia’s zeal for using such measures, particularly against the United States; but if U.S.-Chinese relations darken, Beijing could plausibly take a page from Russia’s playbook and mount coordinated, deniable cyberattacks or interference campaigns against the United States.

China and Russia behave very differently in pursuit of their foreign policy objectives, but the combined effect of their actions is often greater than the sum of its parts. In Europe, for example, China has amassed economic influence through growing trade relationships and Belt and Road-related infrastructure investments not contingent on standards for democratic governance and human rights, particularly in eastern Europe, Greece, and Italy. This engagement will ultimately translate into political leverage, as it already has in many countries in Asia. Russia, for its part, appears intent on pursuing hybrid tactics that disrupt democratic processes. On their own, each of these activities is already worrisome for the United States and Europe. But a scenario in which each country’s actions amplify the other’s is not hard to imagine. China, for example, could eventually use its growing ownership of European ports and rail lines to slow a NATO response to Russian aggression. Likewise, Beijing could use the economic leverage it has accrued to quietly dissuade an already reluctant NATO member state such as Hungary or Turkey from responding to Russia’s hybrid tactics, which could ultimately serve to discredit NATO’s commitment to collective defense.

#### They do not solve---tech companies get their innovations stolen by China via hacking.

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Could critical innovations proliferate through other (non-cyber) means? Cyber-theft is one of many avenues for innovations to proliferate. China’s technological transfer programs for AI innovations, for example, mainly employ legal practices.167 These practices include direct technology purchases, talent recruitment programs like the Thousand Talents Plan, and the direct enrollment of Chinese students in American universities.168 Many of these avenues are poorly understood, only recently attracting American policymakers’ scrutiny. As a result, it remains unclear how firm size may affect AI companies’ exposure to technology transfer through non-cyber means. Niche firms largely reliant on Pentagon contracts might be more willing to prioritize their relationship with the U.S. government over engagement with foreign actors, for example, while multinational giants might struggle to avoid certain markets. On the other hand, smaller companies may be less sophisticated and more easily compromised when it comes to vetting potential collaborators, investors or acquirers for technology transfer risk. Smaller firms may also be more likely to leak confidential data.169 Further research should analyze these and other issues at the intersection of firm scale and technology transfer.

#### Other countries make authoritarian surveillance inevitable

Kendall-Taylor et. al 20. Andrea Kendall-Taylor. senior fellow and director of the Transatlantic Security Program at the Center for a New American Security, co-author of Democracies and Authoritarian Regimes; Erica Frantz is Assistant Professor of Political Science at Michigan State University; Joseph Wright is Professor of Political Science at Pennsylvania State University. “The Digital Dictators”. Mar/Apr 2020. Foreign Affairs. <https://www.foreignaffairs.com/articles/china/2020-02-06/digital-dictators>

Instead, aspiring dictatorships can purchase new technologies, train a small group of officials in how to use them—often with the support of external actors, such as China—and they are ready to go. For example, Huawei, a Chinese state-backed telecommunications firm, has deployed its digital surveillance technology in over a dozen authoritarian regimes. In 2019, reports surfaced that the Ugandan government was using it to hack the social media accounts and electronic communications of its political opponents. The vendors of such technologies don’t always reside in authoritarian countries. Israeli and Italian firms have also sold digital surveillance software to the Ugandan regime. Israeli companies have sold espionage and intelligence-gathering software to a number of authoritarian regimes across the world, including Angola, Bahrain, Kazakhstan, Mozambique, and Nicaragua. And U.S. firms have exported facial recognition technology to governments in Saudi Arabia and the United Arab Emirates.

#### Democracy is resilient, but it solves nothing.

Doorenspleet 19 Renske Doorenspleet, Politics Professor at the University of Warwick. [Rethinking the Value of Democracy: A Comparative Perspective, Palgrave Macmillan, p. 239-243]//BPS

The value of democracy has been taken for granted until recently, but this assumption seems to be under threat now more than ever before. As was explained in Chapter 1, democracy’s claim to be valuable does not rest on just one particular merit, and scholars tend to distinguish three different types of values (Sen 1999). This book focused on the instrumental value of democracy (and hence not on the intrinsic and constructive value), and investigated the value of democracy for peace (Chapters 3 and 4), control of corruption (Chapter 5) and economic development (Chapter 6). This study was based on a search of an enormous academic database for certain keywords,6 then pruned the thousands of articles down to a few hundred articles (see Appendix) which statistically analysed the connection between the democracy and the four expected outcomes. The frst fiding is that a reverse wave away from democracy has not happened (see Chapter 2). Not yet, at least. Democracy is not doing worse than before, at least not in comparative perspective. While it is true that there is a dramatic decline in democracy in some countries,7 a general trend downwards cannot yet be detected. It would be better to talk about ‘stagnation’, as not many dictatorships have democratized recently, while democracies have not yet collapsed. Another fnding is that the instrumental value of democracy is very questionable. The feld has been deeply polarized between researchers who endorse a link between democracy and positive outcomes, and those who reject this optimistic idea and instead emphasize the negative effects of democracy. There has been ‘no consensus’ in the quantitative literature on whether democracy has instrumental value which leads some beneficial general outcomes. Some scholars claim there is a consensus, but they only do so by ignoring a huge amount of literature which rejects their own point of view. After undertaking a large-scale analysis of carefully selected articles published on the topic (see Appendix), this book can conclude that the connections between democracy and expected benefts are not as strong as they seem. Hence, we should not overstate the links between the phenomena. The overall evidence is weak. Take the expected impact of democracy on peace for example. As Chapter 3 showed, the study of democracy and interstate war has been a fourishing theme in political science, particularly since the 1970s. However, there are four reasons why democracy does not cause peace between countries, and why the empirical support for the popular idea of democratic peace is quite weak. Most statistical studies have not found a strong correlation between democracy and interstate war at the dyadic level. They show that there are other—more powerful—explanations for war and peace, and even that the impact of democracy is a spurious one (caveat 1). Moreover, the theoretical foundation of the democratic peace hypothesis is weak, and the causal mechanisms are unclear (caveat 2). In addition, democracies are not necessarily more peaceful in general, and the evidence for the democratic peace hypothesis at the monadic level is inconclusive (caveat 3). Finally, the process of democratization is dangerous. Living in a democratizing country means living in a less peaceful country (caveat 4). With regard to peace between countries, we cannot defend the idea that democracy has instrumental value. Can the (instrumental) value of democracy be found in the prevention of civil war? Or is the evidence for the opposite idea more convincing, and does democracy have a ‘dark side’ which makes civil war more likely? The findings are confusing, which is exacerbated by the fact that different aspects of civil war (prevalence, onset, duration and severity) are mixed up in some civil war studies. Moreover, defining civil war is a delicate, politically sensitive issue. Determining whether there is a civil war in a particular country is incredibly diffcult, while measurements suffer from many weaknesses (caveat 1). Moreover, there is no linear link: civil wars are just as unlikely in democracies as in dictatorships (caveat 2). Civil war is most likely in times of political change. Democratization is a very unpredictable, dangerous process, increasing the chance of civil war

s ignificantly. Hybrid systems are at risk as well: the chance of civil war is much higher compared to other political systems (caveat 3). More specifcally, both the strength and type of political institutions matter when explaining civil war. However, the type of political system (e.g. democracy or dictatorship) is not the decisive factor at all (caveat 4). Finally, democracy has only limited explanatory power (caveat 5). Economic factors are far more significant than political factors (such as having a democratic system) when explaining the onset, duration and severity of civil war. To prevent civil war, it would make more sense to make poorer countries richer, instead of promoting democracy. Helping countries to democratize would even be a very dangerous idea, as countries with changing levels of democracy are most vulnerable, making civil wars most likely. It is true that there is evidence that the chance of civil war decreases when the extent of democracy increases considerably. The problem however is that most countries do not go through big political changes but through small changes instead; those small steps—away or towards more democracy—are dangerous. Not only is the onset of civil war likely under such circumstances, but civil wars also tend to be longer, and the confict is more cruel leading to more victims, destruction and killings (see Chapter 4). A more encouraging story can be told around the value for democracy to control corruption in a country (see Chapter 5). Fighting corruption has been high on the agenda of international organizations such as the World Bank and the IMF. Moreover, the theme of corruption has been studied thoroughly in many different academic disciplines—mainly in economics, but also in sociology, political science and law. Democracy has often been suggested as one of the remedies when fghting against high levels of continuous corruption. So far, the statistical evidence has strongly supported this idea. As Chapter 5 showed, dozens of studies with broad quantitative, cross-national and comparative research have found statistically signifcant associations between (less) democracy and (more) corruption. However, there are vast problems around conceptualization (caveat 1) and measurement (caveat 2) of ‘corruption’. Another caveat is that democratizing countries are the poorest performers with regard to controlling corruption (caveat 3). Moreover, it is not democracy in general, but particular political institutions which have an impact on the control of corruption; and a free press also helps a lot in order to limit corruptive practices in a country (caveat 4). In addition, democracies seem to be less affected by corruption than dictatorships, but at the same time, there is clear evidence that economic factors have more explanatory power (caveat 5). In conclusion, more democracy means less corruption, but we need to be modest (as other factors matter more) and cautious (as there are many caveats). The perceived impact of democracy on development has been highly contested as well (see Chapter 6). Some scholars argue that democratic systems have a positive impact, while others argue that high levels of democracy actually reduce the levels of economic growth and development. Particularly since the 1990s, statistical studies have focused on this debate, and the empirical evidence is clear: there is no direct impact of democracy on development. Hence, both approaches cannot be supported (see caveat 1). The indirect impact via other factors is also questionable (caveat 2). Moreover, there is too much variation in levels of economic growth and development among the dictatorial systems, and there are huge regional differences (caveat 3). Adopting a one-size-ftsall approach would not be wise at all. In addition, in order to increase development, it would be better to focus on alternative factors such as improving institutional quality and good governance (caveat 4). There is not suffcient evidence to state that democracy has instrumental value, at least not with regard to economic growth. However, future research needs to include broader concepts and measurements of development in their models, as so far studies have mainly focused on explaining cross-national differences in growth of GDP (caveat 5). Overall, the instrumental value of democracy is—at best—tentative, or—if being less mild—simply non-existent. Democracy is not necessarily better than any alternative form of government. With regard to many of the expected benefts—such as less war, less corruption and more economic development—democracy does deliver, but so do nondemocratic systems. High or low levels of democracy do not make a distinctive difference. Mid-range democracy levels do matter though. Hybrid systems can be associated with many negative outcomes, while this is also the case for democratizing countries. Moreover, other explanations—typically certain favourable economic factors in a country—are much more powerful to explain the expected benefts, at least compared to the single fact that a country is a democracy or not. The impact of democracy fades away in the powerful shadows of the economic factors.8

### Advantage 2

#### Market concentration can’t explain inequality or wage stagnation, and antitrust won’t solve.

Bivens et al. 18, \*PhD, director of research at the Economic Policy Institute; \*\*PhD, MA, distinguished fellow at EPI; \*\*\*PhD, MSc, EPI’s vice president. (Josh, Lawrence Mishel, and John Schmitt, 4-25-2018, "It’s not just monopoly and monopsony: How market power has affected American wages", *Economic Policy Institute*, https://www.epi.org/publication/its-not-just-monopoly-and-monopsony-how-market-power-has-affected-american-wages/)

This paper highlights some empirical findings from the new literature on the effect of labor and product market concentration on wages. We address three questions about market concentration that have not always been placed front and center in this literature. The first question is, “Does concentration adversely affect wages at a point in time?” The second question is, “Has concentration grown over time?” The third question is, “Can growing concentration by itself explain a significant portion of the change in wage trends in recent decades?” We find there is evidence to answer “yes” to the first and second questions but not the third. To be clear, the failure to answer affirmatively to the third question is not a criticism of these studies. The studies are not claiming that rising concentration alone can explain wage stagnation or inequality. Yet too many readers have taken these studies’ findings to this conclusion.

Finally, this paper makes two broader points about market power. First, market concentration is not the only source of power—particularly employer power—in markets. Second, even unchanged employer power (like that conferred by market concentration) can play a role in growing wage suppression and inequality if it is accompanied by a collapse of workers’ market power. The new literature on market concentration tells us a lot about employer power, but further exploration of what has happened to workers’ market power remains a key research agenda.

This paper highlights the need to tackle sluggish wage growth and rising inequality with a broad menu of policy interventions that go beyond those provided by competitive models to focus on employer and worker power, and even beyond the antitrust agenda suggested by focusing exclusively on market concentration.

Following are our key conclusions:

Labor market concentration is negatively correlated with wages, but the scope of its downward pressure on wages is limited.

New research shows that labor market concentration is negatively correlated with wages. However, the effect of labor market concentration is comparatively modest when scaled against what we consider the most significant wage trend in recent decades: the growing gap between typical (median) workers’ pay and productivity.

The new literature on market concentration has not yet provided concrete empirical estimates of a key labor market trend of recent decades—rising compensation inequality. This should be a priority for this research agenda in the future.

The new concentration literature does allow us to estimate the effect of market concentration on the share of overall income claimed by labor compensation. These estimates suggest that concentration has not risen enough, nor is its effect on labor’s share of income strong enough, to account by itself for an economically important share of the divergence between economywide productivity and the typical worker’s pay in recent decades.

The new research on labor market concentration implies that this concentration reduced wage growth by roughly 0.03 percent annually between 1979 and 2014, a decline that would explain about 3.5 percent of the total divergence between the median worker’s pay and economywide productivity over the same period.

One important study shows that the “average” labor market is “highly concentrated.” But differences between measures of concentration of the average labor market and the labor market experienced by the average worker have important implications for how to assess the impact of labor market concentration on long-term wage trends. In other words, many labor markets suffer from high degrees of concentration, but most people work in labor markets with only low-to-moderate degrees of concentration.

Nonetheless, labor market concentration is a particular challenge for rural areas and small cities and towns. This is an important finding for those looking to provide economic help to residents of those areas.

#### Dozens of alt causes to inequality---tech, globalization, immigration, decline of unions, stagnant minimum wage, corporate tax cuts

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Causes of Rising Inequality

In any capitalist society, some people will make more than others. The labor market determines what people earn, and at any given time, some skills will have more value than others. But that doesn’t explain why income inequality is higher in the U.S. than in most developed nations. It also doesn’t explain why it’s grown over recent decades.

Economists offer various reasons to explain the growing inequality in the U.S. Some have to do with how fast the rich get richer, while others explain why the poor are getting poorer.

Changes in Technology

Any new technology, such as the Internet, creates new jobs. But these new opportunities don’t benefit all workers equally. In a piece for the [Huffington Post](https://www.huffpost.com/entry/the-connection-between-ed_b_1066401), economist Steven Strauss argues that new technologies have driven up demand for highly skilled workers. They have much higher incomes and lower unemployment than unskilled workers.

But as we’ve seen, the rich tend to have more education than the poor. That means that in the new high-tech economy, lower-income workers are being left behind. According to Strauss, these workers have effectively spent the past 20 years in a recession that didn’t affect more educated workers.

The [COVID-19 pandemic](https://www.moneycrashers.com/covid-pandemic-change-society-economy/) accelerated this trend. The people most likely to be able to work from home — and therefore least likely to lose their jobs — were educated workers with high-skilled jobs. According to a 2020 paper from the [University of Chicago](https://bfi.uchicago.edu/wp-content/uploads/HurstBFI_WP_202058_Revision.pdf), the lowest-income workers had the highest job loss rates in the early months of the pandemic.

Advances in technology can also affect older industries. For example, in the U.S., automation has [cut the need for factory workers](https://news.mit.edu/2020/study-inks-automation-inequality-0506). Unfortunately, [manufacturing jobs](https://www.moneycrashers.com/create-keep-manufacturing-jobs-america/) are some of the [best jobs available for workers without a college education](https://www.moneycrashers.com/six-figure-income-jobs-without-having-a-degree/) or special training. According to a 2010 paper published in the journal [Research in Organizational Behavior](https://www.researchgate.net/publication/228658957_Corporations_and_Economic_Inequality_Around_the_World_The_Paradox_of_Hierarchy), the shift has forced many less-educated workers into service-sector jobs that don’t pay as well.

Put together, these two trends tend to help the rich (and educated) stay rich. They benefit more from the growth of new fields, and they suffer less from job losses in existing ones.

Globalization

Automation isn’t the only factor behind the decline of U.S. manufacturing. In some cases, companies have moved production overseas to take advantage of cheaper labor. At the same time, a flood of cheaper foreign-made goods has reduced the demand for [American-made products](https://www.moneycrashers.com/products-made-usa-american-made/).

Offshoring, or moving jobs overseas, isn’t just a problem in the manufacturing sector. In a 2009 paper published in the journal [World Economics](https://econpapers.repec.org/article/wejwldecn/376.htm), economist Alan Blinder estimated that between 22% and 29% of U.S. jobs were or soon would be “offshorable.”

Jobs Blinder described as highly offshorable include both skilled jobs like computer programming and unskilled ones like telemarketing. Because many of these jobs are in lower-paying fields, offshoring them would leave still fewer jobs for low-skilled workers.

While globalization can create problems for lower-income workers, it also opens new investment opportunities. But these benefits primarily go to the wealthy, widening the income gap still more.

A 2019 [McKinsey Global Institute](https://www.mckinsey.com/featured-insights/employment-and-growth/a-new-look-at-the-declining-labor-share-of-income-in-the-united-states#:~:text=Available%20studies%20suggest%20that%20the,the%20focus%20of%20our%20analysis.) paper measured this effect by looking at the labor share of income. That’s the percentage of a country’s income paid in wages. It finds the labor share of income has been falling in the global economy, suggesting workers benefit less and less from the economy’s gains.

Immigration

Some economists argue that competition for low-wage American jobs doesn’t just come from overseas. It can also come from new, low-skilled workers entering the U.S. from other countries.

But immigration isn’t one of the biggest factors driving income inequality. A 2009 paper by the [National Bureau of Economic Research](https://www.nber.org/papers/w14683) found that immigration could only account for around 5% of the rise in inequality from 1980 to 2000.

Superstar Effects

In recent decades, the world population has grown both bigger and wealthier. As a result, there’s a lot more benefit to being a superstar in a field like sports or music. With more people paying to go to games or concerts, the best athletes and musicians can rake in more money. This “superstar effect” distributes a lot of money to just a few lucky individuals.

The superstar effect applies to companies too. A 2018 [McKinsey Global Institute](https://www.mckinsey.com/featured-insights/innovation-and-growth/superstars-the-dynamics-of-firms-sectors-and-cities-leading-the-global-economy) paper found that superstar firms like Apple and Google are taking in a growing share of income in the global economy. The growth of these superstar companies makes it harder for smaller companies to compete. Thus, the rich firms — and their owners and shareholders — just keep getting richer.

Decline of Labor Unions

According to Inequality.org, during the period when the share of income going to the top 1% was smallest (about 1942 through 1985), [labor unions](https://www.moneycrashers.com/labor-unions-united-states/) were at their strongest. Unions tamp down inequality in a couple of ways. Besides driving up wages for their own workers, they often push for higher minimum wage laws so they don’t have to compete with ultra-cheap labor.

However, since the 1970s, unions in the U.S. have been in decline. Legal changes have helped bring about this decline. According to a [2013 EPI paper](https://www.epi.org/publication/attack-on-american-labor-standards/), 16 states passed laws to restrict workers’ bargaining rights between 2011 and 2012. More than half of U.S. states now have “right-to-work” laws banning employers from hiring union members exclusively.

As labor unions have declined in recent decades, inequality has risen. According to a 2009 paper published in the [American Sociological Review](https://scholar.harvard.edu/files/brucewestern/files/american_sociological_review-2011-western-513-37.pdf), the journal of the American Sociological Association, union membership fell by 60% to 75% between 1973 and 2007. Over the same period, inequality in hourly wages rose more than 40%. The researchers found that the decline of unions accounts for 25% to 33% of the rise in inequality.

A Stagnant Minimum Wage

The federal minimum wage hasn’t risen since 2009. During that time, [inflation](https://www.moneycrashers.com/protect-effects-inflation-loss-purchasing-power/) has cut the value of the dollar by about 20%. In other words, the purchasing power of that $7.25 hourly wage has fallen to about $5.82. That’s led to a widening gap between the median income and the bottom of the wage scale.

A 2016 paper published in the [American Economic Journal](http://economics.mit.edu/files/3279) refers to this gap between the low- and middle-income earners as “lower tail inequality.” It found that at least 30%, and possibly as much as 55%, of this kind of inequality is due to the declining value of the minimum wage.

Higher CEO Pay

Even as wages have fallen at the bottom, they’ve risen at the very top — especially in the financial sector. Skyrocketing pay and bonuses for executives and managers in this field have helped fuel the rise of the super-rich. A 2012 [EPI](https://www.epi.org/publication/ib331-ceo-pay-top-1-percent/) paper found that this factor accounts for about 58% of income growth for the top 1% and 67% for the top 0.1%.

So just how did executive salaries get so high? A 2021 paper by the [London School of Economics](http://eprints.lse.ac.uk/103809/) found that one big reason is the link between executive pay and share prices. Companies pay their executives with stock options and give them performance bonuses to give them an incentive to help the company succeed.

But according to stories from both [CNBC](https://www.cnbc.com/2016/03/14/should-ceo-pay-be-tied-to-share-price.html) and the [BBC](https://www.bbc.com/worklife/article/20210125-why-ceos-make-so-much-money), this practice doesn’t always work out well for companies. It drives executives to define “success” in terms of pumping up the company’s stock price in the short term, even if it causes problems down the road. The few people with stock options benefit, but the rank-and-file workers don’t.

Other Government Policies

Other government policies have also helped drive the rise in inequality. These include:

Tax Cuts. The 2017 [Tax Cuts and Jobs Act](https://www.moneycrashers.com/tax-reform-affect-taxes/) steered more income toward the richest Americans. For instance, it lowered the top [tax rate](https://www.moneycrashers.com/calculate-federal-income-tax-brackets-rate-tables/) and the tax on [capital gains](https://www.moneycrashers.com/capital-gains-vs-income-tax-rate/), which is paid mostly by the wealthy. Cuts in 2001 and 2003 also provided a greater dollar benefit to those with higher incomes, according to the [Tax Foundation](https://taxfoundation.org/who-benefited-most-bush-tax-cuts/).

Deregulation. Since the 1970s, Congress has cut back regulations on many industries. Airlines, railroads, interstate bus lines, trucking, utilities, and telecoms were all opened up to wider competition. According to the [EPI](https://files.epi.org/charts/wage-inequality-a-story-of-policy-choices.pdf), this move reduced profits, leading firms to cut back costs. Blue-collar workers in all these industries saw their wages fall.

Weaker Labor Standards. A 2013 [EPI](https://www.epi.org/publication/attack-on-american-labor-standards/) paper outlines how state legislatures weakened labor standards across the U.S. between 2011 and 2012. Various states stripped workers’ rights to overtime pay and sick leave and made it harder to sue employers for unpaid wages. All this contributed to falling incomes for the working class.

A Thinner Social Safety Net. The [EPI](https://files.epi.org/charts/wage-inequality-a-story-of-policy-choices.pdf) notes that the U.S. and states have cut down on various forms of [government aid](https://www.moneycrashers.com/get-emergency-financial-assistance-help-bills/). Access to unemployment insurance grew tighter, and the duration of benefits grew shorter. It also became harder for the unemployed to turn down jobs that paid much less than their previous jobs. At the same time, cuts in welfare programs made it harder for low-income families to make ends meet.

#### Impact is wrong---studies.

Drezner 14, IR prof at Tufts. (Daniel, January 2014, “The System Worked: Global Economic Governance during the Great Recession, World Politics”, Volume 66. Number 1; pp. 123-164)

The final significant outcome addresses a dog that hasn't barked: the effect of the Great Recession on cross-border conflict and violence. During the initial stages of the crisis, multiple analysts asserted that the financial crisis would lead states to increase their use of force as a tool for staying in power.42 They voiced genuine concern that the global economic downturn would lead to an increase in conflict—whether through greater internal repression, diversionary wars, arms races, or a ratcheting up of great power conflict. Violence in the Middle East, border disputes in the South China Sea, and even the disruptions of the Occupy movement fueled impressions of a surge in global public disorder. The aggregate data suggest otherwise, however. The Institute for Economics and Peace has concluded that "the average level of peacefulness in 2012 is approximately the same as it was in 2007."43 Interstate violence in particular has declined since the start of the financial crisis, as have military expenditures in most sampled countries. Other studies confirm that the Great Recession has not triggered any increase in violent conflict, as Lotta Themner and Peter Wallensteen conclude: "[T]he pattern is one of relative stability when we consider the trend for the past five years."44 The secular decline in violence that started with the end of the Cold War has not been reversed. Rogers Brubaker observes that "the crisis has not to date generated the surge in protectionist nationalism or ethnic exclusion that might have been expected."43

# 2NC

## Advantage 1

### 2NC---Overview

#### Turns China war

Hugh White 10, professor of strategic studies at Australian National University, Canberra, and visiting fellow at the Lowy Institute of International Policy in Sydney, has served as a senior Defense official in the Australian government, September 2010, “Australia's future between Washington and Beijing,” Quarterly Essay, No. 39, p. 36

Those shrugs express America's third option: escalating competition with China. As China grows, America faces a choice of Euclidian clarity. If it will not withdraw from Asia, and if it will not share power with China, America must contest China's challenge to its leadership. That choice carries great costs--much greater, I think, than most Americans yet realise. Those costs would be justified if China tried to misuse its power to subjugate Asia. There is a risk, however, that America will slide into conflict with China, not to prevent Chinese hegemony but to preserve its own. Would it be worth making an adversary of China to avoid surrendering primacy and joining a Concert of Asia? If questions like this are soberly examined, the answer is almost certainly no, but sober examination is hard to arrange when one country challenges another. Emotions become engaged, and antagonism becomes the default setting.

The optimists push back against this gloom, arguing that Washington and Beijing both understand that their relationship is too important to both of them to allow strategic issues to upset it. As we have noted, economic interdependence does provide a huge incentive to keep the relationship positive and stable. But powerful forces push the other way, and America's hard choice between withdrawing from Asia, sharing power or competing with China must still be faced. The economic incentives will shape this choice, but not make it any easier. Economics will push both sides towards a power-sharing deal of some sort, but they will both still have to make big political sacrifices to get there. It is far from clear that they will make those sacrifices, especially if--in America's case, particularly--they do not yet clearly realise why they are worth making. The US risks drifting into strategic rivalry against China without weighing the costs.

What are those costs? What would rivalry between the US and China mean? We cannot be sure precisely, but some things are clear. China is already too powerful to be contained without intense and protracted pressure from America. That means committing more forces to Asia, an intensifying nuclear confrontation and building a bigger, more intense anti-China alliance in the region. Even if America does all this, China is unlikely simply to succumb. It would mount a determined and sustained resistance. The resulting antagonism could soon develop its own momentum, as each country reacted to the other. Military capabilities on both sides would grow quickly. Competition for influence and military bases in third countries would intensify, and it would be harder and harder for other countries to avoid taking sides. Asia would again face the prospect of a deep division between camps aligned with one or other of the two strongest powers. The conflict between these camps would inhibit trade, investment and travel, with immense economic costs. And there would be a real and growing risk of major war--even nuclear war--between them.

All of this sounds rather gloomy and surprising, because we do not have recent experience of serious strategic competition between really strong states. We have to go back to the last century for examples of how it might develop--the Cold War confrontation between the US and the Soviet Union, the European maelstroms of the first half of the twentieth century, or Asia's wars up until the 1970s. It would be wrong to assume that any increase in tension must lead to this kind of disaster, but it would be equally wrong to assume that Asia could never get that bad again. Any conflict between the US and China has a real chance of going nuclear. Nuclear war between the US and China would not be as bad as the holocaust we feared in the Cold War, but it could still quickly become the most deadly war in history. The stakes in Asia are very high indeed.

#### Multiplexity fills-in and solves their offense.

Acharya 17—UNESCO Chair in Transnational Challenges and Governance and Distinguished Professor of International Relations at the School of International Service, American University [Amitav, Fall 2017, “After Liberal Hegemony: The Advent of a Multiplex World Order,” Ethics & International Affairs, Volume 31, Issue 3, pgs 271-285]

Many pundits see the emerging world order as a return to multipolarity, but this is misleading. There are at least five major differences between prewar multipolarity and the emerging twenty-first-century world order. First, prewar multipolarity was largely a world of empires and colonies. The primary actors in world politics were the great powers, and those were mainly European, though the United States and Japan joined the club in the latter part of the nineteenth century. In contrast, the contemporary world is marked by a multiplicity of actors that matter. These are not only great powers, and not even just states, but also international and regional institutions, corporations, transnational nongovernmental organizations, social movements, transnational criminal and terrorist groups, and so on. Second, the nature of economic interdependence today is denser, consisting of trade, finance, and global production networks and supply chains, whereas prewar multipolarity was mainly trade-based. Third, contemporary economic interdependence is more global compared to that in the nineteenth century, when it was mostly intra-European, with the rest of the world in a situation of dependence on the European empires. Fourth, there is far greater density of relatively durable international and regional institutions today, whereas pre–World War I Europe had only one—the defunct European Concert of Powers—and the interwar period only had the short-lived and failed League of Nations. Fifth, challenges to order and stability have become more complex. The traditional challenge to world order, interstate conflict, has declined steadily since World War II and now stands at a negligible level. Meanwhile, intrastate conflicts and transnational challenges have grown considerably. Arguably, the biggest threat to the national security of many countries today comes not from another state but from a terrorist network. Moreover, issues such as climate change, human trafficking, drugs, and pandemics do not respect national boundaries and are magnified by interdependence and globalization, further complicating the mosaic of security challenges facing the twenty-first-century world. The emerging world order is thus not a multipolar world, but a multiplex world. 18 It is a world of multiple modernities, where Western liberal modernity (and its preferred pathways to economic development and governance) is only a part of what is on offer. A multiplex world is like a multiplex cinema—one that gives its audience a choice of various movies, actors, directors, and plots all under the same roof. Trump and Brexit have shown that there are serious variations and differences in the script of world order even within the West—not just between the West and the rest, as is commonly assumed. At the same time, a multiplex world is a world of interconnectedness and interdependence. It is not a singular global order, liberal or otherwise, but a complex of crosscutting, if not competing, international orders and globalisms. A multiplex world is not defined by the hegemony of any single nation or idea. This does not necessarily mean the United States is in decline—this is still arguable. But it does mean that the United States is no longer in a position to create the rules and dominate the institutions of global governance and world order in the manner it had for much of the post–World War II period. And while elements of the old liberal order will survive, they will have to accommodate new actors and approaches that do not bend to America's commands and preferences. Crosscutting Globalisms, Not Liberal Hegemony It is wrong to say that globalization is over. Instead, in a multiplex world it will take, and is already taking, a different form. Globalization may become less driven by trade and more by developmental concerns. This might give more space to the initiatives of the emerging powers, which tend to focus more on infrastructure than on free trade. Thus, the new globalization could well be led less by the West and more by the East, especially China and India, as it had been for a thousand years before European colonialism. On its own, China may not be able to lead globalization outright, but it has the potential to reshape it with initiatives like the One Belt, One Road strategy and the AIIB. Moreover, the new globalization will be anchored more by South-South linkages rather than North-South ones. This is already happening: According to the United Nations Development Programme, the South has increased its share of global output from one third in 1990 to almost a half today, and it has increased its share of world merchandise trade from 25 percent in 1980 to 47 percent in 2010. 19 And South-South trade jumped from less than 8 percent of world merchandise trade in 1980 to about 25 percent in 2014. 20 According to the United Nations Conference on Trade and Development, South-South flows in foreign direct investment now constitute over a third of global flows. 21 These trends could reshape globalization. Due to the prominence of China and other emerging powers, the new globalization might also be more respectful of sovereignty, especially compared to the Western-led globalization during the nineteenth and twentieth centuries, which has been associated with colonialism and direct and indirect military intervention to secure Western economic and strategic interests (a long list of examples would include the Suez and numerous interventions in Latin America). This is not to say that emerging powers do not use force or violate sovereignty. With its growing overseas investments, China will be tempted to abandon its professed policy of noninterference and to use force or coercion in support of its economic and strategic goals. But in line with the outlooks of the emerging powers, the new globalization is likely to be more economic and less political or ideological (especially compared to the West's promotion of democracy and human rights). G-Plus, Not G-Zero, Governance Many of Trump's stated policy positions suggest a nationalist, inward-looking U.S. foreign policy. His policies on trade and security are undermining global institutions, such as the World Trade Organization and the United Nations, and disrupting climate change negotiations. In many ways, this may push the system of global governance to be even less U.S.- and Western-centric. But here, too, as noted earlier, the post-war architecture of global governance was already moving in that direction. Global governance has already begun accommodating the growing roles of private bodies (corporations, foundations, etc.), civil society groups, and regional arrangements, thus reducing the position of formal intergovernmental organizations. And the emerging powers have already been clamoring for a greater voice and leadership in existing institutions while also creating new global and regional mechanisms, such as the BRICS-initiated New Development Bank and Contingent Reserve Arrangement (a financial mechanism), the AIIB, China's OBOR and its Conference on Interaction and Confidence-Building Measures in Asia mechanism, and India's own plans for infrastructure development in South Asia, to name a few. And while the demand for global governance will remain, the architecture will continue to fragment and decenter, confirming the onset of the multiplex world. The maintenance of world order depends on regional orders. As Henry Kissinger argues, “The contemporary quest for world order will require a coherent strategy to establish a concept of order within the various regions and to relate these regional orders to one another.” 22 Yet developing such inclusive, open regional orders is a critical challenge. This would require creating new regional mechanisms and supporting those that already exist but are constrained by a lack of resources. While some liberal thinkers see regionalism (not including the European Union) as a threat to world order, there are many regional initiatives that, if recognized and strengthened, could actually support world order. For example, ASEAN + 3's Chiang Mai initiative on finance has allowed those countries to better cope with short-term liquidity problems, supplementing the existing capacity of the International Monetary Fund. 23 As another example, though the Obama administration feared the Chinese-inspired AIIB would be a competitor to the World Bank, its structure and rules mimic those of established multilateral institutions, and its management includes persons from Western countries. Thus, it is more likely to complement rather than compete with the World Bank or Asian Development Bank. In a fragmented and pluralistic world, exploring local and regional initiatives in diverse issue areas that complement older but fragmenting global institutions could be one of the most promising way to build world order in the twenty-first century. A multiplex world will not be free from disorder, but it is also not necessarily doomed to be what Ian Bremmer and Nouriel Roubini call a G-Zero World—“one in which no single country or bloc of countries has the political and economic leverage—or the will—to drive a truly international agenda” 24 —simply because of the loss of a predominant U.S. leadership role. Leadership-sharing between the Western powers and the emerging powers is more attainable than (hard) power-sharing. A world less dependent on U.S. leadership—but without a complete U.S. retreat into isolationism—will still find ways to cooperate. It will still come together in crisis, as happened at the G-20 summit after the 2008 global financial crisis, or to combat common perils, as happened with the 2015 Paris Agreement on climate change. 25 The latter was made possible not because of proactive U.S. leadership but because of common understanding among the Western nations, the emerging powers (led by China), and civil society groups. Importantly, the agreement avoided the traditional Western legalistic sanction-based approach in favor of a softer, voluntaristic approach that is characteristic of the Association of Southeast Asian Nations. A multiplex world is a G-Plus world, featuring established and emerging powers, global and regional institutions and actors, states, social movements, corporations, private foundations, and various kinds of partnerships among them. The Stability of a Multiplex World There are several things that should be kept in mind by the international community in general and the Western nations in particular to help manage the transition to a multiplex world. First, stop pining for the return of liberal hegemony, by which I mean the post–World War II world order created and dominated by the United States and centered around Western interests, values, and institutions. That order might have delivered much good (as well as lots of bad) to the world, and some of its institutions (such as the UN system) will continue, but the particular historical circumstances behind the rise of liberal hegemony are gone. The global power shift is for real and here to stay. Second, unless and until the Trump administration radically changes course or is replaced, prepare to live without significant U.S. support for multilateralism. Under Trump, this support might come selectively and sparingly, but its absence should not deter international cooperation if other major players participate or offer support. Third, the end of U.S. hegemony does not equal the “return of anarchy,” if anarchy implies the end of global cooperation, as some worry. 26 Progress in global governance was never linear to start with, nor was there ever any consensus that global governance is a good thing. Demand for global governance has and will continue to be varied depending on the issue area. Such demand is driven by a mix of strategic, functional, and normative motives as well as a domestic political calculus. 27 While the normative and domestic motivations may be declining among Western states, the functional and strategic motivations might yet drive demand for global governance in several areas, including climate change and transnational security.

#### Turns coop. Voluntarily ceding power causes a shift to good governance – pursuing heg destroys the international system

Pampinella 19 Stephen Pampinella, Assistant Professor of Political Science and International Relations at the State University of New York (SUNY) at New Paltz. Conducts research on the practice of diplomacy in the Ecuadorian Foreign Ministry in Quito, Ecuador, 1-23-2019 "The Internationalist Disposition and US Grand Strategy;" Disorder of Things, <https://thedisorderofthings.com/2019/01/23/the-internationalist-disposition-and-us-grand-strategy/> - BS

I think there is a strategy consistent with the international disposition: great power concert. A concert strategy requires that all great powers pursue mutual accommodation and recognize each other’s interests as part of a larger commitment to maintain international stability. Patrick Porter and Amitav Acharya argue that a great power concert strategy is the best suited to adapt to the transfer of wealth and power to Asia along with the “multiplex” nature of world politics (not to mention a global perspective on international relations). The emergence of a diverse range of state and non-state actors bound together by extreme interdependence makes it impossible for any one actor, such as the United States, to establish rules for global governance which can mobilize all others. On this basis, a concert strategy would lead the United States to collaborate with others on the basis of mutual co-existence and embrace joint decision-making at the global level for coping with macrostructural processes that threaten all peoples around the world. In this way, a concert strategy is firmly grounded the international disposition and can serve as the realization of progressive internationalism. Security and The Balance of Power A concert strategy can do what establishment foreign policy cannot, namely de-escalate great power competition by giving up US hegemony. If adopted, the United States would treat other great powers, like Russia, China, and Iran, as equal partners in the maintenance of global stability and incorporate their interests into regional security agreements. The United States would give up its self-assumed role as an unrivaled global hegemon and seek a balance of power based on mutual respect with other great powers as partners rather than enemies. This kind of international posture would result in a more horizontal great power system, one that Stacie Goddard as identified as being productive of status quo rather than revisionist intentions. It would be compatible with recognition of the great power identities of other states and provide them with ontological security. Transitioning from a hegemonic security strategy to a balance of power one will require that the United States engage in some degree of retrenchment from its already expansive commitments. But supporters of hegemony are wrong when they claim that retrenchment will encourage great power aggression and lead to the abandonment of our allies. The United States can engage in moderate forms of retrenchment consistent with great power recognition while still maintaining commitments to allies that strive to uphold human dignity. For example, were the United States to support a moratorium on NATO expansion, as Michael O’Hanlon suggests, it would signal that the United States is no longer interested in moving the frontiers of its influence to the gates of Moscow and remove the sense of threat experienced by Russian leaders. By recognizing the validity of Russian security interests as well as its great power identity, the equal relationship made possible by a concert strategy will better deal with the threat of interstate conflict compared to US hegemony. Reviving Global Governance A concert strategy informed by the internationalist disposition can further enable more robust forms of global governance. Rather than attempt international cooperation based on a priori liberal normative templates, the United States would accept the validity of all claims made by collective actors in world politics in an open-ended and inclusive process of deliberation. The result would be less of a hegemonic order and more of a constitutionalist one, in which the United States binds itself to a truly democratic process of decision-making at the global level. The emergence of global governance norms would be a function less of hegemonic socialization and more of a right held by all actors to contest the validity of standards of expected behavior. In other words, a concert strategy would enable the United States to accept processes of norm contestation as the motor of transnational cooperation and generate more legitimate rules for regulating global governance. It would expand the US order building project initially identified by Ikenberry on the basis of restraint and institutional self-binding, but without retaining its own hierarchical position in world politics or engaging in hypocritical forms of dominance. The implications for economic governance are profound: the United States would no longer exclude from consideration the notion of social democratic regulation of global capitalism and instead promote non-capitalist perspectives on the economy. Todd Tucker provides one great example of this approach when he argues that ISDS arbitration should include labor leaders and social justice advocates rather than international lawyers chosen by multinational firms which initiate legal action against sovereign states. It would also enable the United States to seriously consider Piketty’s call for a global wealth tax, Palley and Chow’s call for minimum wage floors, and a binding multilateral treaty that regulates global business activities on the basis of human rights. And finally, it would enable the drastic shift away from fossil fuels necessary to avoid climate apocalypse. In Search of a Global Public Naysayers might argue that all this degree of international cooperation sounds idealist, but all are possible in a context of declining great power competition. Once the United States recognizes the equal membership of all others in world politics on the basis of our extreme interdependencies, it can make possible what Mitzen has referred to as collective intentionality, or the emergence of a plural subject composed of several individuals who make and uphold joint commitments to each other and demand adherence as members of a global public. This kind of action is what the internationalist disposition can help us conceptualize, and even realize, through a concert strategy. If progressive internationalists want to realize their objectives, they should be willing to turn away from the US establishment and embrace a concert strategy. By prioritizing cooperation on non-state issues and resolving great power competition through equal recognition, they can realize security for their own citizens as well as others. However, IR constructivists remind us that no foreign policy can be enacted by policymakers without a legitimating national security narrative. Progressive internationalists must continue to develop a new story about the United States that rationalizes a concert strategy and renders US national identity compatible with the pluralism we find in both world politics and US domestic politics. To develop this narrative, progressive internationalists should engage radical critiques of democracy, like those offered by Chantal Mouffe, which seek maximal inclusion of others and accept difference and conflict as irreducible elements of political life. A pluralist strategic narrative can thereby serve as the basis for mutual respect of others and enable the democratization of world politics.

#### Turns populism. Pursuing heg causes illiberal populism---financial strain, xenophobia, and welfare cuts.

Blagden & Porter 21, \*David, Senior Lecturer in International Security at the University of Exeter, \*\*Patrick, Professor of International Security and Strategy at the University of Birmingham. (2-21-2021, “Desert Shield of the Republic? A Realist Case for Abandoning the Middle East”, *Security Studies*, DOI: 10.1080/09636412.2021.1885727, pg. 33-37) \*typo corrected---brackets

Embroilment in the Middle East damages America’s republic, its institutions, and the wider health of its civic life. More than Europe or Asia, the pursuit of Middle Eastern hegemony in its current condition, which shows no sign of easing, damages democracy at home. Not only is the region volatile, violently contested, and difficult to stabilize. It is also where the interests of the superpower and its clients are most misaligned.

America’s wars in the Middle East contribute to the coarsening and corruption of its public life and politics. While division and disagreement are inherent to democracy, some forms of polarization threaten a republic’s survival, if political actors reject mutual tolerance and their opponents’ legitimacy. Two decades of conflict in the name of combating global terrorism and defeating alien enemies accentuated the rise of an unhealthy, xenophobic, and paranoid populism. By “populism,” we mean specifically a politics that is not only critical of elites, but a politics that is an antipluralist, authoritarian form of identitarian division, pitting a virtuous people against illegitimate “non-people,” outsiders and elites, propagating a violent intolerance.106

In particular, embroilment in disappointing wars in the Middle East contributed to Trump’s election to the presidency. Active-duty personnel [were] was twice as likely to choose Trump over Hillary Clinton. And as a recent study found, based on regression that controlled for alternative explanatory variables, there is “a significant and meaningful relationship between a community’s rate of military sacrifice and its support for Trump … if three states key to Trump’s victory—Pennsylvania, Michigan, and Wisconsin— had suffered even a modestly lower casualty rate, all three could have flipped from red to blue and sent Hillary Clinton to the White House.” 107 Other studies, likewise, suggest a causal linkage between rates of military sacrifice and voting behavior.108 Military communities represent important votes in the electoral college, in Sunbelt states such as South Carolina and Florida, and in Rust Belt states suffering deindustrialization such as Ohio and Pennsylvania. An aggrieved constituency of military veterans and their families and friends has formed, after bearing the brunt of America’s wars. Two-thirds of Iraq and Afghanistan veterans now say the wars were not worth fighting.109 Military suicides average 20 per day, higher than the general population rate.110 The linkage is further suggested by the migration of significant amounts of military donations to Senator Bernie Sanders’s election campaigns, Sanders having denounced Trump for breaking his word about ending perpetual wars.111 There remains a constituency open to the appeal of candidates denouncing the failure of US hegemony and its wars in the Middle East, a constituency that could again support Trumpian-style populism, or perhaps something more destructive.112 Indeed, after the insurrection in Washington, D.C., in January 2021, veterans appear to have been overrepresented among the violent mob that sacked the Capitol building, with almost one in five of those prosecuted having served in the military.113 Of course, most veterans do not express dissatisfaction with the existing order in this way, and those among the mob may have had motives other than disaffection with intractable warfare, but the dangers are apparent.

Most realists look at this with regret. For those concerned that continuous war threatens the republic, Trump’s rise was a bad thing, because he is authoritarian114 and thus inimical to republican traditions that look to prevent excessive concentrations of power, and because he (and his administration) have been corrupt. According to Transparency International’s 2018 Corruption Perceptions Index, the United States under Trump’s presidency fell six places from 2017, reflecting the “erosion of ethical norms at the highest levels of power.” 115 The Trump administration’s corrupt practices include the selling of diplomatic posts, attacks on the freedom of the press (for instance, revoking the press credentials of inquisitive reporters), family profiteering on the state, and coercing Ukraine to investigate domestic political opponents by withholding military aid.

Some caveats are in order. First, the wars since 2001 and Trump’s opposition to liberal hegemony were not the only cause of his political ascent. Nonetheless, registered Trump voters ranked foreign policy high among their priorities, suggesting his broader message—of putting America first, ending other countries’ free-riding at its expense, and that a self-serving establishment had failed the country by involving it in endless war—resonated.116 Neither did the problem begin with him and his “America First” movement. Trump was a symptom and a result of an increasingly damaged public life, while also embodying and exploiting a political revolt against it. And regular military campaigns are not a necessary condition for these problems: states can fall prey to harmful populism without continuous war, just as someone can develop lung cancer without regularly smoking. But just as smoking’s correlation with lung cancer reflects a demonstrated causal relationship, so too is there a causal link between continuous war and a state’s political condition. It would be naive, of course, to argue that simply abandoning one region would swiftly cure all ills of Western domestic politics. But it would be a valuable exorcism of one of the most corrupting influences—not least because, although Trump himself may have lost the 2020’s presidential election to a restorationist candidate (Joe Biden), some variant of Trumpism looks set to remain a potent force in US politics for the foreseeable future.

Primacy realists, like liberal hawks, are strangely inattentive to the domestic, constitutional, and civic impact of hegemony on American life. Primacists who advocate more primacy, with increased defense spending purchased through reductions in collective provision (such as welfare entitlements and social security), betray a perverse attitude to means and ends. US hegemony and power projection become the end rather than the means to protecting US security interests and safeguarding a healthy civic life. The consensus among security experts in Washington is to assume only a state of preponderance over all rivals will suffice.117 They assume the problem lies in Washington’s failure to apply enough power efficiently enough. The 2018 National Defense Strategy Commission report, produced by a congressionally appointed bipartisan committee of national security experts, is a case in point. It takes dominance as America’s obvious national interest. It complains that as rivals challenge American power, US military superiority and its capacity to wage concurrent wars have eroded because of reduced defense expenditure, and advises that Washington spend yet more on military forces while further cutting entitlements.118 On this logic, a defense budget already ten times the size of Russia’s and four times the size of China’s cannot be enough, for US grand strategy must go beyond defense and deterrence to the achievement of unchallengeable strength. That the pursuit of dominance could be the source of the problem, not the answer, is under-considered.

America’s recent and current posture toward the region, and its particular mode of war-making, has led to deficit-financed, capital-intensive, and protracted wars. In turn, this results in concentrations of power at odds with the founding principles of the Constitution. It damages the authority of Congress, which has helped marginalize itself in foreign affairs policymaking and in checking the exertions of the executive branch. A state of near-permanent war became institutionalized. The Patriot Act wrought an era of secret sites, extraordinary rendition and torture, extrajudicial assassinations on an industrial scale, and involvement in the aggression of client states, without the influence such involvement was supposed to generate. The apparatus of unaccountable, secretive powers stretched also to “national security letters,” exorbitant instruments of state power whereby the federal authorities can audit and investigate an individual while prohibiting them from seeking counsel or informing anyone.

This era of institutionalized war, with military activity of varying intensity across eighty countries, has also exacerbated inequality and social strain.119 The wars since 2001 were “credit card” wars, financed by borrowing, and fought by a volunteer military. This financing helped to secure political acquiescence by shifting immediate burdens away from most citizens.120 Consequences for the population still flowed. Wealthy individuals and institutions were able to enrich themselves by purchasing bonds, while all others must take on the fiscal burden of repaying the (increasingly vast) debt. Indirect taxes also are regressive, as increased sales, value-added, excise, and customs taxes fall more on low and middle-income households, for whom spending is a larger share of disposable income, just as various forms of inflation—another means of debt-servicing—most negatively affect that same demographic. The wars of the “market state,” which deploy grandiose rhetoric but impose burdens so inequitably, helped to entrench the oligarchic concentrations of wealth from which American civic life now suffers. Of course, America’s domestic political choice of a regressive taxation model is hardly the fault of its MENA allies. But the era of “forever war” centered on the greater Middle East, and the vast defense expenditure to which it contributes, explains a lot about why such taxes must be used so extensively while delivering so few domestic services to those who pay them. Furthermore, insofar as the United States has had to sell ever more debt abroad, facilitating the economic model (and associated industrialization strides) of a developing power such as China,121 this cycle of war and debt has contributed to both the rise of a US peer competitor and the decline of Western manufacturing. That, in turn, has eroded American working-class living standards, which is both a negative outcome on its own terms and a contributor to rising political polarization, populism, and strategic atrophy.

### Internal Link---Heg Multilateralism

#### Attempting to revive heg dooms transnational efforts needed to address existential risks.

Pampinella 19, Assistant Professor of Political Science and International Relations at the State University of New York (SUNY) at New Paltz. (Stephen, 1-23-2019, "The Internationalist Disposition and US Grand Strategy", *Disorder of Things*, <https://thedisorderofthings.com/2019/01/23/the-internationalist-disposition-and-us-grand-strategy/>)

Finally, attempts to revive US hegemony will doom transnational efforts to deal with existential non-state threats. Hegemonists like Thomas Wright argue that Russia and China are the greatest threat to the United States, and that Washington should never make concessions to either power as a means of ensuring cooperation on issues of global governance. However, “ring-fencing” global capitalism and climate change as separate issues will fail to achieve the necessary level of cooperation to cope with these threats. National security policymakers cannot recognize that the greatest dangers faced by US citizens are non-state economic and ecological global processes that shape domestic politics from the inside-out, and not rival sovereigns. Economic destitution to the point of embracing fascist dictators coupled with environmental collapse are near-certain non-state threats which transcend our boundaries – in fact, as a global power, the United States has been complicit in creating them.

The internationalist disposition would suggest that the priorities of US foreign policy must change. Regulating global processes should be the primary objective, and it requires that the United States pursue intense macro-levels of cooperation with all other states, including its rivals, to achieve them. Yet it will be unlikely to do so if it remains wedded to liberal hegemony and consumed by great power competition. Short-term incentives to accumulate resources and power will override the long-term need for global governance. The result will be a world whose people live in precarity, ravaged by climate change, and constantly on the verge of great power war.

#### And, unipolarity undermines i-law.

Glaser 19, Director of foreign policy studies at the Cato Institute. Master of Arts in International Security at the Schar School of Policy and Government at George Mason University. (John, 3-15-2019, "The Amnesia of the U.S. Foreign Policy Establishment", *Cato Institute*, https://www.cato.org/publications/commentary/amnesia-us-foreign-policy-establishment)

This prohibition against war is not some trivial aspiration. Non-intervention is the centerpiece of international law and the United Nations has repeatedly sought to underline its significance. In 1965, the General Assembly declared “No state or group of states has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any state.” Again in 1970, it unanimously reaffirmed the illegality of “armed intervention and all other forms of interference or attempted threats.” In 1981, the General Assembly further specified that the Charter’s “principle of non-intervention and non-interference” prohibited “any … form of intervention and interference, overt or covert, directed at another State or group of States, or any act of military, political or economic interference in the internal affairs of another State.”

The United States is currently engaged in active military hostilities in at least seven countries, namely Afghanistan, Iraq, Syria, Yemen, Somalia, Libya, and Niger. That tally doesn’t include drone strikes in Pakistan, combat operations in Kenya, Cameroon, and Central African Republic, or other interventions of unknown magnitude. The true number might be closer to 14 countries. The White House is also explicitly threatening U.S. military action to change the regime in Venezuela and against Iran for a host of spurious reasons. Not one of these cases meets the prerequisites for legal military intervention (a plausible self-defense case can be made for the war in Afghanistan, but it expired a long time ago).

No other state in the international system uses force more than the U.S. has. Throughout the Cold War, the United States used military means to interfere in other countries about twice as often as did the Soviet Union. This doesn’t include interventions below the threshold of military action: from 1946 to 2000, Washington meddled in foreign elections more than 80 times (compared to 36 by the Soviet Union or Russia over the same period). Covert operations to overthrow democratically elected governments, as in Iran, Guatemala, and Chile, were a staple of U.S. conduct in this period, and according to the Rand Corporation, “the number and scale of U.S. military interventions rose rapidly in the aftermath of the Cold War.” The Congressional Research Service lists more than 200 individual U.S. military interventions from 1989 to 2018, a rate that no other country even comes close to matching.

It’s hard for America to act as the guarantor of a rules-based order that it consistently violates. When President Obama condemned Russia’s annexation of Crimea in 2014, saying international law prohibits redrawing territorial borders “at the barrel of a gun,” it was somewhat awkward: The United States did exactly that in the 1999 Kosovo war, which lacked Security Council approval, and successive administrations have similarly supported Israel as it annexes and occupies territory in violation of international law. Secretary of State John Kerry castigated Russia’s territorial grab this way: “You just don’t in the 21st century behave in 19th century fashion by invading another country on completely trumped up pretext.” As it happens, that’s a rather apt description of the Bush administration’s brazenly illegal invasion of Iraq in 2003.

Washington often appeals to international law to justify military action against despots who commit atrocities, as it did when it secured UN Security Council approval in 2011 to bomb Libya. But even there, when the initial use of force was authorized, the Obama administration rapidly exceeded the mandate of the resolution by pursuing what amounted to a regime-change strategy. And such appeals to humanitarianism are highly selective: U.S. military power has also been used to assist Saudi Arabia, one of the world’s most regressive authoritarian regimes, commit war crimes and keep an impoverished and largely defenseless population in Yemen under siege.

America’s delinquency isn’t restricted to the use of force. Though 139 other countries have done so, Washington has refused to sign on to the Rome Statute, which established the International Criminal Court. And although the United States has badgered China for violating the UN Convention on the Law of the Sea, which defines maritime rights and responsibilities, the U.S. refuses to ratify the treaty itself. For all the talk of China’s unfair trade practices, the only country that receives more formal complaints about WTO violations than China is the United States—and China does a better job of complying once complaints are made.

The political establishment in Washington has always accepted this unique role for the United States. We’re the policeman of the world. We enforce the rules and therefore assert the right to violate them, even as we (often violently) deny others that same prerogative.

Any claim to special privileges rests to some extent on whether the international community sees it as legitimate. The problem is that America’s increasing disregard for the rules has undermined its legitimacy and that of the order itself: More than any other single nation, its actions determine the basis of international norms. As U.S. foreign policy becomes more transparently lawless, the power of international law to constrain state behavior weakens accordingly. To legitimize the Russian annexation of Crimea, President Vladimir Putin actually cited the “Kosovo precedent.” In 2016, Chinese officials dismissed U.S. criticisms of Beijing’s human rights record by citing the “notorious…prison abuse at Guantanamo.” The United States, Chinese diplomat Fu Cong told the UN Council on Human Rights, “conducts large-scale extra-territorial eavesdropping, uses drones to attack other countries’ innocent civilians, its troops on foreign soil commit rape and murder of local people. It conducts kidnapping overseas and uses black prisons.” And when American officials lambaste Iran for backing the Syrian regime of Bashar al-Assad despite his use of chemical weapons, Iranian officials frequently remind the world that the United States aided Saddam Hussein while he deployed chemical weapons on a much larger scale.

Our hypocrisy has always been a threat to our legitimacy, but in the past it was often managed with careful rhetoric and diplomatic maneuvers designed to conceal the discrepancy between our words and our deeds, to camouflage our violations in language that reinforced the order or appealed to higher values. Trump is distinct from his predecessors not because his foreign policy is a radical departure, but because he is carrying out similar policies without the moralistic righteousness of his predecessors .

Saving the liberal order means adhering to the UN Charter’s prohibition on the use of force except in self-defense or unless authorized by the Security Council. It means rolling back our global military footprint and adopting a more restrained foreign policy that at least approximates the manner in which we expect other nations to behave. It means recognizing that the United States is not exempt from the rules and norms it often punishes others for transgressing, and it means acknowledging that the foreign policy establishment has done at least as much damage to the rules-based order as has President Trump.

## Adv 1 CP

### 2NC---OV

### 2NC---AT: Perm do Both

## States CP

### OV

### 2NC---AT Perm: Do Both---Trade-Off

#### Perm is duplicative enforcement. That fails and links to trade-off.

Dishman 20, JD, Associate Professor of Law @ Brigham Young University Law School (Elysa M., “Enforcement Piggybacking and Multistate Actions”, BYU L. Rev. 421, pg. 459-460, Accessible at: <https://digitalcommons.law.byu.edu/lawreview/vol2019/iss2/6> 435-437)

Third, overenforcement is not only a drag on the economy, it also leads to inefficient uses of enforcement resources. The idea of a multienforcer system is to spread enforcement resources, allowing each enforcer to use its comparative enforcement advantages to broaden the reach of enforcement and also act as a check on other enforcers.234 But if all enforcement resources are concentrated on the same type of actions against the same type of targets, it undermines the benefits of having a multienforcer system in the first place. If piggybacking has undermined the multienforcer system, then it would be more efficient and yield more optimal enforcement levels to have a single enforcer system.235 Furthermore, if all enforcers are focused on a single type of action, they may disrupt each other’s enforcement goals.236 For example, federal enforcers may be seeking a settlement that prioritizes injunctive relief and corporate governance in lieu of greater financial penalties. But if a multistate group or private enforcement action is seeking a higher financial settlement or different injunctive remedies, it could jeopardize the federal enforcers’ settlement.

Fourth, piggybacking and overenforcement against certain targets lead to underenforcement of other targets.237 If all enforcers are incentivized to piggyback on the same targets, then other types of cases may be neglected in the process. Enforcement piggybacking devotes additional resources on fraud that has already been uncovered at the expense of investigating fraud that has not been exposed.238 For example, enforcers may piggyback on more marginal investigations that are in the public’s eye at the expense of pursuing more egregious fraud.239 State enforcement is unique in that one of its advantages is its ability to target local and state-specific enforcement needs.240 If AGs are increasingly focused on multistate actions, it may be that more local enforcement is neglected or under-resourced. This could lead to a situation where state enforcement does not deter small-scale fraudsters who think that the AG’s office is solely focused on large national corporations. This could ironically lead to greater levels of local fraud, which is the very reason to have state enforcement in the first place.

### AT: Certainty

### 2NC---S---AT Preemption [General]

#### The CP can’t be preempted. It doesn’t displace federal antitrust law---it builds on it.

---the Sherman Act is a floor, not a ceiling!

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The U.S. Supreme Court has rejected claims that state antitrust law is preempted whenever it diverges from federal antitrust law. For example, the Court permitted the Attorneys General of Alabama, Arizona, California, and Minnesota to file antitrust claims under their respective state laws against a group of cement producers even though those state governments, because they did not purchase cement directly from the producers but rather purchased only through intermediaries, would not have been proper plaintiffs under federal antitrust law.10 Under federal law, when producers conspire to fix prices, only direct purchasers, and not subsequent indirect purchasers, are permitted to sue to recover losses incurred as a result of the conspiracy.11 In contrast, antitrust laws from the four states permitted recovery by indirect purchasers.12 The Supreme Court rejected the defendant cement producers’ assertion that federal antitrust law was intended to serve as a ceiling on businesses’ liability for engaging in anticompetitive conduct.13 It stated, “Congress intended the federal antitrust laws to supplement, not displace, state antitrust remedies. And on several prior occasions, the Court has recognized that the federal antitrust laws do not preempt state law.”14

#### No preemption. Centuries of case law.

HLR 20, Harvard Law Review, law student-run legal journal. Their unsigned articles are published by second- and third-year law students. (6-10-2020, "Antitrust Federalism, Preemption, and Judge-Made Law", <https://harvardlawreview.org/2020/06/antitrust-federalism-preemption-and-judge-made-law/>) \*Footnotes included

Even when it is not a constitutional hurdle, federalism is still a relevant constitutional value. The Framers embraced federalism for its policy virtues,11×11. See, e.g., The Federalist No. 46 (James Madison). and contemporary judges and scholars laud federalism for its modern-day policy perks.12× The Supreme Court often invokes federalism in the form of a presumption that Congress does not lightly intrude on state sovereignty.13× One example is the Court’s presumption against preemption: a party alleging federal preemption of state law faces a judicial presumption that Congress did not intend to make that choice.14× That presumption is validated by Congress’s choice to refrain from preempting state law in the antitrust arena: state and federal antitrust laws have coexisted since the federal government’s first steps into the arena in 1890.15×

This congressional restraint is controversial, and likely to grow more so. Some scholars have argued powerfully that Congress should preempt state antitrust laws.16×16. See, e.g., Robert W. Hahn & Anne Layne-Farrar, Federalism in Antitrust, 26 Harv. J.L. & Pub. Pol’y 877, 884–907 (2003); Richard A. Posner, Address, Federalism and the Enforcement of Antitrust Laws by State Attorneys General, 2 Geo. J.L. & Pub. Pol’y 5, 12–13 (2004). These arguments may gain renewed prominence, as antitrust as a whole has recently achieved greater political salience than it has enjoyed in a century.17× In the state context, attorneys general have increasingly taken antitrust action in high-profile matters the federal government has declined to pursue. In 2019, states opposed the merger between Sprint and T-Mobile,18× and many began to investigate potential antitrust violations in Big Tech.19× While some recent, high-profile state antitrust actions have been brought under federal antitrust laws,20× others have been brought under state law.21× Moreover, a number of the current state antitrust actions are at the investigatory stage22×22. See Nylen et al., supra note 19. — states could potentially bring federal claims, state claims, or both. Newsworthy state involvement in antitrust policing is bringing attention to the states’ antitrust role more generally, and that attention will likely bring scrutiny to the oddity of America’s competing antitrust systems.

This Note argues that, in considering its position within this debate, Congress should grapple with federal antitrust law’s peculiar status as a largely judicially created regulatory regime. Congress should be wary of allowing federal judge-made law to preempt state legislative power. Even when the federal government preempts state legislation, the federalism balance is partially preserved by democratic checks on federal power. Yet, when a nondemocratic branch is making the law, those checks disappear. Moreover, the federal judiciary is a uniquely poor policymaking body; its lack of policymaking chops does not support overriding states’ policy choices. These factors highlight the need for Congress to account for the degree to which current antitrust law is largely judge made.

Part I outlines the general landscape of antitrust federalism. It first describes antitrust federalism’s three components and then surveys arguments for and against maintaining one of those components: the coexistence of state and federal antitrust laws. Following this survey, Part II offers a new defense of the current system: federal antitrust law’s judge-made status makes it particularly unsuitable to preemption. Finally, Part III compares antitrust’s judge-made law to other preemptive federal common law, concluding that federal antitrust preemption would be uniquely susceptible to Part II’s criticism.

I. The Antitrust Federalism Landscape

Antitrust federalism, meaning the space carved out for the states in the more generally federal antitrust arena, can be thought of as made up of two “swords” — the first the states’ ability to bring suit under federal antitrust law and the second their ability to enact and enforce their own state antitrust laws — and one “shield” — immunity from federal antitrust law for state actions.23×23. Burns, supra note 6, at 29. The swords allow states to attack antitrust offenders, while the shield allows states to defend against federal antitrust action.

All three elements of antitrust federalism find their roots in congressional action or the courts’ interpretation of congressional inaction. The power to enforce federal antitrust law as parens patriae for full treble damages — the first sword — was granted to the states by Congress in Hart-Scott-Rodino.24×24. See 15 U.S.C. § 15c (2018). States could sue as parens patriae before Hart-Scott-Rodino, but not for treble damages. See Susan Beth Farmer, More Lessons from the Laboratories: Cy Pres Distributions in Parens Patriae Antitrust Actions Brought by State Attorneys General, 68 Fordham L. Rev. 361, 372–73, 376 (1999). On the judicial front, the Supreme Court acknowledged state immunity from federal antitrust actions — the shield — in Parker v. Brown,25× noting that the Sherman Act did not explicitly mention its application to state action.26×26. Parker, 317 U.S. at 350–52. Finally, when the Court confirmed that states’ ability to make their own antitrust laws — the second sword and the one discussed in this Note — was not preempted in California v. ARC America Corp.,27×27. 490 U.S. 93 (1989). it considered the same Sherman Act silence.28×

### 2NC---S---AT Patchwork/Uncoordinated

#### Coordinated action means the states speak with one voice. The NAAG [National Association of Attorneys General] proves.

Arteaga 21, \*Juan A., JD @ Colombia Law, Chambers-ranked antitrust partner, Co-Chair of Crowell & Moring’s New York Antitrust Practice, former Deputy Assistant Attorney General for the U.S. Department of Justice Antitrust Division. \*\*Jordan Ludwig, JD @ Loyola, partner in the Antitrust & Competition Group @ Crowell & Moring (1-28-2021, "The Role of US State Antitrust Enforcement", Global Competition Review, Lexology, <https://www.lexology.com/library/detail.aspx?g=3523359d-e7d7-489f-8f18-c0e4db0801cf>)

State attorneys general often coordinate their investigation and prosecution of antitrust matters with their counterparts in other states. To help ensure that these coordinated efforts are conducted in an efficient and effective manner, the NAAG has created an Antitrust Committee, which ‘is responsible for all matters relating to antitrust policy’. This committee is comprised of 12 state attorneys general and is responsible for promoting effective state antitrust enforcement by developing the NAAG’s antitrust policy positions and by facilitating communications among state enforcers regarding investigations, litigation, legislative matters and competition advocacy initiatives, among other things.

In 1983, the NAAG established a Multistate Antitrust Task Force that is ‘comprised of state staff attorneys responsible for antitrust enforcement in their states’. This task force ‘recommends policy and other matters for consideration by the Antitrust Committee, organizes training seminars and conferences, and coordinates multistate investigations and litigation’. The task force is chaired by a person appointed by the head of the NAAG’s Antitrust Committee and has a representative from each NAAG member state. The chair of the task force serves as ‘the principal spokesperson for the states on antitrust enforcement’.

The NAAG’s Multistate Antitrust Task Force does not handle actual investigations or litigation. Instead, such coordination usually occurs through working groups established by the states involved in an investigation or litigation. In most multistate investigations, the working group will designate a state responsible for leading the investigation. The lead state is often a state that has the most relevant experience and can dedicate the appropriate level of resources to the investigation, and has a sufficient interest in ensuring that the investigation is handled in an effective and efficient manner (i.e., the transaction or business practice in question could potentially impact a significant number of consumers or commerce within its state). (If an investigation is sufficiently large or complex, such as a mega-merger involving numerous markets, the states may create an executive committee that oversees the working group as well as designate multiple lead states.)

#### If the CP is patchwork law, that’s good. Diverging approaches breed innovation.

HLR 20, Harvard Law Review, law student-run legal journal. Their unsigned articles are published by second- and third-year law students. (6-10-2020, "Antitrust Federalism, Preemption, and Judge-Made Law", <https://harvardlawreview.org/2020/06/antitrust-federalism-preemption-and-judge-made-law/>) \*Footnotes included

A. The Patchwork Regime Problem

First, critics of the status quo argue that a patchwork regime of state antitrust laws can make it expensive for companies that operate across state borders to comply. State and federal regimes share similar philosophies regarding most of antitrust law. 31. See Burns, supra note 6, at 35. But state antitrust laws do not perfectly mirror their federal counterparts — and the antitrust laws of the different states are heterogeneous themselves. 32. See Donald L. Flexner & Mark A. Racanelli, State and Federal Antitrust Enforcement in the United States: Collision or Harmony?, 9 CONN. J. INT’L L. 501, 510–11 (1994). Show More Disputes are concentrated in a few areas of the doctrine, like vertical restraints and mergers. 33. See Burns, supra note 6, at 35–36. For example, states often focus on damage to intrabrand competition when enforcing limits on vertical restraints, whereas federal antitrust law focuses primarily on interbrand competition. 34. Id. at 36. Additionally, state merger guidelines often materially differ from federal guidelines, 35. See Ginsburg & Angstreich, supra note 29, at 227–28. But see id. at 228 n.29 (noting that state merger guidelines have moved closer to federal guidelines in recent decades). Show More and states are likelier to define markets “more narrowly,” “refus[e] to consider efficiencies” favored by federal agencies, and show a concern for local jobs and competitors that does not “enter . . . the [federal] calculus.” 36. Id. at 228. An inconsistent antitrust regime that may conflict between states could cause economic inefficiency, for example by discouraging companies from undertaking what might otherwise be an economically efficient merger.

This critique relies in part on the federal government having a better approach to vertical restraints and mergers, and that is anything but clear. The classic federalism argument that states function as laboratories of democracy 38. New State Ice Co. v. Liebmann, 285 U.S. 262, 311 (1932) (Brandeis, J., dissenting). applies here: antitrust law is far from settled, and having multiple regimes allows for testing different theories. For example, some scholars argue that the states are correct to consider intrabrand competition’s effects on price, especially in certain markets. 39. See, e.g., Warren S. Grimes, The Life Cycle of a Venerable Precedent: GTE Sylvania and the Future of Vertical Restraints Law, ANTITRUST, Fall 2002, at 27, 27–28. Show More Similarly, in the merger context, there is support for both the states’ refusal to consider only economic efficiency 40. See, e.g., Walter Adams & James W. Brock, Antitrust, Ideology, and the Arabesques of Economic Theory, 66 U. COLO. L. REV. 257, 302–09, 316–25 (1995). Show More and their push for heightened antimerger enforcement. 41. See, e.g., Jonathan B. Baker & Carl Shapiro, Reinvigorating Horizontal Merger Enforcement, in HOW THE CHICAGO SCHOOL OVERSHOT THE MARK 235, 257–66 (Robert Pitofsky ed., 2008). Show More Of course, the laboratories of democracy might not work so well in the antitrust context: because of the interwoven economic effects of federal and state antitrust laws and enforcement in an interconnected national economy, determining the effects of one state’s slightly different antitrust regime would be difficult. 42. See Hahn & Layne-Farrar, supra note 16, at 892. But federalism can still offer benefits by breaking the antitrust orthodoxy: by putting different policies on the table, a multilevel regime reminds us both that there are different possible “best” antitrust policies and that antitrust law has a variety of potential goals.

#### States are expert-led and well-resourced---their ev doesn’t assume a renaissance in enforcement.

HLR 20, Harvard Law Review, law student-run legal journal. Their unsigned articles are published by second- and third-year law students. (6-10-2020, "Antitrust Federalism, Preemption, and Judge-Made Law", <https://harvardlawreview.org/2020/06/antitrust-federalism-preemption-and-judge-made-law/>)

But there is reason to dispute critics’ claims. The critique of individual attorneys general ignores the states’ ability to work in unison. Cooperating through NAAG, states are able to build on each other’s experiences in antitrust enforcement. 86. Thus, worries about inexperienced antitrust divisions working alone may be overstated. Although interstate coordination may weaken their point, critics can retort that most state actions are not coordinated: according to NAAG’s State Antitrust Litigation Database, only nineteen of the fifty-six civil antitrust actions brought by states between 2014 and 2019 were brought by multiple states working together, 87. although many of the noncooperative suits regarded intrastate anticompetitive conduct. 88. This same dataset, however, also undermines the critics’ argument that states act only as free riders: only nineteen of the fifty-six suits included federal participation. 89. Finally, much of the criticism leveled at state attorneys general occurred before a renaissance in state law enforcement. Since Judge Posner derided the skill of state attorneys general in 2001, 90. lawyers and judges, including Chief Justice Roberts, have recognized a marked improvement in state attorney offices’ advocacy. 91. Whether or not Judge Posner’s critiques were valid at the turn of the century, it is unclear that the landscape remains the same today. Finally, this critique undermines the arguments, noted earlier, that state law enforcement is overdeterring competition or creating a patchwork of antitrust law. If states are nothing but free riders, then we need not worry about overdeterrence.

### 2NC---S---AT Resources

#### The CP pays for itself AND more.

---State antitrust is “eat what you kill”

Lemos 11, Associate Professor, Benjamin N. Cardozo School of Law (Margaret H., June 2011, "State Enforcement of Federal Law," New York University Law Review 86, No. 3, pg. 734-735, https://heinonline.org/HOL/P?h=hein.journals/nylr86&i=704)

State enforcers may reap an even more direct reward from enforcement, because the arm of the state that retains money earned in litigation is often the attorney general's office itself.164 Many federal statutes that authorize state enforcement also explicitly provide for the payment of fees and costs to successful attorneys general. 65 Attorneys general also may retain funds paid as damages or civil penalties. Depending on state law, the ultimate destination of those funds may be the attorney general's office or a revolving fund devoted to a certain category of enforcement. 66 The consequence of this "'eat what you kill' approach"'167 is that state enforcement may be largely self-financing.168

**[BEGIN FOOTNOTE 168]**

168 See Folsom, supra note 90, at 958 ("Public antitrust enforcement at the state and local levels is often perceived as 'paying for itself.' In many instances this is quite literally true.").

**[END FOOTNOTE 168]**

### 2NC---AT Theory

#### This counterplan is good.

#### 1---education. Focus on state antitrust is critical.

AAI 20, American Antitrust Institute, an independent, nonprofit organization devoted to promoting competition. (4-14-2020, "The State of Antitrust Enforcement and Competition Policy in the U.S.", <https://www.antitrustinstitute.org/work-product/antitrust-enforcement-report/>)

The first part of this report evaluates federal enforcement activity under the Trump antitrust agencies. This is measured by both quantitative statistics and qualitative assessments, which also account for policy changes and agency advocacy, as well as initiatives by federal sector regulators with statutory competition mandates. Our analysis indicates that the Trump administration receives a low grade by failing to protect competition at a time when markets are highly concentrated and evidence of competitive abuse surfaces with increasing regularity. The second part of the report assesses various alternatives to federal enforcement, and the promise they hold to make up for federal inaction. Enforcement by both state attorneys general and private plaintiffs has secured significant recoveries. State activity is on the rise, including initiatives by state Attorneys General to open investigations and block illegal mergers. Both forms of activity can take up some slack from federal inaction, shape case law, and generate useful public debate. We give private and state enforcers a higher grade for stepping into the void left by federal inaction to seek compensation and deterrence for antitrust violations that harm consumers and workers.

#### .

## Add On

Alexander, 15—lecturer at the Office for Environmental Programs, University of Melbourne (Samuel, *Sufficiency Economy* pg 109-110, dml)

There is one point deserving of further emphasis. In response to the problems of climate change and peak oil, many people naturally hold up renewable energy as the salvation of civilisation, arguing that all we need to do is transition to renewable energy and the problems of peak oil and climate change will be resolved. The problem is that it is highly doubtful that renewable energy will ever be able to sustain a growth-orientated, industrial civilisation. Although it may be technically feasible from an engineering perspective, the problems of intermittency and storage make renewable energy supply much more expensive and problematic than most analysts think (see Moriarty and Honnery, 2012; Trainer, 2013a; Trainer, 2013b). Even if electricity could be affordably supplied by renewables, electricity only constitutes about 18% of final energy consumption (IEA, 2012), meaning that there is still around 82% of energy to replace, including oil used for transport, pesticides, and plastics, etc. If we try to produce that remaining segment of energy with biofuels, the production of biofuels would compete with land for food production, a conflict that also seems to be already underway, despite the relatively low levels of biofuels production today (Timilsina, 2014). Biofuels also have a very low energy return on investment – between 1 and 3 (Murphy, 2014: 12), suggesting that they will never be able to sustain an industrial civilisation, as we know it today.

## Adv 2 CP

### Adv 2 CP

## n/c CP

### 2NC---Perm---AT Do Both

#### Perm can’t solve the net benefit.

#### 1---beginning N&C after already settling on a rule is fatal to the process

Yates 18, J.D. 2018, The George Washington University Law School. (James, September 2018, "Good Cause Is Cause for Concern," *George Washington Law Review* 86, No. 5, pg. 1452-1454)

B. Remedies to Address Good Cause Concerns

A failure to follow APA procedures presumptively warrants vacation of the rule. The executive and judiciary branches, however, have employed and analyzed several remedies that serve to justify invocations of good cause. These remedies include postpromulgation N&C, the harmless error doctrine, remand without vacatur, and a system of retrospective rulemaking.

Each of the purported remedies described in this Essay suffers from one common problem: they run the risk of triggering or promoting bias. Once an agency has promulgated a rule, with or without N&C, both the agency and the regulated parties will be discouraged from changing the rule. Whether it be agency bias or industry bias, there are significant risks to our democratic system where agencies are given a second shot at explaining away N&C or justifying an interim final rule postpromulgation. We may be willing to take this risk for rules with minimal societal impacts, but concern for bias is—or should be—enhanced when applied to major rules. Where rules have at least $100 million in consequences, agencies should not be free to skirt the democratizing procedures envisioned by the APA.

1. Postpromulgation N&C

The first of these remedies is postpromulgation N&C, where the agency provides an opportunity for public comment only after the rule is promulgated.9 1 Final rules justified on good cause grounds are often exempted from APA procedures. 92 Interim final rules, for example, are exempted from prepromulgation N&C but subjected to postpromulgation N&C. 93 Interim final rules have become popular for major rules, particularly during the Obama administration. 94

The major concern with interim final rules rests in bias. "Once an agency has publicly staked out a position and given effect to that position, . . . forces like regulatory inertia, status quo bias, confirmation bias, and commitment bias all make it less likely the agency will deviate from its position." 95 This proposition survives even in the face of postpromulgation comments that may call for change. Despite this concern, it is not clear whether postpromulgation N&C renders a good cause regulation unlawful.

Courts are divided on how to treat these rules.9 6 On the one hand, the APA's procedures were created to involve the public early in the rulemaking process, and failure to follow these procedures is fatal to the process.9 7 Treating postpromulgation N&C as a presumptive cure would "make the provisions of [section] 553 virtually unenforceable" because agencies could simply promulgate the rule and rely on postpromulgation procedures. 98 Scholars have also argued that regulated parties may not take postpromulgation N&C seriously if the rule is already in place. 99 Failure to include the public in early stages of the rulemaking process delegitimizes the rule itself. 00

#### 2---signaling. The plan shows there’s no cost to circumventing N&C, setting a precedent that ruins spillover

Hickman 16, \*Kristin E., Harlan Albert Rogers Professor of Law, University of Minnesota Law School. \*\*Mark Thomson, Law clerk to the Honorable Ed Carnes, United States Court of Appeals for the Eleventh Circuit. (“Open Minds and Harmless Errors: Judicial Review of Postpromulgation Notice and Comment”, 101 Cornell L. Rev. 261, pg. 286-287, Available at: <https://scholarship.law.cornell.edu/clr/vol101/iss2/1>)

The crux of the argument is twofold. First, giving effect to postpromulgation rulemaking would undoubtedly provide a powerful disincentive for agencies to comply with § 553’s prepromulgation notice and comment requirements when they seek to bind the actions of regulated parties.153 Notice-andcomment rulemaking takes time, ranging from months to years. While agencies may perceive value in obtaining outside input regarding their rulemaking initiatives, they may also sometimes see notice and comment procedures as an obstacle to getting things done and may be predisposed to interpret the exemptions from those requirements aggressively. To the extent agencies can rely on postpromulgation notice and comment to prop up procedurally invalid rules, they will be less inclined to follow the APA’s procedural requirements faithfully.154 By contrast, rigorous insistence on prepromulgation notice and comment—and nothing less—ensures scrupulous fidelity to the text of APA § 553.

#### Spillover relies on clear compliance.

Merrill 04, Charles Keller Beekman Professor of Law, Columbia University. (Thomas W., Dec. 2004, “Rethinking Article I, Section I: From Nondelegation to Exclusive Delegation”, *COLUMBIA LAW REVIEW*, Vol. 104, pg. 2156)

But this insight does not get us very far in choosing among the various conceptions of the constitutional allocation of legislative power. If lax nondelegation serves an important function in supporting judicial review, would strict nondelegation do better, or would this be overkill? More intriguingly, would exclusive delegation provide an adequate substitute for lax nondelegation in creating the appropriate sense that there are important constitutional stakes at issue in judicial review of agency action? My sense is that it would. Courts would be constitutionally required to identify clear evidence that legislative power has been delegated, and that the agency is acting within the sphere of its delegated authority. This would lend a sense of gravity to the process of review, which would have spillover effects for the judicial attitude in reviewing the legality of the agency's compliance with rulemaking procedures and its fidelity to any statutory directions Congress has provided.

### 2NC---Perm---AT Do CP

#### Perm is severance, voter for clash evasion. Four reasons:

#### a---certainty and immediacy.

#### The CP requires openness to revision.

Justia 18, legal information database. (Last reviewed: April 2018, "Notice and Comment Process for Agency Rulemaking", https://www.justia.com/administrative-law/rulemaking-writing-agency-regulations/notice-and-comment/)

Response to Public Comments

Agencies must consider all “relevant matter presented” during the comment period, and they must respond in some form to all comments received. They are not, however, required to take any specific action with regard to the rule itself. The publication of the final rule must include analyses of any relevant data or other materials submitted by the public and a justification of the form of the final rule in light of the comments the agency received.

If opposition to the proposed rule is exceptionally large or strident, the agency may decide to make substantial modifications and start the process over by publishing a new notice and opening a new comment period. Otherwise, the agency will publish its final findings along with the rule, which is codified in the Code of Federal Regulations.

#### AND delay.

Wolfman 14, \*Brian, JD, Associate Professor of Law @ Georgetown. \*\*Bradley Girard, Public-interest lawyer @ Americans United for Separation of Church and State (12-3-2014, "Argument analysis: "Interpretive rules," notice-and-comment rule making, and the tougher issues waiting in the wings", *SCOTUSblog*, <https://www.scotusblog.com/2014/12/argument-analysis-interpretive-rules-notice-and-comment-rule-making-and-the-tougher-issues-waiting-in-the-wings/>)

Under the Administrative Procedure Act (APA), federal agency rules can be “legislative” or “interpretive.” A legislative rule, like a statute, is said to bind the public and have the “force of law.” Under the APA, a legislative rule generally cannot be issued without notice and comment, a lengthy process in which an agency publishes a proposed rule and gives the public a chance to comment on it. The agency must give serious consideration to the comments before the rule may be finalized. Public comments sometimes significantly affect the content of legislative rules. The APA provides that when an agency amends a legislative rule, the amendment must go through notice and comment, just like the original rule.

By contrast, an interpretive rule is said only to advise the public of an agency’s view of what a law or regulation means. Supposedly, an interpretive rule does not bind the public or have the force of law. Interpretive rules come in many forms, such as guidance documents, agency manuals, and interpretive bulletins. The APA expressly provides that an interpretive rule need not go through notice and comment. An amendment of an interpretive rule is exempt from the notice-and-comment requirement, just like an original interpretive rule—at least, it seems, according to the APA’s text.

But in a series of cases known collectively as the Paralyzed Veterans doctrine, the D.C. Circuit has held that when an agency issues an interpretive rule that significantly revises an existing interpretive rule, the agency must take the revision through notice-and-comment rulemaking before the revision can take effect. In the case before the Court, in 2006, the Department of Labor (DOL) issued, without notice and comment, an interpretive rule which stated that mortgage-loan officers are not entitled to overtime pay under the Fair Labor Standards Act. In 2010, the DOL changed course and said, again without notice and comment, that mortgage-loan officers are entitled to overtime pay. Applying the Paralyzed Veterans doctrine, the D.C. Circuit below held that the 2010 interpretive rule significantly revised the 2006 interpretive rule and so is invalid because it was issued without notice and comment. One point to keep in mind: The D.C. Circuit assumed that the 2010 DOL rule is an interpretive rule, not a legislative rule.

#### That competes:

#### 1---should.

Nieto 9, Judge Henry Nieto, Colorado Court of Appeals. (8-20-2009, People v. Munoz, 240 P.3d 311 Colo. Ct. App. 2009)

"Should" is "used … to express duty, obligation, propriety, or expediency." Webster's Third New International Dictionary 2104 (200(2) Courts [\*\*15] interpreting the word in various contexts have drawn conflicting conclusions, although the weight of authority appears to favor interpreting "should" in an imperative, obligatory sense. HN7A number of courts, confronted with the question of whether using the word "should" in jury instructions conforms with the Fifth and Sixth Amendment protections governing the reasonable doubt standard, have upheld instructions using the word. In the courts of other states in which a defendant has argued that the word "should" in the reasonable doubt instruction does not sufficiently inform the jury that it is bound to find the defendant not guilty if insufficient proof is submitted at trial, the courts have squarely rejected the argument. They reasoned that the word "conveys a sense of duty and obligation and could not be misunderstood by a jury." See State v. McCloud, 257 Kan. 1, 891 P.2d 324, 335 (Kan. 1995); see also Tyson v. State, 217 Ga. App. 428, 457 S.E.2d 690, 691-92 (Ga. Ct. App. 1995) (finding argument that "should" is directional but not instructional to be without merit); Commonwealth v. Hammond, 350 Pa. Super. 477, 504 A.2d 940, 941-42 (Pa. Super. Ct. 1986). Notably, courts interpreting the word "should" in other types of jury instructions [\*\*16] have also found that the word conveys to the jury a sense of duty or obligation and not discretion. In Little v. State, 261 Ark. 859, 554 S.W.2d 312, 324 (Ark. 1977), the Arkansas Supreme Court interpreted the word "should" in an instruction on circumstantial evidence as synonymous with the word "must" and rejected the defendant's argument that the jury may have been misled by the court's use of the word in the instruction. Similarly, the Missouri Supreme Court rejected a defendant's argument that the court erred by not using the word "should" in an instruction on witness credibility which used the word "must" because the two words have the same meaning. State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958). [\*318] In applying a child support statute, the Arizona Court of Appeals concluded that a legislature's or commission's use of the word "should" is meant to convey duty or obligation. McNutt v. McNutt, 203 Ariz. 28, 49 P.3d 300, 306 (Ariz. Ct. App. 2002) (finding a statute stating that child support expenditures "should" be allocated for the purpose of parents' federal tax exemption to be mandatory).

#### 2---substantial.

Words and Phrases 64 (40W&P 759)

The words" outward, open, actual, visible, substantial, and exclusive," in connection with a change of possession, mean substantially the same thing. They mean not concealed; not hidden; exposed to view; free from concealment, dissimulation, reserve, or disguise; in full existence; denoting that which not merely can be, but is opposed to potential, apparent, constructive, and imaginary; veritable; genuine; certain: absolute: real at present time, as a matter of fact, not merely nominal; opposed to form; actually existing; true; not including, admitting, or pertaining to any others; undivided; sole; opposed to inclusive.

#### 3---resolved.

Collins 14, Collins English Dictionary (Complete and Unabridged. 12th edition, HarperCollins Publishers 1991, 1994, 1998, 2000, 2003, 2014, http://www.thefreedictionary.com/resolved)

resolved [rɪˈzɒlvd] adj

fixed in purpose or intention; determined

#### Certainty is a good basis for competition---it’s better for the aff because it enables durable fiat, and anything else justifies consultation mechanisms or unenforced plans, which destroy limits and ground.

#### b---adherence to N&C would likely produce a different, but better policy

Hickman 16, \*Kristin E., Harlan Albert Rogers Professor of Law, University of Minnesota Law School. \*\*Mark Thomson, Law clerk to the Honorable Ed Carnes, United States Court of Appeals for the Eleventh Circuit. (“Open Minds and Harmless Errors: Judicial Review of Postpromulgation Notice and Comment”, 101 Cornell L. Rev. 261, pg. 287-288, Available at: <https://scholarship.law.cornell.edu/clr/vol101/iss2/1>)

First, fairness militates in favor of placing the burden of proof on the agency because the consequences of forgoing prepromulgation notice and comment are often potentially severe. Relying solely on postpromulgation notice and comment in adopting a rule threatens to entirely freeze the public out of meaningful participation in the rulemaking process.254 Where an agency validly asserts an exception from APA notice-and-comment rulemaking requirements, the opportunity for comment postpromulgation is almost certainly preferable to the alternative, which is no chance for public participation at all.255 But, as several courts have recognized, in the absence of a valid exception, relying on postpromulgation procedures alone represents a complete failure on the part of the agency that disadvantages interested parties in a way that other, more technical procedural failures do not.256 Relying solely on postpromulgation procedures significantly increases the likelihood that helpful or valuable comments will be ignored, and thus that the rule in question will be different from what it would have been had procedures been followed.257 Moreover, because an agency has total control over whether it undertakes prepromulgation notice and comment, the agency alone is in a position to avoid the consequences of failing to comply with the APA. The potential consequences of ignoring notice and comment, combined with the agency’s ability to prevent such a defect in the first place, makes it fair to put the burden of proving harmlessness on the agency.

#### c---laws---regulations are distinct.

Yakima No Date, Yakima Regional Clean Air Agency. ("Law, Rule, Regulation and Policy", https://www.yakimacleanair.org/services/definitions.html)

Regulations are not laws themselves, but are legal directives written to explain how to implement statutes or laws. Local regulations must not be less stringent than the state regulations and state regulations must not be less stringent than the federal regulations.

#### Distinguishing between the two is key to education.

Carlson 17, nonprofit consulting. (Keith, 8-3-2017, "Laws vs. Regulations ... and Why the Difference Matters", *Indivisible Santa Barbara*, https://indivisiblesb.org/laws-vs-regulations-and-why-the-difference-matters/)

The term “laws” is commonly used to describe the overall system of rules enforced by society to govern behavior. When used in this sense, our laws include the rules made by Congress or other legislative bodies, e.g., state legislatures, by the executive branch through regulations, or by the courts through rulings that result in binding precedent. Although this all-encompassing, generic definition is useful in our everyday lives, having some knowledge of the finer points is helpful if we desire to impact public policy and its effects on our society.

Laws vs. Regulations

Congress passes national laws, often called Acts, such as the Affordable Care Act (ACA) and the Clean Air Act. The agencies, boards, and commissions empowered to enforce the Acts are authorized to adopt regulations that implement them; the federal regulations, therefore, follow from the Acts. These regulations have the force of law, fill gaps in the legislation, and help agencies carry out their duties and mission, as defined in the Acts. Federal regulations are published in The Code of Federal Regulations.

Federal regulations are created through a process known as rulemaking. If an agency wants to make, change, or delete a rule, the normal process is for the agency to publish the proposal in the Federal Register and seek public comments, which may include hearings in addition to written comments. After the agency considers the public’s comments and makes any revisions to the rule, it publishes the rule’s final version in the Federal Register, along with a description of the comments received, the agency’s response to those comments, and the date the rule goes into effect. The Administrative Procedure Act (APA) outlines required rulemaking procedures for Federal regulations.2

#### d---normal means.

Richman 20, Paul J. Kellner Professor, Columbia Law School. (Daniel C. “Defining Crime, Delegating Authority – How Different are Administrative Crimes?”, *Yale Journal on Regulation*, Forthcoming; Columbia Public Law Research Paper No. 14-680, pg. 49 Available at: https://scholarship.law.columbia.edu/faculty\_scholarship/2719

As Dan Kahan noted decades ago, agency rulemaking offers considerable advantage over what effectively has been a regime of judicial lawmaking empowered by common law or just plain vague statutory terms.331 Moreover, the risk of self-dealing highlighted by Gorsuch in Gundy and recognized by Kahan, is alleviated or even eliminated when agencies other than the Justice Department devise their own rules, according to proper rulemaking procedures, primarily for civil enforcement. Note how once can turn around the concern of Hessick and Hessick that agencies lack expertise when it comes to crime-definition.332 The story of congressional authorship in the federal criminal sphere, for nearly a half-century, has largely been one of reliance on Justice Department drafting -- whenever the Department could slip a “fix” into the omnibus bills that used to be a staple of criminal lawmaking333 or when it provided material for a Congress looking to make a “tough on crime” statement.334 Congress of course has the greatest “expertise” on retribution, but that fact is both tautological and troubling, and on even that score Congress’s habit of using criminal lawmaking more to loudly condemn than to actually apportion punishment diminishes any claim to actual expertise. Weighed against the risks of self-dealing or sloppiness created by the “normal” means of crime definition, administrative rulemaking that treats regulation as structuring primary behavior in a complex world -- drawing lines within spheres of socially productive activity between prohibited and allowed conduct -- rather than providing tools for the exercise of prosecutorial discretion sounds pretty appealing.

#### The CP is abnormal means because the FTC never subjects antitrust to N&C---that’s Khan.

#### Normal means competition is good---it checks hyper-vague plans and aff reclarification, which is reactive and avoids agent-based DAs.

### 2NC---Perm---AT Do Plan + N&C for Other Things

#### The perm’s intrinsic---neither the plan nor the CP include N&C over other antitrust areas. Interp: reject textually or functionally intrinsic perms:

#### 1---logic---“ban the plan” should always be an opportunity cost. Outweighs, because it’s a prereq to skills.

#### 2---ground---creative wording fiats through unrelated DAs or K links, and textual competition makes specific text-writing impossible.

#### 3---does violence to language---they could turn nouns into verbs and construct completely new syntax, warping a phrase’s meaning in illogical ways.

#### 4---wrecks opportunity costs---if we win theory, excluding CPs that establish a DA to the plan is bad.

### !---Overview

#### Unchecked disinformation causes extinction---fake news locks in inaction on climate change, pandemics, and famine.

#### Lin says warming---extinction.

Spratt 18, \*David, Research Director, Breakthrough National Centre for Climate Restoration, \*\*Ian T. Dunlop, Chairman of Safe Climate Australia, Director of Australia 21, Deputy Convener of the Australian Association for the Study of Peak Oil and Gas, a Fellow of the Centre for Policy Development, and a member of Mikhail Gorbachev’s Climate Change Task Force ( “What Lies Beneath: The Understatement of Existential Climate Risk”, Accessible at: <https://docs.wixstatic.com/ugd/148cb0_a0d7c18a1bf64e698a9c8c8f18a42889.pdf>)

In 2016, the World Economic Forum survey of the most impactful risks for the years ahead elevated the failure of climate change mitigation and adaptation to the top of the list, ahead of weapons of mass destruction, ranking second, and water crises, ranking third. By 2018, following a year characterised by high-impact hurricanes and extreme temperatures, extreme-weather events were seen as the single most prominent risk. As the survey noted: “We have been pushing our planet to the brink and the damage is becoming increasingly clear.”29 Climate change is an existential risk to human civilisation: that is, an adverse outcome that would either annihilate intelligent life or permanently and drastically curtail its potential. Temperature rises that are now in prospect, after the Paris Agreement, are in the range of 3–5°C. At present, the Paris Agreement voluntary emission reduction commitments, if implemented, would result in planetary warming of 3.4°C by 2100,30 without taking into account “long-term” carbon cycle feedbacks. With a higher climate sensitivity figure of 4.5°C, for example, which would account for such feedbacks, the Paris path would result in around 5°C of warming, according to a MIT study.31 A study by Schroder Investment Management published in June 2017 found – after taking into account indicators across a wide range of the political, financial, energy and regulatory sectors – the average temperature increase implied for the Paris Agreement across all sectors was 4.1°C.32 Yet 3°C of warming already constitutes an existential risk. A 2007 study by two US national security think-tanks concluded that 3°C of warming and a 0.5 metre sea-level rise would likely lead to “outright chaos” and “nuclear war is possible”, emphasising how “massive non-linear events in the global environment give rise to massive nonlinear societal events”.33 The Global Challenges Foundation (GCF) explains what could happen: “If climate change was to reach 3°C, most of Bangladesh and Florida would drown, while major coastal cities – Shanghai, Lagos, Mumbai – would be swamped, likely creating large flows of climate refugees. Most regions in the world would see a significant drop in food production and increasing numbers of extreme weather events, whether heat waves, floods or storms. This likely scenario for a 3°C rise does not take into account the considerable risk that self-reinforcing feedback loops set in when a certain threshold is reached, leading to an ever increasing rise in temperature. Potential thresholds include the melting of the Arctic permafrost releasing methane into the atmosphere, forest dieback releasing the carbon currently stored in the Amazon and boreal forests, or the melting of polar ice caps that would no longer reflect away light and heat from the sun.”34 Warming of 4°C or more could reduce the global human population by 80% or 90%,35 and the World Bank reports “there is no certainty that adaptation to a 4°C world is possible”.36 Prof. Kevin Anderson says a 4°C future “is incompatible with an organized global community, is likely to be beyond ‘adaptation’, is devastating to the majority of ecosystems, and has a high probability of not being stable”.37 This is a commonly-held sentiment amongst climate scientists. A recent study by the European Commission’s Joint Research Centre found that if the global temperature rose 4°C, then extreme heatwaves with “apparent temperatures” peaking at over 55°C will begin to regularly affect many densely populated parts of the world, forcing much activity in the modern industrial world to stop.38 (“Apparent temperatures” refers to the Heat Index, which quantifies the combined effect of heat and humidity to provide people with a means of avoiding dangerous conditions.) In 2017, one of the first research papers to focus explicitly on existential climate risks proposed that “mitigation goals be set in terms of climate risk category instead of a temperature threshold”, and established a “dangerous” risk category of warming greater than 1.5°C, and a “catastrophic” category for warming of 3°C or more. The authors focussed on the impacts on the world’s poorest three billion people, on health and heat stress, and the impacts of climate extremes on such people with limited adaptation resources. They found that a 2°C warming “would double the land area subject to deadly heat and expose 48% of the population (to deadly heat). A 4°C warming by 2100 would subject 47% of the land area and almost 74% of the world population to deadly heat, which could pose existential risks to humans and mammals alike unless massive adaptation measures are implemented.”39 A 2017 survey of global catastrophic risks by the Global Challenges Foundation found that: “In high-end [climate] scenarios, the scale of destruction is beyond our capacity to model, with a high likelihood of human civilization coming to an end.”40 84% of 8000 people in eight countries surveyed for the Foundation considered climate change a “global catastrophic risk”.41 Existential risk may arise from a fast rate of system change, since the capacity to adapt, in both the natural and human worlds, is inversely proportional to the pace of change, amongst other factors. In 2004, researchers reported on the rate of warming as a driver of extinction.42 Given we are now on a 3–5°C warming path this century, their findings are instructive: If the rate of change is 0.3°C per decade (3°C per century), 15% of ecosystems will not be able to adapt. If the rate should exceed 0.4°C per decade, all ecosystems will be quickly destroyed, opportunistic species will dominate, and the breakdown of biological material will lead to even greater emissions of CO2 At 4°C of warming “the limits for adaptation for natural systems would largely be exceeded throughout the world”.43 Ecological breakdown of this scale would ensure an existential human crisis. By slow degrees, these existential risks are being recognised. In May 2018, an inquiry by the Australian Senate into national security and global warming recognised “climate change as a current and existential national security risk… defined as ‘one that threatens the premature extinction of Earth-originating intelligent life or the permanent and drastic destruction of its potential for desirable future development’”.44 In April 2018, the Intelligence on European Pensions and Institutional Investment think-tank warned business leaders that “climate change is an existential risk whose elimination must become a corporate objective”.45 However the most recent IPCC Assessment Report did not consider the issue. Whilst the term “risk management” appears in the 2014 IPCC Synthesis Report fourteen times, the terms “existential” and “catastrophic” do not appear.

#### AND disease.

#### Outweighs on probability---no rational, well-informed state would start a nuclear war.

#### TURNS CASE:

#### Epistemic decay causes miscalculated war.

Kavanagh 18, political scientist at the RAND Corporation and associate director of the Strategy, Doctrine, and Resources Program in the RAND Arroyo Center; and Michael D. Rich, president and chief executive officer of the RAND Corporation (Jennifer, “Truth Decay: An Initial Exploration of the Diminishing Role of Facts and Analysis in American Public Life,” p. 200-207)---language edited

Truth Decay can lead to political paralysis through a number of channels. First, uncertainty and disagreement about basic facts and the blurring of the line between opinion and fact both create divides between elected officials—often, but not always, along partisan lines that make it difficult for these representatives to agree to the terms of debate on key issues and, worse, that prevent compromise or agreement on key pieces of legislation. Low trust in government, another trend of Truth Decay, also contributes to political paralysis by weakening the authority of government institutions and strengthening the position of veto players, such as interest groups, that can interfere in government decision-making and have the power to sway public opinion.17 Some of the factors driving Truth Decay might also play a role. For instance, the polarization that seems to drive Truth Decay creates significant obstacles and barriers between partisan camps, preventing communication, compromise, and agreement. Even Truth Decay’s other consequences might play a role. The erosion of civil discourse, combined with the high volume of disinformation that raises uncertainty about what is fact, what is opinion, and what is simply false, also seems to worsen today’s political stalemate because it is harder for policymakers to be sure that the opinions of their colleagues are grounded in fact and to begin a meaningful dialogue. Although Truth Decay is clearly not the only factor driving political stalemate, increased uncertainty, low trust, and increasing disagreement over facts (all associated with Truth Decay) might be worsening this political [gridlock] paralysis in key ways. For example, low trust and increased disagreement over facts might interfere with Congress’s responsibility to exercise key oversight functions or come to an agreement (sometimes even within a single party) on key legislative issues. These delays and periods of inaction have real financial and other consequences. RAND researchers who assessed the costs of paralysis caused by political polarization have found that drafting and passing laws, confirming presidential executive and judicial appointments (or at least bringing them to a vote), creating budgets and allocating funds, and ensuring proper oversight are needed if the government is to function effectively and provide needed services efficiently, if the United States is to interact constructively with its partners and allies, and if the president and his advisers are to pursue policies that advance the well-being of U.S. citizens. 18 Thus, to the extent that Truth Decay interferes with any or all of these functions, it can pose a threat to the functioning of democracy. Assessing Political Paralysis and Its Costs A number of metrics underscore the sharp increase in political paralysis in recent years. Again, this increase cannot be attributed entirely to Truth Decay but, as already explained, Truth Decay is likely a contributing factor. Filibusters, a partisan tool used to delay a vote on a piece of legislation, could be one metric of friction within Congress and of its inability to pass laws and take other action. Figure 5.1 shows a gradual upward trend in the number of filibusters per year between 1947 and 2017 in the Senate and highlights the sharp increase around 2008, the end of George W. Bush’s presidency and the start of Barack Obama’s tenure. Data on congressional workload reveal similar signs of paralysis and stalemate. Figure 5.2 shows the percentage of total legislation proposed that was enacted by each Congress since 1973 (when the data were first collected). The rate of successful enactment has fallen markedly since its peak in the mid-1980s and declined fairly consistently since roughly 2003,19 which suggests that a smaller fraction of proposed legislation makes it through to enactment. This trend exists despite the fact that the total number of pieces of legislation proposed has been roughly constant since the early 1980s, with the exception of a brief period between 1993 and 1996, when total proposed legislation per two-year period was somewhat lower.20 It is reasonable to hypothesize that polarization and stalemate might be one cause of this decrease in the number of enacted laws in recent terms. However, it is also the case that this metric does not take into account the size or complexity of a given piece of legislation or whether bills passed by Congress in more-recent years are more likely than in prior decades to include many smaller pieces of legislation combined into one. Further analysis of the relative complexity and composition of proposed and passed legislation over the past four decades would be needed to fully explore possible reasons for the decline in the rate of law enactment in the past two decades. Political paralysis has significant political and economic costs. Economically, the power and severity of these consequences were most clearly underscored during the government shutdown in 2013. Estimates varied, but most suggested that the shutdown led to a drop of 0.25 to 0.5 percentage points in real GDP growth, amounting to a loss of about $20 billion to the U.S. economy. Also affected were federal employees and government contractors who could not work during the shutdown.21 A Congressional Research Service review that assessed cost estimates from the shutdown noted, “A review of third-party estimates of the effects of the shutdown on the economy finds a predicted reduction in GDP growth of at least 0.1 percentage points for each week of the shutdown.”22 The review also noted, however, that most forecasters did not attempt to include multiplier or indirect effects, so “the estimates reviewed can be thought of as a lower bound on the overall effects on economic activity.”23 In addition to shutdowns, political paralysis has also contributed to a slower rate of judicial confirmation rates to lower courts, which leads to delays that have economic costs for the government and for people involved in legal proceedings.24 Young et al. developed a framework for estimating some of the economic costs of political paralysis, including delays in executive and judicial confirmations and missed deadlines on must-pass legislative actions, such as spending bills. The results vary based on the specific type of delay considered, but here is an example: Using as a metric the opportunity cost of money held in risk-free accounts by litigants awaiting the adjudication of civil cases, Young et al. estimated that delays in judicial appointments could result in an annual reduction of $3.3 billion in GDP using the baseline conditions. 25 The authors also used the experience of the 2013 shutdown and the estimates discussed earlier to assess the cost of a future shutdown, this time including the indirect costs that other estimates omitted. According to Young et al., a future two-week government shutdown could reduce GDP by $9 billion.26 The authors also note that, although it is more difficult to measure economically, the costs associated with a loss of global credibility or with an inability to avoid an international crisis due to clumsy decisionmaking could be just as large. The quality and efficiency of government services are another victim of political stalemate. Legislative inaction interferes with government ability to modify programs to meet unexpected constituent needs and makes legislative and other government institutions rigid and inflexible.27 Political paralysis can lead to delays in key policy decisions or to the adoption of minimally satisfactory policies that can be passed with support from only one party (or from one party and a few token members of the opposing party) and do not require true compromise. Although the passage of any policy may be preferable to paralysis in some cases, half-measures and policies that are written and passed without debate can create additional negative consequences for individual voters. Efforts to address such major issues as economic inequality and poverty, rising health care costs, and the effects of both trade and automation on certain jobs or workers are consistently hamstrung over disagreements across party lines regarding basic facts and analytical interpretations of those facts. These disagreements can lead to policy choices (or in the case of stalemate, the failure to craft policies) that have significant negative implications for people. For example, inefficiencies in the ACA that have caused higher premiums among some groups of Americans arose partly from political constraints, created by interparty competition, that affected the bill’s final form.28 Continuing uncertainty about the future of health care resulting from political paralysis has had further distorting effects on the market and led to further increases in premiums.29 Delays in policy—or not implementing any policy—have not only economic costs but also possible direct fiscal and other effects on people’s lives. Finally, the government’s inability to reach quick decisions on key issues can create significant foreign policy risk. When external threats arise, the United States must be able to make immediate decisions to protect national security. When it cannot do this because of political paralysis, the safety of individuals and infrastructure are placed in serious jeopardy. Decisions about how and when to deploy U.S. ground forces must be based on clear data and information as well as a definitive understanding of relevant alliances and commitments. In cases when responses must be immediate, hesitation and indecision can have significant consequences. Furthermore, unintentional escalation and other consequences could also result from political paralysis caused by Truth Decay in such a situation. Thus, the costs of political stalemate are substantial, whether measured in terms of economic losses, degradation of the quality of government, increased foreign policy risk, or simply the loss of credibility an ineffectual government suffers in the eyes of its electorate. Increasing disagreement about facts and analytical interpretations of facts and data and the blurring of the line between opinion and fact contribute to this political stalemate by preventing effective civil discourse and meaningful debate and by making compromise increasingly difficult. Because of the magnitude and seriousness of these costs, additional analysis would be valuable both for advancing researchers’ understanding of areas where these costs are greatest and for designing responses to address them. Perhaps most important, although Young et al. make great strides in estimating the costs of government shutdowns, delays in judicial confirmation, and an inability to implement legislation, it is considerably more difficult to estimate the costs associated with foreign policy risk, erosion of diplomatic relationships, reduced government credibility, or a decrease in the overall quality of government legislation and services due to political stalemate. Efforts to estimate these costs would help policymakers and even voters understand the myriad ways in which a stalemate directly affects their livelihoods and national security. For example, efforts to assess the costs of inefficiencies in the ACA could underscore for individual voters how government stalemate directly affects their livelihoods and, in turn, could create electoral pressure for compromise.30 Research on ways that polarization can be reduced (discussed in the previous chapter) will also be essential: The key to overcoming political paralysis is to reduce division and refusal to compromise across party lines. Potential solutions might include institutional or process changes at the state or national levels that incentivize compromise or at least ease its process. Still, it is important to remember that checks and balances in U.S. political institutions are intended to grind processes to a halt when the country is deeply divided and when agreement on key policies is limited. In this sense, government paralysis may be beneficial, serving as a check on the power of any one person or party. Research focused on identifying the benefits and opportunities of stalemate, if they exist, could be beneficial. The research agenda in Chapter Six proposes additional avenues for research into political paralysis.

### !---Anti-Black Violence

#### De-platforming is a key challenge to anti-black violence

Devich-Cyril 21, activist, a writer, and a public speaker on the issues of digital rights, narrative power, Black liberation, and collective grief. Devich-Cyril is also a Senior Fellow at MediaJustice and the organization’s founding executive director (Malkia, “Banning White Supremacy Isn’t Censorship, It’s Accountability,” Wired, <https://www.wired.com/story/banning-white-supremacy-censorship-accountability/>)

EARLIER THIS MONTH, in the wake of the fatal incursion of an angry, mostly white and male mob into the Capitol Building in Washington, DC, Facebook and Twitter blocked Donald Trump’s accounts. YouTube followed with a temporary ban, which it has continued to extend in the weeks since. According to these platforms, Trump’s dangerous pattern of behavior violated their content management rules. Shortly after, Amazon Web Services ended its hosting support for the neo-Nazi online haven Parler. Parler countered with a lawsuit alleging that Amazon’s decision was an antitrust violation motivated by political animus, which the courts readily rejected. In the coming days, Facebook’s Oversight Board is expected to issue a final decision on whether to allow the former president back on its platform. The collective sigh of relief that rippled through the digital spaces occupied by Black, indigenous and other people of color following the wave of deplatformings was visceral, and the impact was almost immediate. A study conducted by research firm Zignal Labs found that online disinformation, particularly about election fraud, fell by an incredible 73 percent in the week after Twitter’s suspension of Trump’s social media account. Online forums for Trump supporters are now fractured and weakened. But many reacted to the social media bans with outrage. First Amendment fundamentalists across the political spectrum raised “free speech” concerns, claiming that the social media bans were a slippery slope. Though they’re being used to hold the powerful to account today, the argument goes, they could be used to repress minority groups in the future. Others worried that a digital oligarchy of big tech companies like Facebook, Twitter, Google, Apple, and Amazon with the unchecked power to silence individuals represents a threat to democracy. I share the concern about the outsize influence of big tech on governance and the economy. But, as a Black activist who’s been fighting for digital rights and justice and against digital disparities, surveillance, and hate for more than a decade, the reaction that most resonated was relief and a sense of collective triumph. Finally, after years of organizing, movements for racial justice and human rights were able to hold these companies accountable to the demand that they give no platform or profit to white supremacy—at least momentarily. That it took so long and such extreme circumstances for the platforms to take action, despite years of warnings and complaints, is nothing short of enraging. But it’s also not terribly surprising, especially when you consider the unequal distribution of First Amendment rights on the internet. For the past decade, we have witnessed the resurgence of white supremacy in mainstream political and public debate, and it’s only been enabled by media platforms like Facebook, Twitter, and YouTube. While those already in power may rely on the Constitution and the democratizing promise of the open internet, Black people and other marginalized groups need more than the intent of the law to enjoy its equal protection. This is not about the inherent objective of the First Amendment as law, or even about its shifting interpretations by courts over time—it is about the impact that white supremacy, anti-Black violence, and other forms of racial terrorism abetted by so-called free speech have on the speech and freedoms of Black and brown Americans.

#### Makes social media a safe space for challenging systemic racism

Devich-Cyril 21, activist, a writer, and a public speaker on the issues of digital rights, narrative power, Black liberation, and collective grief. Devich-Cyril is also a Senior Fellow at MediaJustice and the organization’s founding executive director (Malkia, “Banning White Supremacy Isn’t Censorship, It’s Accountability,” Wired, https://www.wired.com/story/banning-white-supremacy-censorship-accountability/)

Even hate speech bans that protect targeted groups aren’t enough. To advance equal representation and application of the First Amendment, tech companies should turn to the brilliance of civil rights and liberties advocates. They have plenty of ideas. The Electronic Frontier Foundation recommends that companies adopt the Santa Clara Principles on Transparency and Accountability in Content Moderation as a baseline starting point, to provide “meaningful due process to impacted speakers and better ensure that the enforcement of their content guidelines is fair, unbiased, proportional, and respectful of users’ rights.” Steven Renderos, the executive director at MediaJustice, and Brandi Collins-Dexter, a visiting fellow at the Harvard Kennedy School’s Shorenstein Center on Media and the Politics and Public Policy and senior fellow at Color of Change, both recommend that tech companies overhaul their algorithms to reward those that fight hate rather than those that promote it. These and other groups in the Change the Terms Coalition have worked tirelessly alongside Black and Latino activists to curb the use of social media, payment processors, event-scheduling pages, chat rooms, and other applications for hateful activities. Deplatforming white supremacy, chauvinism, and fascism is not antithetical to this battle for free speech, but a continuation. When big tech allows white hate speech to go unfettered, it not only bolsters white supremacist violence but echoes real world racial inequities that privilege white communities and depress Black wealth, mortality, and quality of life. As we’ve seen, when white nationalist speech and racist conditions comingle, they operate together and become part of the status quo, adopted by some government officials, law enforcement, members of the military and more. In a nation fractured by white supremacy and other forms of inequality, democracy is called to double duty—it must distribute political freedoms like those offered in the First Amendment while simultaneously ensuring civil rights which extend equal protection to all. This is no easy task, especially in the age of algorithmic decisionmaking, digital economies, and loosely regulated and vastly profitable media platforms. For too long, the debate about free speech rights has been coopted by right-wing racial extremism and white liberal elitism. But, for Black, indigenous and other communities of color, power is as consequential as rights. If social movements for racial justice, technology companies, and elected officials were able to carve out a sweet spot where Black activists had the power to use the internet to speak freely about anti-racism without having our speech suppressed by both algorithmic bias and organized hate; if we could assemble to oppose police violence without the threat of violent reprisal at every turn; if we could employ a press to contest for power without being criminalized and excluded—then we as a nation can claim the First Amendment is inherent to the democracy we want, and the future of freedom we demand.

#### That convergence of planks does exponentially more to resolve income inequality than the af

* Expand the Child and Earned Income Tax Credits
* Reduce payroll taxes and increase capital gains taxes
* Create a wealth tax
* Keep the estate tax
* Impose a Value Added Tax
* Create automatic tax cuts and unemployment benefits
* Provide tax credits for Research and Development
* Provide universal early childhood education and increase support for childcare
* Provide college tax credits
* Expand Pell Grants
* Implement tuition free community college with vocational programs
* Raise the minimum wage
* Invest in job creation programs
* Ease restrictions in the formation of unions
* Develop classification and benefit systems for temporary, part-time, on-call, and self-employment jobs
* Create a federal job guarantee
* Expand Trade Adjustment Assistance.

#### The Counterplan’s convergence of policies solves economic inequality

**Bhatt et al. 20** , Anjali Bhatt is a PhD student at Stanford. Melina Kolb has an MS in Journalism from Northwestern and a BA in anthropology from UChicago. Oliver Ward is a digital content producer for PIIE. Citing economists Hilary Hoynes (University of California Berkeley), Laura D’Andrea Tyson (University of California Berkeley), Gabriel Zucman (University of California Berkeley), Emmanuel Saez (University of California Berkeley), Stefanie Stantcheva (Harvard University), Jason Furman (PIIE), Richard Freeman (Harvard University), and William Darity Jr. (Duke University). (Anjali Bhatt, Melina Kolb, and Oliver Ward, 10/17/2020, “How to Fix Economic Inequality?” *Peterson Institute for International Economics*, <https://www.piie.com/microsites/how-fix-economic-inequality> Date Accessed: 9/23/2021)

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

TAX POLICIES

“We have shed our blood in the glorious cause in which we are engaged; we are ready to shed the last drop in its defense. Nothing is above our courage, except only (with shame I speak it) the courage to tax ourselves.”

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

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

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

The Earned Income Tax Credit is calculated based on the number of dependents (children) and work status. It has been effective at reducing poverty since its enactment in 1975. Periodic increases in the program’s disbursements have improved child educational and health outcomes [and increased employment](https://www.cbpp.org/research/federal-tax/eitc-and-child-tax-credit-promote-work-reduce-poverty-and-support-childrens) among single parents. Expanding the program would further reduce poverty while encouraging work.

Hilary Hoynes (University of California Berkeley) estimates in a [National Academy of Sciences report](https://www.nap.edu/read/25246/chapter/1) that an investment of $90 billion to $100 billion a year in expanding existing policies—such as EITC, Child and Dependent Care Tax Credit, housing vouchers, and food assistance—would cut child poverty in half.

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

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

Create a wealth tax.

Adjusting the top marginal tax rate alone would [not increase](https://www.youtube.com/watch?v=tSzes1P0NIM&feature=emb_title) the effective tax rate on the superrich, argues Gabriel Zucman (University of California Berkeley). Incomes are only a very small fraction of their wealth. Many billionaires accumulate their wealth through shares and other assets, which are subject to capital gains taxes, rather than income taxes.

Two former 2020 presidential candidates, Senators Elizabeth Warren and Bernie Sanders, backed taxing wealth directly. Their wealth tax plans sought to tax the net wealth, the assets held minus debts, of the richest citizens on an annual basis. Supporters of a wealth tax, including Emmanuel Saez (University of California Berkeley) and Zucman, contend that it would curtail the power of the superrich while funding valuable programs to help those in need. Other experts, such as Lawrence Summers (Harvard University), [argue](https://www.youtube.com/watch?v=oUGpjpEGTfE&feature=youtu.be&t=1200) it is impractical because calculating individual wealth (real estate, possessions) is problematic, and wealth can be shifted abroad. Still others say a wealth tax may be unconstitutional and note that it has been difficult to implement in Europe.

Keep the estate tax.

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

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

Impose a value-added tax (VAT).

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

Create automatic tax cuts and unemployment benefits.

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

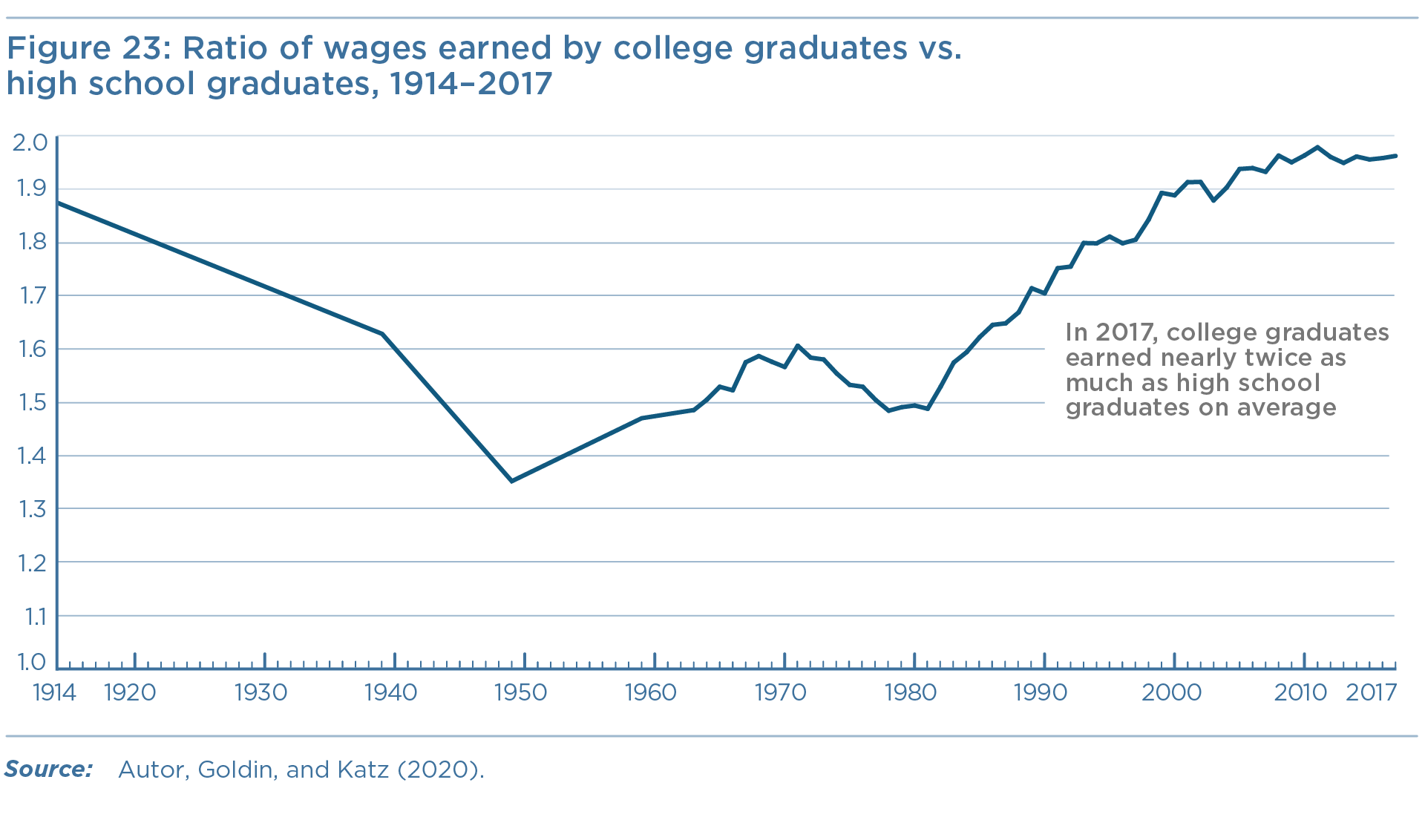
Provide tax credits for more research and development (R&D).

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

EDUCATION POLICIES

Provide universal early childhood education and increase support for childcare.

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



Improve access to quality higher education.

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

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

Provide more job training.

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

Implement talent discovery and matching programs.

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

LABOR POLICIES

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

Raising the federal minimum wage would help the lowest paid workers in states that have not already introduced their own higher minimum wages. Opponents say raising the minimum wage would burden employers and reduce the number of jobs available, but [several](https://escholarship.org/uc/item/86w5m90m) [studies](https://northstar-www.dartmouth.edu/~pwolfson/Belman-Wolfson-What-Does-the-MW-Do-Conclusion.pdf) find there is little effect on employment.

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

Enforce existing minimum wage laws.

Some employers evade minimum wage laws by classifying employees as independent workers, deducting company costs from wages (for example, taking the cost of a uniform from an employee’s pay), failing to pay overtime, and through other forms of wage theft. One [study](https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year/) suggests that the total wages US employers steal by violating minimum wage and other labor laws exceeds $15 billion each year. More resources to combat wage theft and incentives for compliance would help.

Increase government investment in job creation programs.

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

Give employees more bargaining power at companies.

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

Many experts advocate for empowering unions to bargain for better compensation, benefits, access to training, and education. A recent [Business Roundtable initiative](https://opportunity.businessroundtable.org/ourcommitment/) recommends that big companies make commitments to all stakeholders, including workers and customers, not just investor shareholders.

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

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

Create a federal job guarantee.

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

Richard Freeman (Harvard University) maintains that a federal job guarantee could have [been effective](https://www.jacobinmag.com/2020/03/unemployment-richard-freeman-recession-labor-market) at managing the economic shock of the COVID-19 crisis. It could have put newly unemployed workers to work on critical government projects, such as contact tracing, at a wage above the poverty level. As economies rebuild, the federal government can facilitate access to labor through job programs that expand during periods of economic slowdown and shrink during periods of private sector job growth. The same can be said of the need for climate-related labor—federal governments can provide jobs to work on critical green projects.

Expand Trade Adjustment Assistance beyond trade-affected workers.

Trade Adjustment Assistance (TAA) is much criticized as ineffective, but those who received training through the program enjoyed [substantial increases in earnings](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3155386.). The program falls short because of its limited scope—it only helps workers demonstrably hurt by trade, not by technology or other factors beyond their control. Removing the conditions and expanding the TAA program to include workers displaced by automation and other factors would deliver the program’s benefits to a wider group of recipients.

## Advantage 2

### Advantage 2

#### Impact is wrong.

Drezner 14, IR prof at Tufts. (Daniel, January 2014, “The System Worked: Global Economic Governance during the Great Recession, World Politics”, Volume 66. Number 1; pp. 123-164)

The final significant outcome addresses a dog that hasn't barked: the effect of the Great Recession on cross-border conflict and violence. During the initial stages of the crisis, multiple analysts asserted that the financial crisis would lead states to increase their use of force as a tool for staying in power.42 They voiced genuine concern that the global economic downturn would lead to an increase in conflict—whether through greater internal repression, diversionary wars, arms races, or a ratcheting up of great power conflict. Violence in the Middle East, border disputes in the South China Sea, and even the disruptions of the Occupy movement fueled impressions of a surge in global public disorder. The aggregate data suggest otherwise, however. The Institute for Economics and Peace has concluded that "the average level of peacefulness in 2012 is approximately the same as it was in 2007."43 Interstate violence in particular has declined since the start of the financial crisis, as have military expenditures in most sampled countries. Other studies confirm that the Great Recession has not triggered any increase in violent conflict, as Lotta Themner and Peter Wallensteen conclude: "[T]he pattern is one of relative stability when we consider the trend for the past five years."44 The secular decline in violence that started with the end of the Cold War has not been reversed. Rogers Brubaker observes that "the crisis has not to date generated the surge in protectionist nationalism or ethnic exclusion that might have been expected."43

# 1NR

## Link

### Link—Wyoming

#### Specifically, Each new structural remedy requires decades of enforcement and litigation

Crandall 1, Senior Fellow in Economic Studies at the Brookings Institution and a Scholar at the AEI-Brookings Joint Center for Regulatory Studies. The author is indebted to Hal Singer, Bruce M. Owen, J. Gregory Sidak, and Clifford Winston for comments and suggestions. Research assistance was provided by Jeffrey West, Ana Kreacic, and Kristin Jaeger“The Failure of Structural Remedies in Sherman Act Monopolization Cases,” https://www.brookings.edu/wp-content/uploads/2016/06/03\_monopoly\_crandall.pdf

The on-going costs of enforcing antitrust decrees can be very large. If an industry is changing rapidly, structural remedies may be difficult to enforce. For instance, it may be difficult to determine the demarcation point between various stages of production that have been separated through vertical divestiture. When television exhibition replaced theatrical exhibition of feature films, for example, would the Paramount defendants be allowed to own television stations, but not theaters? Could the divested Bell operating companies provide Internet service through local Internet Service Providers (ISPs) if the latter sent data packets across LATA boundaries? What if the Bell-owned ISP connected with another entity within its own LATA, who, in turn, sent the data packets to the Internet backbone? Most of the antitrust decrees in the leading cases analyzed below continued in effect for many years, even decades. In many cases, these decrees required the continual supervision by the lower court and often led to appeals to the higher courts. The AT&T decree, in particular, was a structural decree that involved scores of hearings before the District Court and created a backlog of unresolved disputes that had become very large when the decree was finally vacated by 1996 legislation. Approximately 35-40 separate waiver requests were filed per year in the first 8 years of the decree, and by 1993 the average age of pending waiver requests had grown to approximately four years.17 This caseload was due in no small part to the changing nature of the telecommunications industry

#### AND Separations require granular case by case analysis—their author

Khan ’19 [Lina; Chairperson @ Federal Trade Commission, JD @ Yale Law School; “The Separations of Platforms and Commerce,” *Columbia Law Review* 119(4), p. 973-1098 ; date accessed 9/23/21]

These overall numbers, however, offer limited insight into whether— and in what way—dominant platforms are affecting venture capital funding. Even sector-specific figures compiled by the industry database are based on industry classifications that are too generalized for a precise analysis of this question. Establishing high-level causality between platform conduct and investment decisions would prove extremely challenging; there are a significant number of variables at play, and demonstrating but-for causality is tough. Achieving clarity on this question would require granular case-by-case analysis.198

#### It’s inherent in separation—their author

Khan ’19 [Lina; Chairperson @ Federal Trade Commission, JD @ Yale Law School; “The Separations of Platforms and Commerce,” *Columbia Law Review* 119(4), p. 973-1098 ; date accessed 9/23/21]

This Part examines whether integration by dominant platforms gives rise to the sort of harm previously addressed through separations, offers a rough sketch of what a separations framework for digital intermediaries might look like, and identifies the likely challenges and unresolved questions. Ultimately, any separations proposal will require a case-by-case analysis of the relevant market that the platform dominates, the types of network effects and entry barriers that suggest the platform’s market power may be durable, and the potential costs of implementing a separation. Several questions that this Part only briefly engages—such as how to define what constitutes a platform, how to assess the contours of the platform, and how to scope structural separations—invite deeper study.

#### It requires intensive study—their author

Khan ’19 [Lina; Chairperson @ Federal Trade Commission, JD @ Yale Law School; “The Separations of Platforms and Commerce,” *Columbia Law Review* 119(4), p. 973-1098 ; date accessed 9/23/21]

Getting the policy right will require careful case-by-case analysis and further study to assess the relevant tradeoffs. Closer study, moreover, may reveal that the set of contexts that warrant separations is relatively limited. Arriving at the proper set of interventions, however, requires first knowing the full set of available tools.

#### Morale— The plan’s perceived as a fundamental critique of FTC’s legacy---that devastates morale

Kovacic 20, Global Competition Professor of Law and Policy, et al (William, with Allison Jones, “Antitrust’s Implementation Blind Side: Challenges to Major Expansion of U.S. Competition Policy,” *The Antitrust Bulletin*, 65.2)

(ii) Respecting and Learning from Past Achievements. In the United States, there is an unfortunate habit of making the case for major reforms by depicting the existing policy making institutions as utterly incompetent, slothful, or corrupt.61 Reform advocates sometimes appear to believe that any recognition that existing institutions sometimes have done good work undermines the case for fundamental reform. There is a perceived imperative to portray the responsible bodies and their leaders as hopelessly inadequate. Electoral campaigns can sharpen this tendency by leading the opposition party to claim that the incumbent administration’s program was an unrelieved failure. In a striking number of instances, this pattern has emerged in discussions of antitrust policy.62 In current discussions about the future of the U.S. antitrust regime, advocates of fundamental reform sometimes portray the federal antitrust enforcement agencies as decrepit -- perhaps to underscore the need for basic change.63 The implication is that, because the antitrust system has failed so miserably, there are few, if any, positive lessons to be derived from experience since the retrenchment of U.S. policy began in the late 1970s, and certainly none since 2000. This style of argument has several potential costs. One danger is that it overlooks genuine accomplishments and, in doing so, ignores experience that suggests how to build successful programs in the future. We offer three examples that deserve close study in building future cases that seek to expand the reach of the antitrust system. The first is the development of the FTC’s pharmaceutical and non-pharmaceutical health care program from the mid-1970s forward. The Commission identified health care as a major priority and devised a strategy that used the full range of the agency’s policy tools – cases, rules, reports, and advocacy – to change doctrine and alter business behavior.64 The affected business enterprises were (and are) economically powerful and politically influential, and they mounted powerful campaigns in the courts and in the Congress to blunt the Commission’s initiatives. The difficulty of the FTC’s program is perhaps most apparent in the case of health care services. The agency had to win cases before courts that displayed skepticism about whether competition had a useful role to play in the delivery of health care, or in any of what are known as the learned professions.65 The FTC also had to outmaneuver an industry that was bent on gaining legislative relief from antitrust scrutiny. Allied with other professional groups, the leading U.S. medical societies came within an inch in the late 1970s and early 1980s of persuading Congress to withdraw the FTC’s jurisdiction to apply the antitrust law to the professions.66 A second example is the FTC’s effort over the past two decades to restore the effectiveness of the “quick look” as an analytical tool in the wake of the Supreme Court’s decision in Federal Trade Commission v. California Dental Association (CDA).67 By 2001, it had become apparent to the FTC’s senior leadership team that CDA had raised doubts about the application of the quick look method of analysis to truncate the assessment of behavior that, while not previously condemned as illegal per se, strongly resembled conduct that antitrust jurisprudence had forbidden categorically.68 The agency responded with a strategy focused on the development of cases that would enable the Commission to use its administrative adjudication authority to persuade courts to reject the broader negative implications of CDA and restore the vitality of the quick look. This initiative ultimately generated court of appeals decisions that upheld the Commission’s effort to treat certain behavior as “inherently suspect” without proving that the defendant possessed market power and to require the defendant to offer cognizable, plausible justifications.69 A third example is the FTC’s successful litigation of three cases before the Supreme Court over the past decade.70 Not since the 1960s has the Commission litigated and won three consecutive antitrust cases before the Supreme Court. Each matter involved difficult issues and featured strong opposition from the defendants and amici. Had the FTC been a “timid” institution, one cannot imagine that it wouild have mounted or sustained these litigation challenges. The programs that accounted for these results were not accidental. Each program began with a careful examination of the existing framework of doctrine and policy to identify desired areas of extension. This stock-taking guided the identification of potential candidates for cases and the application of other policymaking tools.71 Each program built incrementally upon the bipartisan contributions of agency leadership and the sustained commitment of staff across several presidential administrations headed by Democrats and Republicans. If one assumes (as a number of reform proponents assert) that the FTC was a useless body in the modern era, there would be little purpose in studying these examples, or anything else it did, as there would be nothing useful to learn. The paint-it-black interpretation of modern antitrust history makes the costly error of tossing aside experience that might inform the successful implementation of new reforms. A second notable harm from the catastrophe narrative, most relevant to the discussion of human capital, is its demoralizing effect on the agency’s existing managers and staff. To see one’s previous work portrayed as substandard, or worse, tends not to inspire superior effort. It breeds cynicism and distrust where managers and staff understand that the critique badly distorts what they have done. Proponents of basic change must realize that the success of their program to expand antitrust intervention will require major contributions from existing staff and managers.

#### Backlash— Big wins against big players cause FTC wing-clipping

Hyman 14, Workman Chair in Law and Professor of Medicine, University of Illinois, and former special Counsel at the Federal Trade Commission (David A., and William E. Kovacic, Hyman is H. Ross & Helen; Kovacic is Global Competition Professor of Law and Policy, The George Washington University Law School, “Can’t Anyone Here Play This Game - Judging the FTC’s Critics The FTC at 100: Centennial Commemorations and Proposals for Progress: Essays,” George Washington Law Review, 83.6)

The ABA Commission set out three basic guidelines for the FTC's future antitrust work:

(1) Forsake trivia in favor of economically significant matters;123

(2) Emphasize cases involving complex, unsettled questions of competition economics and law, and leave per se cases to the DOJ;124 and

(3) Replace voluntary commitments with binding, compulsory orders. 12 5

Each of these changes certainly sounds sensible, particularly when taken one at a time. After all, who could be against the forsaking of trivia? But, each change involved a shift from a safer law enforcement strategy to a riskier one. The pursuit of economically significant matters galvanizes tougher opposition in litigation and motivates firms to seek out legislative assistance in backing down the agency. Focusing on complex and unsettled areas of the law involves greater litigation risk (because the cases are on the edges of existing doctrine) and exposes the agency more broadly to claims that it is engaged in unprecedented enforcement or sheer adventurism. The pursuit of tougher remedies arouses a stronger defense by respondents and, again, increases efforts to enlist Congress to discipline the FTC. Although the ABA Commission noted the importance of political support and a vigorous chairman who would "resist pressures from Congress, the Executive Branch, or the business community," 1 26 it paid almost no attention to the predictable consequences of having the FTC occupy the risk-heavy end of the spectrum of all possible enforcement matters. The political science literature before 1969 had emphasized the political dangers inherent in the Commission's expansive norms-creation mandate and its broad information-gathering and reporting powers.1 27 For example, Pendleton Herring's study in the mid-1930s about the political hazards facing economic regulatory bod-ies said the agency's mandate placed it in "a precarious position" from the start: The parties coming within [the FTC's] jurisdiction were often very powerful. The more important the business, the wider its ramifications, and the more numerous its allies and subsidiaries, the closer it came within the commission's responsibility. To review the firms with which this agency has had official contacts, especially in its early years, is to go down the roster of big business in this country. Making political enemies was soon found to be an incident in the routine of administration. The discharging of official duties meant interfering with business and often "big business."128 Had it read and absorbed the teaching of the available political science literature, the ABA panel would have had to confront deeper, harder questions about the causes of the FTC's performance. The panel missed (or underestimated) the big issue of politics. Like many blue ribbon studies of government performance, the ABA Report was long on demands for bold action and short on practical suggestions about how to cope with the crushing political backlash that boldness can breed.129 B. The Posner Dissent Posner argued that the FTC would not be able to deliver on the ABA Commission's ambitious agenda because the FTC's leaders and staff lacked the necessary incentives to do so. 130 In his view, FTC Commissioners deliberately avoided confrontation with powerful eco- nomic interests that could frustrate reappointment or deny the board member a suitable landing place in the private sector upon leaving the agency.131 Similarly, FTC staff saw little upside (and considerable downside) to being overly aggressive in enforcing the law.1a2 Posner's assessment was certainly plausible. Government service disproportionately attracts people who plan to stay, and keeping your head down is an excellent way of doing that. "Don't make waves" becomes the default strategy of the lifers, and those who are tempera-mentally unsuited to that approach either self-select out, or are ac- tively encouraged to depart. 33 But matters are not so simple. Regulators that create or adminis- ter a program that threatens major commercial interests can leave government and monetize their expertise by guiding firms through the regulatory shoals.1 34 The prosecution of big cases attracts media at- tention and raises the prominence of the officials who set them in mo- tion. This publicity often translates into attractive offers for post- government employment. Posner also overlooked the emergence of attractive career paths for aggressive enforcement officials outside the private sector. A reputation for toughness would prove to be an asset, not a barrier, for those aspiring to join university faculties, think tanks, or advocacy groups that wanted to add high visibility officials to their ranks. III. SOME LESSONS AND A FEW MODEST SUGGESTIONS People like morality tales. The conventional morality tale in- spired by the ABA Report goes like this: In 1969, the FTC had a long history of existence, but almost nothing else to recommend it.1" The ABA Report accurately diagnosed the problems and laid out a clear agenda for the FTC to redeem itself.136 The FTC followed the recom- mendations in the ABA Report, and the agency was saved. All hail the ABA Commission, and the wisdom of those who served onit.13 Of course, life is more complicated. Unambiguous morality tales are more common in children's books than in real life. 38 A close reading of the record indicates that the pre-1969 FTC was not as aw-ful, and the ABA Report was not as good, as the conventional wisdom would indicate.1 39 We consider the lessons that should be drawn and offer four "modest suggestions that may make a small difference" the next time we encounter a similar situation.140 A. Be Careful What You Demand (Or Wish For) The ABA Commission wanted the FTC to be a fierce and aggressive enforcer/regulator, and it generated a detailed list of all the things the agency had to do to justify its continued existence.141 The FTC responded aggressively to the challenge-but in so doing, it became significantly overextended. In other work, we consider a number of factors that appear to be associated with good agency performance.14 2 One of the most important factors is whether the agency has the capacity and capability to perform the tasks that it has been given (or for which it has assumed responsibility).143 An agency that is overextended will find itself engaged in a constant process of regulatory triage-meaning it is unlikely to do a good job on any of the tasks within its portfolio of responsibilities. It is one thing to launch a single bet-the-agency case and entirely another to launch a half-dozen of those cases and an equal number of significant rulemaking projects simultaneously-let alone staff each case and rulemaking project so as to maximize the likelihood of good outcomes across the entire portfolio.144 The ABA Commission set a high bar for the FTC to clear if it was to remain in business-and the FTC responded with the enforcement equivalent of building and launching an armada of 1,000 ships.145 Little thought was given by the ABA Commission (or by top FTC management) as to whether the agency was up to the task of waging the functional equivalent of multiple land wars in Asia. 146 In particular, the ABA Commission gave no attention to the time it would take the agency to build the highly skilled teams of professionals it would need to perform the ambitious agenda it had recommended. There should have been an express caution that building this capability would take time. Instead, the ABA Report's "one last chance" admonitionl47 led the FTC to take on a daunting agenda before it had the ability to deliver. This consequence arguably is one of the ABA Commission's most unfortunate legacies. The remarkable thing is that the FTC managed to do as well as it did-notwithstanding the Herculean list of labors handed to it by the ABA Commission. B. Leadership Incentives Matter Posner did not think the FTC leadership would ever be able to rouse itself from its stupor.14 8 He also could not envision a set of in- centives that would motivate the FTC to become an activist presence on the regulatory scene. 149 As detailed above, Posner's assessment on both of these issues was wrong.150 But, it does not follow that the FTC's leadership (or the leader- ship of any other agency) is subject to an optimal set of incentives. Agency leadership always faces a choice between consumption and investment-and the stakes are systematically skewed toward con- sumption (in the form of launching new high-profile cases) by the short duration of any given leader's tenure.'51 As one of us noted in another article, the case-centric approach to evaluating agency per- formance-which is what the ABA Commission effectively embraced and encouraged-has a critical vice: It accords no credit to long-term capital investments. It gives decisive weight to the initiation of new cases. This incentive system can warp the judgment of incumbent political appoin- tees who typically serve terms of only a few years. The per- ceived imperative to create new cases can create a serious mismatch between commitments and capabilities, as the si- rens of credit-claiming beckon today's manager to overlook the costs that improvident case selection might impose on the agency in the future, well after the incumbent manager has departed. It is a common aphorism in Washington that agency leaders should begin by picking the low-hanging fruit.... What is missing in the lexicon of Washington poli- cymaking is an exhortation to plant the trees that, in future years, yield the fruit.1 52 [FOOTNOTE 152 BEGINS] 152 Kovacic,supra note 144, at 922; see also Kovacic, supra note 151, at 189 ("[A] short-term perspective may incline the manager to launch headline-grabbing initiatives with inadequate regard for the matter's underlying merits or the ultimate cost to the agency, in resources and reputation, in litigating the case. If the case goes badly, the manager responsible for the take-off rarely is held to account for the crash landing. He can hope the passage of time will dim memories of his involvement, he can blame intervening agents for their poor execution of his good idea, or he can shrug his shoulders and say he was making the best of the fundamentally bad situation that policymakers encounter in the nation's capital."); Timothy J. Muris, Principlesf or a Successful Competition Agency, 72 U. CHi. L. REV. 165, 166 (2005) ("An agency head garners great attention by beginning 'bold' initiatives and suing big companies. When the bill comes due for the hard work of turning initiatives into successful regulation and proving big cases in court, these agency heads are often gone from the public stage. Their successors are left either to trim excessive proposals or even to default, with possible damage to agency reputation. The departed agency heads, if anyone in the Washington establishment now cares about their views, can always blame failure on faulty implementation by their successors."). [FOOTNOTE 152 ENDS] Thus, if anything, the ABA Commission's "do something" recommendations encouraged (and hyper-charged) precisely the wrong incentives. C. Don't Forget About Politics Perhaps the largest failing of the ABA Commission was its failure to anticipate the political risks associated with its recommendations. Academics and do-gooders will enthusiastically lecture all and sundry about how the government exists to promote the general public interest-but decades of research on political economy make it clear that there is not much of a constituency for that mission.153 Indeed, an agency that seeks to promote the general public interest is an agency without any constituency.1 54 Thus, the ABA Commission wound up and sent into battle an agency without any real constituency or political backing, to wage war against a large and politically powerful collection of firms in every sector of the economy. There is no question that the FTC was unlucky, in that many of its most enthusiastic supporters were being voted out of office at the same time the FTC was picking fights with everyone and their brother.155 But, luck aside, if you were trying to create a "coalition of the willing" determined to clip the wings of the FTC, you would be hard-pressed to pick a better strategy than the one selected by the ABA Commission.15 6

### AT Overstretch now

#### FTC has sufficient resources now to fight fraud. But they are stretched to capacity.

Soto et al. 21, American attorney and Democratic politician from Kissimmee, Florida, who is the U.S. Representative for Florida's 9th district; Lina Khan is Chair at the FTC; Noah Joshua Phillips is Commissioner at the FTC; Rohit Chopra is Commissioner at the FTC; Christine S. Wilson is Commissioner at the FTC, (Darren, “Transforming the FTC: Legislation to Modernize Consumer Protection,” Committee on Energy and Commerce, 6/28/21, <https://energycommerce.house.gov/committee-activity/hearings/hearing-on-transforming-the-ftc-legislation-to-modernize-consumer>)

Noah Joshua Phillips (5:06:17): Thank you, Congressman, I'd just start with the fact that when I began, our budget was about 309 million, I think, something like that, and the latest congressional budget justification has us at 389. So there's been a substantial increase in the ask, including some funding from Congress. So I think it's important to track how those resources are used. But I do think we can do more with more. That's, that's certainly a true thing. But I think it's important to take care in how we spend what we have.

Darren Soto (5:06:46): Thank you. Commissioner Chopra.

Rohit Chopra (5:06:48): Sir, I think - I know every agency says that they need more resources. But just looking at the data, we are stretched completely to capacity and the rubber band is snapping. And if we need to effectively enforce the law, we need the resources. There are so many laws that Congress has recently passed, whether it's relates to opioids or so many other topics, that the FTC has not brought a single law enforcement action on. That's not just resources. That's also Commissioner accountability. But resources will certainly help.

Darren Soto (5:07:25): Commissioner Slaughter.

Christine Williams (5:07:30): Commissioner Slaughter had to leave, but Commissioner Wilson is here. And I would say that our hard working staff have been even harder working during the last 18 months. They are teleworking but they are working incredibly hard to stay on top of the increase in mergers as well as the increase in COVID scams. And I agree with Commissioner Phillips, it's important to understand how we are spending additional appropriations. But I also know that there are many different areas of the economy where Congress has expressed interest in our being very active and aggressive. And it is difficult to do that unless we have the appropriate resources to do that.

### IL---US Key

#### FTC anti-fraud efforts solve internationally:

#### FIRST---extra-territorial enforcement and global cooperation

#### The FTC is an international fraud-fighter

CB 16 (City Bank, “The FTC fights international scams,” <https://www.city.bank/fraud-and-security/news/fraud-and-security/2016/11/01/the-ftc-fights-international-scams>)

The FTC aggressively sues scammers who operate across borders and target people in the US with imposter schemes. For example, a federal court recently temporarily shut down and froze the assets of a tech support operation that directed people to call a boiler room in India for computer help, then pressured them to spend $200 to $400 for useless repair services. That case was one of a dozen similar cases brought by the FTC. The FTC also works with agencies worldwide to boost cooperation against cross border scams. Next month, staff from the Commission’s Office of International Affairs will meet for the fifth time with industry, trade groups, law enforcement and tech experts to continue efforts to thwart fraudsters operating in India. A recent police raid on nine call centers in India shows the benefit of collaboration.

#### SECOND---international reporting and data-sharing

Lake 20, Consumer Education Specialist, FTC (Lisa, “Econsumer.gov: International scam fighter,” <https://www.consumer.ftc.gov/blog/2020/05/econsumergov-international-scam-fighter>)

No; this isn’t an action movie. But new enhancements to econsumer.gov — and a new interactive international dashboard for Consumer Sentinel reports — give the FTC, other government agencies, and people across the globe scam-fighting powers that rival those of an action hero. Econsumer.gov is a site created in 2001 by members of the International Consumer Protection and Enforcement Network (ICPEN), to gather and share consumer complaints about international scams. The FTC leads the econsumer.gov project. One of the new interactive dashboards is based on econsumer.gov reports. It identifies the world’s top fraud locations, as well as reported financial losses from this fraud. The second set of dashboards tracks international reports submitted to the Consumer Sentinel Network. These include reports filed by foreign consumers against U.S.-based companies, and reports filed by U.S. consumers against foreign companies, with data grouped by geographic region.

#### That info-leadership is key

Gordon 3, Professor of Economic Crime Programs Executive Director of the Economic Crime Institute Utica College, et al (Gary, “Identity Fraud: A Critical National and Global Threat,” Economic Crime Initiative, <http://www.lexisnexis.com/presscenter/hottopics/ECIReportFINAL.pdf>)

As John S. Pistole of the FBI noted in his remarks before the House Select Committee on Homeland Security on October 1, 2003, The crucial element in the acceptance of any form of identification is the ability to verify the actual true identity of the bearer of the identification. In today’s post-9/11 world, this element is all the more important because, in order to protect the American people, we must be able to determine whether an individual is who they purport to be. This is essential in our mission to identify potential terrorists, locate their means of financial support, and prevent acts of terrorism from occurring. Identity fraud is a national crisis with global implications. Its pervasiveness must be recognized, especially as a facilitator of crimes that threaten national security, the economy, and personal privacy and security. If identity fraud is not seen as a significant and insidious threat, it will not be dealt with accordingly. Ronald D. Malfi’s statement to the Committee on Homeland Security on October 1, 2003 indicates the enormity of the threat. He outlined the tests conducted by the Office of Special Investigations which showed that fraudulent driver’s licenses and birth certificates were sufficient to gain entry to the United States from Jamaica, Barbados, Mexico, and Canada. During their investigation, they were able to purchase firearms in five states using counterfeit driver’s licenses with fictitious identifiers. They were able to gain access to federal buildings, as well. “In March, 2002, we breached the security of four federal office buildings in the Atlanta area using counterfeit law enforcement credentials to obtain genuine building passes, when we then counterfeited. We were also able to obtain building passes that authorized us to carry firearms in the buildings” (Malfi, 2003). Malfi listed three conclusions: “(1) government officials and others generally did not recognize that the documents we presented were counterfeit; (2) many government officials were not alert to the possibility of identity fraud and some failed to follow security procedures and (3) identity verification procedures are inadequate” (Malfi 2003). Understanding and facing the threat of identity fraud is crucial to solving it. This white paper has focused on exposing the problems that Postole and Malfi discussed in their October 1, 2003 remarks. It continues further, however, and offers recommendations to help combat them. The challenges to solving the problem are many. The key is to authenticate personal identifiers used to procure breeder documents, thus rendering fraudulent identities ineffective. Inherent in that challenge, however, is the need to classify, collect, and share identity fraud data, both domestically and globally, while enhancing the protection of privacy of individuals and meeting the needs of domestic and global commerce, law enforcement, and national security. Meeting those challenges will necessitate strong national leadership in the United States, new methods of collecting and classifying identity fraud, a comprehensive research agenda, and an investment in the research and development of emerging and promising technologies. The same effort must be undertaken on a global scale to facilitate the formulation of best practices for combating identity fraud and enhancing information sharing

## Terror !

#### Tons of possible scenarios for nuke terror—I wasn’t kidding in cx!

\*nuclear energy and reprocessing, north korea sells them, iran sells them, groups steal them from pakistan or india

Graham, 18 – Assistant Secretary of Defense in the first Clinton Administration, educated at Davidson College; Harvard College (B.A., magna cum laude, in History); Oxford University (B.A. and M.A., First Class Honors in Philosophy, Politics, and Economics); and Harvard University (Ph.D. in Political Science), Douglas Dillon Professor of Government (Graham Allison, "Nuclear Terrorism: Did We Beat the Odds or Change Them?," PRISM | *National Defense University*, 5-15-2018, http://cco.ndu.edu/News/Article/1507316/nuclear-terrorism-did-we-beat-the-odds-or-change-them/)

Factors and Actions That Have Increased the Risk of Nuclear Terrorism

Despite these successes, there have also been numerous missed opportunities and structural shifts during the past 13 years that have increased the risk of nuclear terrorism. Obama’s success in Iran is offset by his failure to stop North Korea’s nuclear advance. North Korea is today the world’s leading candidate to become “Nukes ‘R’ Us.” Long known in intelligence circles as “Missiles ‘R’ Us” for having sold and delivered missiles to Iran, Syria, Pakistan, and others, it has repeatedly demonstrated its willingness to “sell anything it has to anybody who has the cash to buy it,” as former Secretary of Defense Robert Gates famously noted.23 Indeed, anyone who doubts that North Korea would sell to others the wherewithal to make a nuclear bomb should pause and examine what they did in Syria. As we learned after Israel attacked and destroyed the Yongbyon-model reactor at al-Kibar in Syria in 2007, North Korea sold materials, designs, and expertise to help Syria build a plutonium-producing nuclear reactor.24 By now that reactor would have produced enough plutonium for a dozen nuclear bombs.

Moreover, what price did North Korea pay for having proliferated nuclear-weapons technologies and materials? In 2006, after watching North Korea test its first nuclear device and fearing that it might do something this reckless, President Bush issued a solemn warning. Declaring that sale or transfer of any nuclear weapon or nuclear-weapons material and technologies would cross a bright red line, Bush warned that any sale that violated this prohibition would be held “fully accountable.”25 But after North Korea was found to have disregarded this warning, how did the United States respond? When Israel informed the Bush Administration that it had discovered this facility as the project was approaching completion, the United States not only failed to take military action itself to stop it, but urged Israel to take the issue to the United Nations. Just weeks after Israel disregarded U.S. advice and destroyed the reactor, the United States returned to the Six-Party Talks with North Korea. And less than a year later, President Bush gave the Kim regime a significant concession by removing it from the list of state sponsors of terrorism in return for inspections on and initial steps to dismantle the Yongbyon reactor—a deal that Pyongyang reneged on just six months later when it kicked out the inspectors and announced that it would resume reprocessing at the reactor.26

When Nuclear Terrorism appeared in 2004, North Korea had yet to conduct a nuclear test. Since then, it has conducted six nuclear tests, including one in September 2017 that produced a yield ten-times that of the Hiroshima bomb.27 In Obama’s two terms, Kim Jong Un and his father, Kim Jong Il, conducted 80 missile tests. In Trump’s first year in office, Kim Jong Un has so far conducted 20 additional missile tests, including three ICBM tests.28 Today, North Korea stands on the threshold of a credible nuclear threat to the U.S. homeland. If North Korea succeeds in completing its nuclear deterrent, leaders of other rogue states will certainly take note.

As North Korea has continued violating UN injunctions to halt its nuclear and missile programs, the United States and its allies have ratcheted up sanctions on the Kim regime. The United States and China now insist that the most severe sanctions ever are “biting” and that “maximum pressure” on North Korea will force the Kim regime to relent and comply in order to avoid collapse. Those who have been watching this issue for the past two decades have heard that hope before. Moreover, tightening sanctions give a cash-strapped regime greater incentives to turn to the nuclear black market.

The United States has warned Kim Jong Un that selling nuclear weapons or weapons-usable nuclear materials would cross an inviolable red line. But as noted above, President Bush drew this red line a decade ago for Kim’s father—but to no effect. At this point, how credible will another threat from the United States to “punish” North Korea for selling nuclear weapons or material be? Indeed, our predicament today is even more difficult. If Kim Jong Un launches his next series of ICBM tests and the IC concludes that he has the capability to attack the American homeland, how credible will any U.S. threat to punish North Korea for anything short of a full-scale attack on South Korea or the United States be? As Kim’s advisers will ask, if the United States is not prepared to act on its threat to prevent North Korea from acquiring the ability to strike the American homeland, why would they act if North Korea sold nuclear weapons to Iran?

Even if Trump succeeds in halting Kim’s progress short of a credible ICBM threat to the U.S. homeland, which seems unlikely at this point, the threat of nuclear terrorism emanating from North Korea will continue to require a significant U.S. campaign to deter and prevent. Due to the inability of previous administrations to stop North Korea’s progress earlier, a nuclear-armed North Korea, with the capacity and perhaps willingness to sell, will remain a major challenge not only for Trump but for his successors.

Another major long-term challenge is the relentless advance of science and technology and the accelerating diffusion of nuclear and radiological know-how. The proliferation of advanced manufacturing has made it easier to produce components needed for a bomb. For example, the A.Q. Khan nuclear black market network manufactured key parts for centrifuges in workshops in Malaysia.29 Furthermore, the widespread availability of radiological material in medical and research settings has led to the recognition that it is simply a matter of when, not if, terrorists detonate a dirty bomb. This reminds us of one of the hardest truths about modern life: the same advances that enrich and prolong our lives also empower potential killers to achieve their deadly ambitions.

While those potential killers are not as cohesively organized as they were prior to 9/11 when al-Qaeda had a coordinated WMD effort, the terrorist threat has metastasized. Al-Qaeda morphed into ISIL and an array of affiliates like al-Shabaab in Somalia. These newer terrorist organizations will undoubtedly splinter further as a result of the loss of ISIL and al-Qaeda’s main safehavens. But these groups have demonstrated a remarkable ability to find hosts in other fragile states around the globe, from Niger to Yemen, and even within more stable states, like Indonesia.

Furthermore, the widening scope of U.S. counterterrorism operations has continued to create new mutations. The United States has now conducted drone strikes and Special Forces raids in at least seven Muslim-majority countries: Afghanistan, Iraq, Libya, Pakistan, Somalia, Syria, and Yemen. Furthermore, with the Trump Administration’s recent announcement that it will begin flying drone missions out of a new base in Niger, this number will likely rise to include at least Niger and Mali, along whose borders many terrorists operate.30 Despite major efforts to avoid civilian casualties, many strikes have resulted in significant collateral damage, providing fodder for terrorist recruiters.31 Thus, while U.S. counterterrorism operations have been immensely successful in hunting down high-level militants, these efforts in each area must be weighed against the risk that operations could create more enemies than they kill.

The battle against Islamic extremist ideologies and their adherents will be a generational challenge. This is less a problem to be “fixed” than a condition that will have to be managed. It will require constant vigilance for as far as any eye can see. And as long as there are states that are unwilling or unable to suppress terrorists or expel them from their borders, they will find savehavens in which to continue. We should never forget that most of the planning and preparation for the 9/11 attack was done by an al-Qaeda cell in Hamburg, Germany. Moreover, while al-Qaeda’s core has been decimated, its remaining leaders continue to find refuge in the nuclear-armed ticking time bomb called Pakistan.

While rarely featured in the American media, the India–Pakistan relationship continues to be one of the most dangerous dynamics in the world. Underlying the relationship is a deep-seated animosity and seemingly irresolvable dispute over the status of Kashmir, a mountainous region between the two countries claimed by both. Their armies continue to frequently exchange fire across the “Line of Control” that separates India-controlled Kashmir from Pakistan-controlled Kashmir. In addition to remnants of al-Qaeda and the Taliban, Pakistan also harbors (and has given active support to) terrorist groups like Lashkar-e-Taiba (LeT) and Jamaat-ud-Dawa (JuD) whose primary target is India.

There have been two major terrorist attacks emanating from Pakistan this century: on the Indian Parliament in Delhi in 2001, and in a dramatic attack on the Taj Hotel in Mumbai in 2008. The 2001 attack led to a massive military buildup and standoff along the Line of Control. This came just two years after the Kargil War in 1999, which was just a year after both states conducted nuclear weapons tests.

Both states have been building up capabilities to prepare for the next crisis. In the hopes of persuading the government of Pakistan to prevent further attacks by quasi-independent militant groups like LeT and JuD, India has unveiled a “Cold Start” doctrine that threatens to respond to future attacks with a quick, decisive incursion of ground troops into Pakistani territory. The concept is to punish Pakistan for any terrorist attacks and force it to take actions to dismantle terrorist organizations. The hope is that stopping the invasion after penetrating just 10–15 kilometers into Pakistan will avoid triggering nuclear retaliation. However, Pakistan has responded in a way that not only makes its threat of a limited nuclear response more credible; it makes the risk of loss of Pakistani nuclear weapons much higher. Pakistan has been aggressively developing and planning deployments of tactical nuclear weapons and short-range Nasr missiles near the Indian border.32

Nuclear security experts have rightfully sounded the alarm bells. Tactical nuclear weapons deployed to the frontlines pose a clear risk of theft by a rogue field commander or terrorist group. Moreover, the larger the number of weapons, the smaller and more transportable their size, and the wider their deployment, the higher the probability some will go missing.

India and Pakistan are both also actively producing fissile material and enlarging their nuclear arsenals. The Nuclear Threat Initiative’s Nuclear Security Index ranks India and Pakistan among the four least secure countries in the world for nuclear material, along with Iran and North Korea.33

Perhaps most concerning for the global nuclear order, however, is what has happened in U.S.–Russia relations. The United States for two decades after the collapse of the Soviet Union provided assistance to Russia through the CTR, helping to secure weapons and fissile material before anything made its way to the black market. Three years ago, in the wake of Russia’s invasion of Crimea and the Obama Administration’s decision to punish Putin by imposing strong sanctions and cancelling cooperative programs between the Department of Energy and its Russian counterpart, these activities stopped. Thus, patterns of sharing and cooperation that had included exchange of technologies and practices for protecting nuclear weapons and materials, disposing of plutonium, and identifying potential terrorists halted.

Ninety percent of all the nuclear weapons in the world remain in the United States and Russia. Moscow’s active participation in preventing theft and sale of nuclear weapons materials and sensitive technologies has made the difference between failure and success in preventing the spread of nuclear weapons. Whatever the state of relations between the two countries and their leaders, this reality cannot be denied. Technology has imposed on the two countries an inescapable partnership and absolute requirement for cooperation at least to a level that can avoid nuclear use, either against each other or by terrorists. In a phrase, however insufferable, Russia is America’s inseparable Siamese twin.34

Trends in U.S.–China relations are also impacting the long-term nuclear order. As Thucydides taught us, when a rising power threatens to displace a ruling power, alarm bells should sound: danger ahead. This is the central argument of my recent book, Destined for War: Can America and China Escape Thucydides’s Trap? China’s economy has already overtaken the United States to become the largest economy in the world (measured by the metric that the CIA and the IMF agree is the best yardstick for comparing national economies).35 At the 19th Party Congress in October 2017, President Xi Jinping reiterated China’s determination to build a military commensurate with China’s economic power that can, in his words, “fight and win.” China has long maintained a “minimum deterrent” posture, with only a few hundred nuclear weapons (as opposed to several thousand for the United States and Russia). However, along with the rest of its military, China is strengthening this arsenal.

In addition, China has the fastest growing nuclear power industry in the world, with plans to install more than 100 gigawatts of nuclear power by 2030. As part of this effort, China plans to reprocess spent fuel into plutonium fuel for nuclear reactors.36 Furthermore, Japan, which already has a huge stockpile of plutonium (enough for 1,300 nuclear weapons), plans to add to this stockpile by reprocessing spent fuel at its long-delayed Rokkasho plant.37 As plutonium is produced, transported, and used on an industrial scale, the risks of theft increase.

Together these developments have been eroding confidence in the nonproliferation regime. Widespread recognition that North Korea is not going to denuclearize and the prospect that its ICBMs could soon threaten the United States are stimulating debate in South Korea and Japan about the reliability of U.S.–extended deterrence commitments. Sixty percent of South Koreans now support development of their own independent nuclear deterrent.38 With the scars of Hiroshima, the Japanese public has a deep nuclear neuralgia. But their recently reelected prime minister, Shinzo Abe, is determined to amend the pacifist constitution in order to rebuild a Japanese military commensurate with its economic standing. As Henry Kissinger has been warning: “As this [North Korean] threat compounds, the incentive for countries like Vietnam, South Korea and Japan to defend themselves with their own nuclear weapons will grow dramatically.”39

On the Iranian front, President Trump has raised doubts about the future of the JCPOA constraints on Iran’s nuclear program. During his speech to the UN General Assembly in September 2017, Trump called the Iran deal “one of the worst and most one-sided transactions the United States has ever entered into” and “an embarrassment to the United States.”40 In October, he took the first step toward burying the agreement by refusing to certify that Iran has been complying with the deal. If Congress takes the next step and reimposes sanctions on Iran’s nuclear program, this violation of U.S. requirements under the deal would free Iran from the constraints the agreement imposes on its nuclear activity, and we could see it moving again towards a nuclear bomb. Alarmed by Iran’s earlier efforts, Saudi Arabia developed plans for a nuclear energy program that would provide the infrastructure for its own weapons program. It has so far been unwilling to follow in the footsteps of its neighbor the United Arab Emirates (UAE) in pledging not to build an indigenous nuclear fuel cycle. A full fuel cycle to enrich uranium and reprocess plutonium would also provide the critical infrastructure for a nuclear weapons program. While the Trump Administration has said that a Saudi equivalent of the UAE agreement would be “desired,” it has not insisted that this would be a requirement for U.S. support.41 If the Saudis develop an indigenous nuclear fuel cycle and the deal constraining Iran’s nuclear program falls apart, we should expect to see an arms race in the world’s most volatile region in which Israel, and perhaps others, will be tempted to act before the Middle East becomes a nuclear tinderbox.

#### Nuke terror is likely and causes retal---global war.

Irma Arguello & Emiliano J. Buis 18. \*Founder and chair of the NPSGlobal Foundation, and head of the secretariat of the Latin American and Caribbean Leadership Network. \*Researcher and professor at the NPSGlobal Foundation. “The Global Impacts of a Terrorist Nuclear Attack: What Would Happen? What Should We Do?,” Bulletin of the Atomic Scientists. vol. 74. no. 2. Routledge. 03-04-2018. pp. 114–119.

Making matters worse, there is evidence of an illicit market for nuclear weapons-usable materials. There are sellers in search of potential buyers, as shown by the dismantlement of a nuclear smuggling network in Moldova in 2015. There certainly are plenty of sites from which to obtain nuclear material. According to the 2016 Nuclear Security Index by the Nuclear Threat Initiative, 24 countries still host inventories of nuclear weapons-usable materials, stored in facilities with different degrees of security.

And in terms of risk, it is not necessary for a given country to possess nuclear weapons, weapons-usable materials, or nuclear facilities for it to be useful to nuclear terrorists: Structural and institutional weaknesses in a country may make it favorable for the illicit trade of materials. Permeable boundaries, high levels of corruption, weaknesses in judicial systems, and consequent impunity may give rise to a series of transactions and other events, which could end in a nuclear attack. The truth is that, at this stage, no country in possession of nuclear weapons or weapons-usable materials can guarantee their full protection against nuclear terrorism or nuclear smuggling.

Because we live in a world of growing insecurity, where explicit and tacit agreements between the relevant powers – which upheld global stability during the post- Cold War – are giving way to increasing mistrust and hostility, a question arises: How would our lives be affected if a current terrorist group such as the Islamic State (ISIS), or new terrorist groups in the future, succeed in evolving from today’s Manchester style “low-tech” attacks to a “high-tech” one, involving a nuclear bomb, detonated in a capital city, anywhere in the world?

We attempted to answer this question in a report developed by a high-level multidisciplinary expert group convened by the NPSGlobal Foundation for the Latin American and Caribbean Leadership Network. We found that there would be multiple harmful effects that would spread promptly around the globe (Arguello and Buis 2016); a more detailed analysis is below, which highlights the need for the creation of a comprehensive nuclear security system.

The consequences of a terrorist nuclear attack

A small and primitive 1-kiloton fission bomb (with a yield of about one-fifteenth of the one dropped on Hiroshima, and certainly much less sophisticated; cf. Figure 1), detonated in any large capital city of the developed world, would cause an unprecedented catastrophic scenario.

An estimate of direct effects in the attack’s location includes a death toll of 7,300-to-23,000 people and 12,600-to-57,000 people injured, depending on the target’s geography and population density. Total physical destruction of the city’s infrastructure, due to the blast (shock wave) and thermal radiation, would cover a radius of about 500 meters from the point of detonation (also known as ground zero), while ionizing radiation greater than 5 Sieverts – compatible with the deadly acute radiation syndrome – would expand within an 850-meter radius. From the environmental point of view, such an area would be unusable for years. In addition, radioactive fallout would expand in an area of about 300 square kilometers, depending on meteorological conditions (cf. Figure 2).

But the consequences would go far beyond the effects in the target country, however, and promptly propagate worldwide. Global and national security, economy and finance, international governance and its framework, national political systems, and the behavior of governments and individuals would all be put under severe trial. The severity of the effects at a national level, however, would depend on the countries’ level of development, geopolitical location, and resilience.

Global security and regional/national defense schemes would be strongly affected. An increase in global distrust [[FIGURE 3 OMITTED]] would spark rising tensions among countries and blocs, that could even lead to the brink of nuclear weapons use by states (if, for instance, a sponsor country is identified). The consequences of such a shocking scenario would include a decrease in states’ self-control, an escalation of present conflicts and the emergence of new ones, accompanied by an increase in military unilateralism and military expenditures.

Regarding the economic and financial impacts, a severe global economic depression would rise from the attack, likely lasting for years. Its duration would be strongly dependent on the course of the crisis. The main results of such a crisis would include a 2 percent fall of growth in global Gross Domestic Product, and a 4 percent decline of international trade in the two years following the attack (cf. Figure 3). In the case of developing and less-developed countries, the economic impacts would also include a shortage of high-technology products such as medicines, as well as a fall in foreign direct investment and a severe decline of international humanitarian aid toward low-income countries. We expect an increase of unemployment and poverty in all countries. Global poverty would raise about 4 percent after the attack, which implies that at least 30 million more people would be living in extreme poverty, in addition to the current estimated 767 million.

In the area of international relations, we would expect a breakdown of key doctrines involving politics, security, and relations among states. These international tensions could lead to a collapse of the nuclear order as we know it today, with a consequent setback of nuclear disarmament and nonproliferation commitments. In other words, the whole system based on the Nuclear Non- Proliferation Treaty would be put under severe trial. After the attack, there would be a reassessment of existing security doctrines, and a deep review of concepts such as nuclear deterrence, no-firstuse, proportionality, and negative security assurances.

Finally, the behavior of governments and individuals would also change radically. Internal chaos fueled by the media and social networks would threaten governance at all levels, with greater impact on those countries with weak institutional frameworks. Social turbulence would emerge in most countries, with consequent attempts by governments to impose restrictions on personal freedoms to preserve order – possibly by declaring a state of siege or state of emergency – and legislation would surely become tougher on human rights. There would also be a significant increase in social fragmentation – with a deepening of antagonistic views, mistrust, and intolerance, both within countries and towards others – and a resurgence of large-scale social movements fostered by ideological interests and easily mobilized through social media.