# 1NC

## Off-Case

### 1NC---T

#### Business practices are ongoing conduct defined by the behaviors of many market participants

MacIntosh 97 (KERRY LYNN MACINTOSH-Associate Professor of Law, Santa Clara University School of Law. B.A. 1978, Pomona College; J.D. 1982, Stanford University. “LIBERTY, TRADE, AND THE UNIFORM COMMERCIAL CODE: WHEN SHOULD DEFAULT RULES BE BASED ON BUSINESS PRACTICES?” *William and Mary Law Review*, vol. 38, no. 4, May 1997, p. 1465-1544. HeinOnline accessed online via KU libraries, date accessed 8/27/21)

These new and revised articles reflect a strong trend toward choosing default rules4 that codify existing business practices.5 [[BEGIN FOOTNOTE 5]] 5. In this Article, the term "business practices" is used to refer to practices that emerge over time as countless market participants exercise their freedom to engage in profitable transactions. For an account of the evolution of business practices, see infra Part II. As used here, "business practices" is broader and less technical than "trade usage," which the Code narrowly defines as "any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question." U.C.C. § 1-205(2). [[END FOOTNOTE 5]] This is particularly true of the recent revisions to Articles 3 (Negotiable Instruments), 4 (Bank Deposits and Collections) and 5 (Letters of Credit).

#### Violations:

#### 1---for the purpose of antitrust, baseball isn’t a business

Davidson and Turmel 16 (Davidson, Dan; Turmel, Stacey. “STATE ANTITRUST IMMUNITY: DECONSTRUCTING THE PARKER DOCTRINE” , .Southern Law Journal; Edmond Vol. 26, Iss. 1, (Spring 2016): 1-18. Accessed online via KU libraries, date accessed 12/17/21)

The antitrust laws were enacted in the "Robber Baron" era in an effort to assure a more competitive national economy by barring various unreasonable restraints of trade. Over time a number of activities were exempted from antitrust coverage, some by statute and others by judicial opinions. For example, labor unions' and farm cooperatives2 were exempted by statute. Major league baseball was exempted by judicial opinion, the Court deciding that professional baseball was not a business enterprise, nor was it involved in interstate commerce.3 According to the Court, "personal effort not related to production is not a subject of commerce. That which in its consummation is not commerce does not become commerce among the states because... transportation [between the states] takes place."4

#### 2---Baseball is an anomaly---there’s nothing else like it

Grow 10 (Nathaniel Grow, "Defining the Business of Baseball: A Proposed Framework for Determining the Scope of Professional Baseball's Antitrust Exemption," U.C. Davis Law Review 44, no. 2 (December 2010): 557-624.

For nearly ninety years, professional baseball has had the unique distinction of being the only professional sport to enjoy a judicially created exemption from federal antitrust law. Under the exemption, the activities of both Major League Baseball ("MLB") - professional baseball's highest level of competition - and the lower ranked, socalled "minor leagues" are generally shielded from antitrust law. Originating from the United States Supreme Court's 1922 opinion in Federal Baseball Club of Baltimore, Inc. v. National League of Professional Baseball Clubs,' the Court has affirmed baseball's antitrust exemption on two subsequent occasions: first in the 1953 case of Toolson v. New York Yankees, and later in the 1972 case of Flood v. Kuhn. In those opinions, the Supreme Court affirmed baseball's exemption on the basis of both stare decisis concerns and congressional inaction,' despite acknowledging that the exemption is an "aberration" and an "anomaly."'

#### That violates “practice”: it requires repeated and customary action as the usual mode---an outlier doesn’t constitute a practice

Ohio Court of Appeals 59 (YOUNGER-judge. Opinion in City of Defiance v. Nagel, 108 Ohio App. 119 - Ohio: Court of Appeals 1959, Google scholar caselaw, date accessed 8/25/21)

As used here, the noun, "practice," means an actual performance habitually engaged in; often, repeated, or customary action; usage; habit; custom; or the usual mode or method of doing something. Therefore, in this instance, the practice of doing something cannot be proved by the proof of or the admission of one single act. Criminal statutes and ordinances are to be strictly construed.

### 1NC---T

T: PRIVATE SECTOR

#### It means all non-governmental persons or entities, including non-profits

Senate Report 95, (Senate Report, 1995, 104-1, “UNFUNDED MANDATE REFORM ACT OF 1995,” Congress, <https://www.congress.gov/congressional-report/104th-congress/senate-report/1>)

"Private sector" is defined to cover all persons or entities in the United States except for State, local or tribal governments. It includes individuals, partnerships, associations, corporations, and educational and nonprofit institutions.

#### The aff’s a specific part of the private sector---only universally applied standards are T, like CWS (Consumer Welfare Standard)

Phillips 18, commissioner on the Federal Trade Commission (Noah J. Phillips, 11-1-2018, “Before the Federal Trade Commission, “Competition and Consumer Protection in the 21st Century,” <https://www.ftc.gov/system/files/documents/public_events/1415284/ftc_hearings_session_5_transcript_11-1-18_0.pdf>)

Our second topic today is the consumer welfare standard. And I think most folks even out in the public know, this is the standard that we use across the board, mergers and conduct in courts and at agencies, to judge anticompetitive conduct. It is not only a standard that we in the U.S. apply, it is a standard that is used by competition agencies around the world. It is an economically-grounded standard, and it requires that there be harm to consumers for conduct to be condemned. Mere harm to competitors is considered insufficient. So let me repeat that again. There has to be harm to consumers, not just competitors. The reason that is so, the reason harm to competitors is considered insufficient is because sometimes a less-efficient firm losing sales or market share to a cheaper, more innovative or efficient rival, can be and often is consistent with vibrant competition and with outcomes that benefit consumers. Courts and agencies have embraced this standard for decades. Today, there are two very important discussions going on about the consumer welfare standard, and they are happening simultaneously. And I think it is important that we understand that there are two conversations going on. One is a continuing discussion about how we apply the standard, regarding whether enforcement is at the appropriate level, whether it is properly targeted. This is an introspective question on some level, in which scholars, economists, practitioners, and enforcers all ask ourselves, are we bringing the right kinds of cases? Are we using the right kinds of evidence? Should we be doing more or less in certain places? The antitrust bar, the business community, and others benefit from this ongoing and active analysis. The second discussion happening now, and the one on which today’s consumer welfare standard panels will focus, is whether the standard is itself the right metric we ought to use in antitrust enforcement and in antitrust law; some argue that enforcement under the consumer welfare standard has failed because of the law, and accordingly, that we should reform the law.

### 1NC---K

NEXT OFF: Cap K

#### The aff is a ruse to solidify US domination, which erases imperialism---ensures antitrust only serves American interests

Kwet 22, PhD in Sociology from Rhodes University, visiting professor at Yale Information Society Project (Michael Kwet, 2022, “The Digital Tech Deal: a socialist framework for the twenty-first century,” *Race & Class*, Vol. 63, Issue 3, DOI:10.1177/03063968211064478)

Limitations of liberal and progressive ‘techlash’ reforms

In response to the rise of Big Tech, the intellectual classes in the Global North, led by American scholars, researchers and journalists, have formulated a liberal/progressive critique of Big Tech and a corresponding set of capitalist reforms they call the ‘techlash’. Their framework, informed by progressive-era figures like Louis Brandeis and Franklin D. Roosevelt (FDR), aims to restore the Golden Age of Capitalism through enlightened state regulation. This circuit of intellectuals are drawn primarily from elite universities (Ivy League, MIT, Stanford, Oxford, etc.) and the corporate media. Money for their research is sourced from elite academia and media outlets, wealthy foundations, philanthropists and Big Tech itself. The techlash critics ignore or downplay the analytical and moral centrality of digital capitalism and colonialism, ecological context and the need for a socialist transformation. A de facto vanguard within the intellectual community tuned into tech, together with Big Tech itself, these elite intellectuals set the bounds of leftist discourse and exercise ‘tech hegemony’ over the broader narrative.37

There are two branches of critique put forth by the American techlashers: a legal branch which focuses on anti-trust as its centrepiece to reform digital capitalism and a human rights branch which focuses on discrimination, privacy, content moderation and workers’ welfare. These intellectuals are typically in agreement with each other and often weave their critiques and solutions together. Let us consider each in turn.

Legal reformers

Within the legal domain, a new wave of anti-trust scholars have occupied centre-stage to address the digital economy.38 At the leftmost end of the spectrum in the United States, ‘neo-Brandeisian’ anti-trust scholars draw inspiration from Louis Brandeis, who viewed a fair and just democracy as one without extreme concentrations of wealth and power into the hands of corporations. Neo-Brandeisians share with socialists the idea that socioeconomic inequality in part springs from the monopoly power of big corporations. However, anti-trust reformers depart from socialists in irreconcilable ways.

For one, they envision a ‘small business capitalism’ of private property owners kept intact by enlightened state regulators. Socialists, by contrast, argue that the capitalist system naturally concentrates wealth and objects to class inequalities and private ownership of the means of production. For another, neo-Brandeisians fetishise competition as a force for social good, rather than a force which pits owners and workers against each other in the battle for revenue, profits and market share.

Critically, the limits of economic growth are not acknowledged anywhere in the literature, nor are digital colonialism and American empire. This is an analytical failure because the fact that Big Tech corporations exercise global dominance should be evaluated in light of their international and environmental impact. It’s as if central features of the global tech economy – American empire and ecological crisis – don’t even exist. It is a moral failure because all parties affected should be involved in formulating and implementing remedies, but, instead, the United States’ scholars, lawmakers, courts and regulators are the ones making critical decisions about reforming American firms with global reach.

European counterparts share in the US anti-trust reformist agenda, with an added caveat: the Europeans are explicitly trying to cut down the American super-giants in order to build their own tech giants and colonise global markets.

In Europe, there are already tens of unicorns (privately held start-ups valued over $1 billion). Rich European countries dominate this race. The UK leads the pack and aims to produce its own trillion-dollar behemoth. President Emanuel Macron will be pumping €5 billion to tech start-ups in hopes that France will have at least twenty-five unicorns by 2025. Germany is attracting billions for its start-ups and spending €3 billion to become a global AI powerhouse and a world leader (i.e., market coloniser) in digital industrialisation. For its part, the Netherlands aims to become a ‘unicorn nation’. In 2021, the European Union’s competition commissioner, Margarethe Vestager, told the press in no uncertain terms that Europe needs to ‘build its own European tech giants’.39

Thus, the notion that European leaders are against Big Tech is demonstrably false. They are trying to shrink the American super-giants (GAFAM) so they can carve out market share for burgeoning European tech giants. It’s pure power politics – an inconvenient truth for America’s neo-Brandeisians, who laud and borrow ideas from their European counterparts.

The new anti-trust scholars erase these realities from within their own self-referential echo chambers, and instead act as if anti-trust is a matter of remedying harms to their own citizens. This is not a small point. Even if anti-trust reforms go through, the space created for new market entrants will almost certainly be dominated by the rich countries, who still have the most advanced engineers and resources to pay them high salaries and poach foreign talent.

#### The US “national economy” can only sustain itself by externalizing negatives of capitalism onto the periphery, which is violent, unsustainable, and causes war

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To answer these questions, we must come to grips with a key feature of the world economy—one that pundits in the global North tend either to ignore or wish away—namely, the fact that capitalist growth is fundamentally dependent on imperialism. This arrangement, which has persisted now for 500 years in various forms, is beginning to come under significant strain, and climate breakdown is likely to widen the cracks. This opens up opportunities for change, but also poses significant dangers. Everything depends on how governments and social movements choose to respond.

The key thing to grasp is that, under capitalism, “growth” is not about increasing production in order to meet human needs. It is about increasing production in order to extract and accumulate profit. That is the overriding objective. To keep such a system going requires several interventions. First, you have to cheapen the prices of inputs (labor, land, materials, energy, suppliers, etc.) as much as possible, and maintain those prices at a low level. Second, you have to ensure a constantly increasing supply of those cheap inputs. And third, you need to establish control over captive markets that will absorb your output.

Growth along these lines cannot occur within an isolated system. If you place too much pressure on your domestic resource base or your domestic working class, sooner or later you are likely to face a revolution. To avoid such an outcome, capitalism always requires an “outside,” external to itself, where it can cheapen labor and nature with impunity and appropriate them on a vast scale; an outside where it can “externalize” social and ecological damages, where rebellions can be contained, and where it does not have to negotiate with local grievances or demands.

This is where the colonies come in. From the origins of capitalism in the late 15th century, growth in the “core” of the world economy (Western Europe, the United States, Canada, Australia, New Zealand and Japan) has always depended on the sabotage of labor and resources in the “periphery”. Consider the silver plundered from the Andes, the sugar and cotton extracted from land appropriated from Indigenous Americans, the grain, rubber, gold and countless other resources appropriated from Asia and Africa, and the mass enslavement and indenture of African and Indigenous people—all of which exacted a staggering human and ecological toll. On top of this, colonizers destroyed local industries and self-sufficient economies wherever they went, in order to establish captive markets. There was no lag between the rise of capitalism and the imperial project. Imperialism was the *mechanism* of capitalist expansion.

As the Indian economists Utsa Patnaik and Prabhat Patnaik put it, capitalist growth requires an imperial arrangement—not as a side gig but as a *structurally necessary feature*. Imperialism ensures that inputs remain cheap, and thus maintains the conditions for capital accumulation. But it also underpins the fragile inter-class truce that prevails in the core states. If you’re going to raise the real wages of the working classes in the core, or take steps to protect the local ecology, then in order to maintain capital accumulation you have to compensate for this by depressing the costs of labor and nature elsewhere, namely, among workers and producers in the global South. Ever since the rise of the labor movement in the late 19th century, capital’s concessions to the working classes in Europe and the United States have been possible in large part because of imperialism.

This arrangement came under strain in the middle of the 20th century, however, as radical anti-imperialist movements gained traction across the global South. After winning political independence, many Southern governments set about dismantling colonial systems of extraction. They protected their economies and supported their domestic producers using tariffs, subsidies and capital controls; they instituted land reforms; they nationalized key resources and industries; they rolled out public services and improved workers’ wages. This movement was successful in advancing economic sovereignty and improving human development across much of the South. But it also constrained the core’s access to cheap labor and nature, and reduced their control over Southern markets.

The collapse of the imperial arrangement posed a significant threat to Northern capital accumulation. This problem was mitigated for a time by Keynesian policy: massive government expenditure boosted aggregate demand in the global North and generated an extraordinary economic expansion, providing a temporary “fix” for capital. Further concessions to the working classes of the core were sustained under these conditions, permitting the rise of social democracy in some states. But this fix could only hold for so long. As wages rose in the core and the supply price rose in the periphery, growth ground to a halt, capital accumulation became increasingly untenable, and by the mid-1970s the economies of the global North were overcome by a full-blown crisis of stagflation. As it turns out, capitalism cannot function for long under conditions of global justice. Fair wages and decolonization are compatible with a functioning economy, but they are not compatible with a functioning capitalist economy, because they limit the possibility of capital accumulation.

To deal with the crisis of the 1970s, capital needed a way to restore the imperial arrangement, to once again depress Southern prices and regain access to Southern markets. To achieve this, the core states intervened to depose progressive leaders in the global South—including, most prominently, Mossadegh in Iran, Arbenz in Guatemala, Sukarno in Indonesia, Nkrumah in Ghana, and Allende in Chile—replacing them with regimes more amenable to Northern economic interests. But the final blow was delivered by the World Bank and the IMF, which during the 1980s and 1990s imposed neoliberal structural adjustment programs (SAPs) across the region. This move shifted control over economic policy from the national parliaments of the South to technocrats in Washington and bankers in New York and London, ending the brief era of economic sovereignty. SAPs dismantled protections on labor and the environment, privatized public goods and cut public spending, reversing the reforms of the anti-colonial movement in one fell swoop.

It worked: wages and prices in the South collapsed under structural adjustment, and the new “free trade” regime allowed Northern capital to shift production abroad in order to take direct advantage of cheap labor and inputs. This enabled a massive increase in the scale and intensity of appropriation from the global South during the 1980s and 1990s, restoring the imperial arrangement and resolving the crisis of capitalism. Those who see neoliberalism as the main problem, and who fantasize about reverting to a less destructive version of capitalist growth, fail to grasp this point. The neoliberal turn was not some kind of mistake; it was necessary to restore the conditions for growth in the core. It was the obligatory next step in capitalist development.

But now, as the 21st century wears on, the engines of imperial appropriation are slowing down again. This reality is evident in the declining rate of economic growth in the core states, which economists have come to refer to as “secular stagnation.” This is happening for several reasons.

First, in the wake of structural adjustment, the collapse of the USSR, and the semi-integration of China, there are few nation-states and territories left that have not been brought into the remit of the capitalist world system. Imperialist expansion has effectively reached the limits of the planet. Now, instead of shifting production to new pools of cheap labor, capital has to deal with the existing workforce and their demands for higher wages. Second, certain regions of the South—specifically China and the leftist states of South America—are managing to push back against imperialism and improve their terms of trade, even while operating within the basic structure of the capitalist economy. All of this is leading to a rising supply price, which spells trouble for capital accumulation — and growth — in the core.

But perhaps most importantly — and this is the clincher — climate change and ecological breakdown are beginning to undermine the conditions of production on the tropical landmass. This is beginning to manifest already, with climate chaos ravaging parts of Central America, the Middle East and North Africa, driving social dislocation and human displacement. Without some kind of dramatic change in direction it will get much worse. With existing policies, we are headed for 2.7 degrees of heating this century, which is likely to trigger multi-breadbasket failure and sustained food supply disruptions across large parts of the global South, displace more than 1.5 billion people, wipe out 30–50% of species, and render much of the tropics uninhabitable for humans.

This is a problem for capital, because growth in the global North depends utterly on production in the global South and depends utterly on Southern land and resources—today just as much as during the colonial period. Recent research finds that rich countries rely on a net appropriation of land equal to twice the size of India, a net appropriation of 10 billion tons of material resources per year, and a net appropriation of embodied labor equivalent to a standing army of 180 million workers. This means that as labor is displaced and disrupted, and as the productive capacity of land is constrained by heatwaves, wildfires, storms and desertification, this will lead to a rising supply price in the core that will trigger a severe crisis for capital—more serious than anything it has yet encountered.

The question is, how will the core states respond? To maintain the rate of growth and capital accumulation in the face of this crisis, they will have to find a way to cut the supply price once again.

There are two obvious possibilities. One option is to cut wages in the core states, shred the welfare system and privatize public services, all of which would help cheapen inputs and open up new frontiers for accumulation, giving some reprieve to capital. This option — domestic neoliberal austerity — was deployed in the US and Britain during the 1980s as part of the response to the initial collapse of the imperial arrangement. Now it is being increasingly taken up by the European social democracies themselves, including the Nordics.

Of course, the risk of this approach is that it could trigger a backlash from the domestic working class, which could coalesce into a socialist revolution. Aware of this danger, politicians will seek to promote anti-immigrant and white nationalist narratives. By directing working-class grievance toward an “other,” this approach gets people to accept their own immiseration, so long as they can feel an affinity with the ruling class on the basis of race, and feel superior to people of colour who are kept in conditions more miserable than their own. This strategy has long been used to support the neoliberal project in the United States, and the ruling classes of the UK and Europe are now also turning to this playbook. Boris Johnson is a master of this in British politics.

The second option is that the core states could double down on imperialism. It is not difficult to imagine new rounds of invasion and occupation intended to force Southern prices back down. The recent coup in Bolivia, backed by the U.S. with its rising appetite for cheap lithium, offers hints of what might come. And it is clear that the Biden administration, just as under Trump before him , is already preparing the grounds for aggression against China, among other things to constrain China’s domestic demand for resources. Imperialist interventions that cheapen the supply price would allow capitalists in the global North to maintain accumulation and sustain their truce with the working classes of the core for a little while longer, even as the world crumbles around them.

If left to itself, this is how the capitalist story will play out in the 21st century: neoliberal austerity, white supremacist ideology, and violent imperialist interventions—all for the sake of maintaining growth and capital accumulation in the core. Indeed, this barbarism is already well underway. Liberal politicians denounce the barbarism at every opportunity, and yet they cannot bring themselves to address its underlying causes because they remain fundamentally committed to capitalist growth. The solution that the liberals offer—capital accumulation without barbarism— is a chimera.

There is an alternative ending to this story, however. If the core states shift to a post-growth, post-capitalist economic model—in other words, if they abandon the growth imperative and curtail capital accumulation—this would obviate the need for austerity and imperialist interventions. This is the power of post-growth transition: it would liberate all of us, in North and South alike, from the predatory interventions that are required to sustain capital accumulation.

#### It naturalizes racism and antiblackness; all capitalism is racial capitalism ⁠— the system of competition the aff perpetuates cannot sustain itself without theft of indigenous land, super-exploitation of black labor, imperial extraction, and racist devaluation of ‘disposable populations’

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\*2 point font and paragraph merging for readability

\*Footnote 14 is inserted below the paragraph it’s cited in, other footnotes excluded for readability

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

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

My operationalization of capitalism follows Oliver Cromwell Cox’s explication in Capitalism and American Leadership.17 Modern U.S. racial capitalism arose in the context of the First World War, when, as Cox explains, the United States took advantage of the conflict to capture the markets of South America, Asia, and Africa for its “over-expanded capacity.”18 Cox further expounds upon this auspicious moment of ascendant modern U.S. racial capitalism thus: By 1914, the United States had brought its superb natural resources within reach of intensive exploitation. Under the stimulus of its foreign-trade outlets, the financial assistance of the older capitalist nations, and a flexible system of protective tariffs, the nation developed a magnificent work of transportation and communication so that its mines, factories, and farms became integrated into an effectively producing organism having easy access to its seaports.… [Likewise,] further internal expansion depended upon far greater emphasis on an ever widening foreign commerce.… Major entrepreneurs of the United States proceeded to step up their campaign for expansion abroad. The war accentuated this movement. It accelerated the growth of [modern] American [racial] capitalism and impressed upon its leaders as nothing had before the need for external markets.19 Relatedly, Peter James Hudson argues that the First World War fundamentally changed the terms of order of international finance, allowing New York to compete with London, Paris, and Berlin for the first time in the realm of global banking. This was not least because the Great War “drastically reordered global credit flows,” with the United States transforming from a debtor into a creditor nation.20 In addition to Latin American and Caribbean nations and businesses turning to the United States for financing and credit, domestic saving and investment patterns were altered to the benefit of imperial financial institutions like the City Bank.21 Although the United States is, to use Cox’s terminology, more a “lusty child of an already highly developed capitalism” than an exceptional capitalist power, the nation perfected its techniques of accumulation through its vast natural wealth, large domestic market, imbalance of Northern and Southern economies, and, importantly, through its lack of concern for the political and economic welfare of the overwhelming masses of its population, least of all the descendants of the enslaved.22 Modern U.S. racial capitalism is thus sustained by military expenditure, the maintenance of an extremely low standard of living in “dependent” countries, and the domestic superexploitation of Black toilers and laborers. Cox notes that Black labor has been the “chief human factor” in wealth production; as such, “the dominant economic class has always been at the motivating center of the spreads of racial antagonism. This is to be expected since the economic content of the antagonism, especially at its proliferating source in the South, has been precisely that of labor-capital relations.”23 In a general sense, racial capitalism in the United States constitutes “a peculiar variant of capitalist production” in which Blackness expresses a structural location at the bottom of the labor hierarchy characterized by depressed wages, working conditions, job opportunities, and widespread exclusion from labor unions.24 Furthermore, modern U.S. racial capitalism is rooted in the imbrication of anti-Blackness and antiradicalism. Anti-Blackness describes the reduction of Blackness to a category of abjection and subjection through narrations of absolute biological or cultural difference; ruling-class monopolization of political power; negative and derogatory mass media propaganda; the ascent of discriminatory legislation that maintains and reinscribes inequality, not least various modes of segregation; and social relations in which distrust and antipathy toward those racialized as Black is normalized and in which “interracial mass behavior involving violence assumes a continuously potential danger.”25 Anti-Blackness thus conceals the inherent contradiction of Blackness—value minus worth—obscuring and distorting its structural location by, as Ralph and Singhal remark, contorting it into only a “debilitated condition.”26 Antiradicalism can be understood as the physical and discursive repression and condemnation of anticapitalist and/or left-leaning ideas, politics, practices, and modes of organizing that are construed as subversive, seditious, and otherwise threatening to capitalist society. These include, but are not limited to, internationalism, anti-imperialism, anticolonialism, peace activism, and antisexism. Anti-Blackness and antiradicalism function as the legitimating architecture of modern U.S. racial capitalism, which includes rationalizing discourses, cultural narratives, technologies of repression, legal structures, and social practices that inform and are informed by racial capitalism’s political economy.27 Throughout the twentieth century, anti-Blackness propelled the “Black Scare,” defined as the specter of racial, social, and economic domination of superior whites by inferior Black populations. Antiradicalism, in turn, was enunciated through the “Red Scare,” understood as the threat of communist takeover, infiltration, and disruption of the American way of life.28 For example, in the 1919 Justice Department Report, Radicalism and Sedition Among the Negroes, As Reflected in Their Publications, it was asserted that the radical antigovernment stance of a certain class of Negroes was manifested in their “ill-governed reaction toward race rioting,” “threat of retaliatory measures in connection with lynching,” open demand for social equality, identification with the Industrial Workers of the World (IWW), and “outspoken advocacy of the Bolshevik or Soviet doctrine.”29 Here, anti-Blackness, articulated through the fear of the “assertion of race consciousness,” was attached to the IWW and Bolshevism—in other words, to anticapitalism—to make it appear even more subversive and dangerous. Likewise, antiradicalism, expressed through the denigration of the IWW and Soviet Doctrine, was made to seem all the more threatening and antithetical to the social order in its linkage with Black insistence on equality and self-defense against racial terrorism. In this way, “defiance and insolently race-centered condemnation of the white race” and “the Negro seeing red” came to be understood as seditious in the context of modern U.S. racial capitalism. The link between my theory of modern U.S. racial capitalism and Robinson’s catholic theory of racial capitalism, beyond his “suggest[ion] that it was there,” is vivified through the prison abolitionist and scholar Ruth Wilson Gilmore, who writes: “Capitalism…[is] never not racial.… Racial capitalism: a mode of production developed in agriculture, improved by enclosure in the Old World, and captive land and labor in the Americas, perfected in slavery’s time-motion, field factory choreography, its imperative forged on the anvils of imperial war-making monarchs.”30 Racial capitalism, she continues, “requires all kinds of scheming, including hard work by elites and their compradors in the overlapping and interlocking space-economies of the planet’s surface. They build and dismantle and reconfigure states, moving capacity into and out of the public realm. And they think very hard about money on the move.”31 Perhaps more than Gilmore, though, my approach aligns with that of Neville Alexander as described by Hudson.32 Like Alexander, who focused on South Africa, I offer a particularistic understanding of racial capitalism, mine being rooted in the political economy of Blackness and the legitimating architectures of anti-Blackness and antiradicalism in the United States. Gilmore qua Robinson offers a more universalist and transhistorical conception. Like Alexander, my theory of modern U.S. racial capitalism is primarily rooted in (Black) Marxist-Leninists and fellow travelers. This is an important epistemological distinction: whereas Robinson finds Marxism-Leninism to be, at best, inattentive to race, my theory of modern U.S. racial capitalism is rooted in the work of Black freedom fighters who, as Marxist-Leninists, were able to offer potent and enduring analyses and critiques of the conjunctural entanglements of racialism, white supremacy, and anti-Blackness, on the one hand, and capitalist exploitation and class antagonism on the other hand.33 Although Robinson draws on scholars like Fernand Braudel, Henri Pirenne, David Brion Davis, and Eli Heckscher to understand European history, socialist theory, and the European working class, the work of Black Marxists like James Ford, Walter Rodney, Amílcar Cabral, and Paul Robeson offer me those same intellectual, historical, and theoretical resources. Finally, I agree with Alexander that the resolution to racial capitalism is antiracist socialism, not a cultural-metaphysical Black radical tradition. In what remains of this essay, I will draw on the work of Black Marxist-Leninists and anticapitalists to explicate the defining features of modern U.S. racial capitalism—war and militarism, imperialist accumulation, expropriation by domination, labor superexploitation, and property by dispossession. In this, I demonstrate that their critiques and analyses offer a blueprint for theorizing modern U.S. racial capitalism. War and militarism facilitate the endless drive for profit. Military conflicts between imperial powers result in the reapportioning of boundaries, possessions, and spheres of influence that often exacerbate racial and spatial economic subjection. War and militarism also perpetuate the endless construction of “threats,” primarily in racialized and socialist states, against which to defend progress, prosperity, freedom, and security. The manufacturing of conflict legitimates the mobilization of extraordinary violence to expropriate untold resources that produce relations of underdevelopment, dependency, extraversion, and disarticulation in the Global South. Moreover, the ruling elite and labor aristocracy in imperialist countries, not least the United States, wage perpetual war to defend their way of life and standard of living against the racialized majority who, because they would benefit most from the redistribution of the world’s wealth and resources, represent a perpetual threat. Here, Du Bois’s 1915 essay, “The African Roots of War,” is instructive.34 Though he does not directly analyze the United States, he nonetheless demonstrates how racism, white supremacy, and the plunder of Africa underpinned the capitalist imperialist war that engulfed the world from July 1914 to November 1918—a war that catapulted the United States into the center of the capitalist world system. Using Du Bois’s own words, Hubert Harrison, the father of Harlem radicalism, makes the direct link: But since every industrial nation is seeking the same outlet for its products, clashes are inevitable and in these clashes beaks and claws—armies and navies—must come into play. Hence beaks and claws must be provided beforehand against the day of conflict, and hence the exploitation of white men in Europe and America becomes the reason for the exploitation of black and brown and yellow men in African and Asia. And, therefore, it is hypocritical and absurd to pretend that the capitalist nations can ever intend to abolish wars.… For white folk to insist upon the right to manage their own ancestral lands, free from the domination of tyrants, domestic and foreign, is variously described as “democracy” and “self-determination.” For Negroes, Egyptians and Hindus to seek the same thing is impudence.… Truly has it been said that “the problem of the 20th century is the problem of the ‘Color Line.'” And wars are not likely to end; in fact, they are likely to be wider and more terrible—so long as this theory of white domination seeks to hold down the majority of the world’s people under the iron heel of racial oppression.35 For Du Bois, the imperialist rivalry for the booty on offer in Africa drove Berlin’s efforts to consolidate its place in the sun by displacing London in particular. While Vladimir Lenin understood that “the war [was] a product of half a century of development of world capitalism and of billions of threads and connections,” Du Bois expanded this analysis by providing a critique of the racial foundations of capitalist expansion.36 He held that the struggle to the death during the Great War for African resources and labor had begun to “pay dividends” centuries earlier through the enslavement of African peoples, the subsequent conflation of color and inferiority, and the reduction of what was routinely referred to as the “Dark Continent” to a space of backwardness ideally suited for dispossession. He further noted that “with the waning possibility of Big Fortune…at home, arose more magnificently the dream of exploitation abroad,” especially in Africa—a dream shared by white labor and the ruling class.37 In other words, this “democratic despotism” allowed for the white working class to “share the spoil of exploiting ‘chinks and niggers,'” and facilitated the creation of “a new democratic nation composed of united capital and labor” that perpetuated racial capitalism across class lines.38 Moreover, this national unity was strengthened through the disrespect and dehumanization of the racialized toilers and peasants in the plundered colonies that mitigated the exploitation and impoverishment of the white working class in imperial countries. This superexploitation allowed white workers to get a share, however pitiful, of “wealth, power, and luxury…on a scale the world never saw before” and to benefit from the “new wealth” accumulated from the “darker nations of the world” through cross-class consent “for governance by white folk and economic subjection to them”—a consensus solidified through the doctrine of “the natural inferiority of most men to the few.”39 Given the entanglement of racialization and capitalist exploitation, Du Bois averred, “Racial slander must go. Racial prejudice will follow…the domination of one people by another without the other’s consent, be the subject people black or white, must stop. The doctrine of forcible economic expansion over subject people must go.” Insofar as this admonishment applied as much to the United States as to European imperialists, beyond the international proletariat, it was the darker peoples and nations of the world who would challenge racial capitalism, not least “the twenty-five million grandchildren of the European slave trade…and first of all the ten million black folk in the United States.”40

Imperialist accumulation denotes the rapacious conscription of resources and labor for the purpose of superprofits through violent means that are generally reserved for populations deemed racially inferior. On the precipice of the Great Depression, the prominent Black communist James Ford beautifully explicated imperialist accumulation. In his 1929 report on the Second World Congress of the League Against Imperialism, he explained that the extant political economy constituted the consolidation of Africa’s partition and the “complete enslavement of its people”; the arresting of its industrialization, which hindered the development of the “toiling masses”; and the relegation of the continent to a source of raw material, a market for European goods, and a dumping ground for accumulated surplus capital. In the U.S. South, the Black poor were dehumanized by Wall Street, “white big business,” and the “rising Negro bourgeoisie” whose condition of possibility was the subjection of the Black working class. This oppression was exacerbated by rigid racial barriers, disenfranchisement, and lynching. Ford further argued that the West Indies, subjected to U.S. militarism and occupation on behalf of Wall Street, were largely transformed into a marketplace for U.S. goods. Moreover, throughout Africa, the U.S. South, and the Caribbean, Black workers were impressed into forced labor, laying railroads, building roads and bridges, and working in mines; were entrapped on plantations through peonage; and were subjected to convict leasing. In addition, they suffered intolerable working conditions and routinized violence.41 Expropriation by domination designates the seizure and confiscation of land, assets, property, bodies, and other sources of material wealth set to work by relations of economic dependence. This relationship exists both between nations and between groups. A quintessential enunciation of expropriation by domination between groups is We Charge Genocide: The Historic Petition to the United Nations for Relief from a Crime of the United States Government Against the Negro People, edited by the Black Communist William Patterson (with significant help from his wife and comrade Louise Thompson Patterson) and submitted to the United Nations by the Civil Rights Congress in 1951.42 The petition meticulously documented the past and present expropriation of Black people by the ruling class of modern U.S. racial capitalism through consistent and persistent discrimination in employment, unfair wages, forced ghettoization, inequitable and inferior accommodation and services, and the denial of justice in the courts. It further argued that this process was sustained by genocidal terror, white supremacist law, and the drive of monopoly capitalists for superprofits. Importantly, We Charge Genocide noted that, for primarily economic reasons, the historical and geographical locus of anti-Black genocide was the “Black Belt” of the Southern United States, a region expropriated by the Northern industrial capitalists and by Southern landowners alike. This was due in large part to plantation systems of sharecropping and peonage—legacies of slavery—in which Black political and economic rights were virtually nonexistent, Black laborers were inexorably tied to the land through debt, and the threat of violence and death precluded demands for justice. For Patterson, such expropriation by domination was the basis of “racist contamination that has spread throughout the United States.”43 We Charge Genocide further conveyed that expropriation by domination, a central element of modern U.S. racial capitalism, was more than a domestic concern because such practices “at home must inevitably create racist commodities for export abroad—must inevitably tend toward war.”44 Labor superexploitation can be understood as an economic relationship in which the intensity, form, and racial basis of exploitation differs little from slavery. Its effects are so extreme that it pushes racialized, particularly Black, labor effectively below the level of sheer physical subsistence. As Harrison explained, in the context of modern U.S. racial capitalism, Black workers “form a group that is more essentially proletarian than any other American group” because enslaved Africans were brought to the “new world” to be ruthlessly exploited. This reality fixed their social status as the most despised group, which in turn intensified their subjection.45 Likewise, organizations like the American Negro Labor Congress and the Anti-Imperialist League analyzed that the racial capitalist superexploitation of Black nations like Haiti in the first quarter of the twentieth century for the purposes of consolidating Wall Street control over land, commercial relations, and production was accompanied by the brutalization of Black labor, the export of Jim Crow practices, military occupation, and political repression.46 In effect, superexploitation results from the conjuncture of white supremacy, racialization, and the “badge of slavery,” which exacerbates the conditions of exploitation to which white working classes are subjected. As the Black Marxist Harry Haywood argued in 1948, “the stifling effects of the race factor are most strikingly illustrated by the drastic differences in the economic and cultural status of Negroes and whites.… Beyond all doubt, the oppression of the Negro, which is the basis of the degradation of the ‘poor whites,’ is of separate character demanding a special approach.”47 Superexploitation, he explained further, constitutes a combination of direct exploitation, outright robbery, physical violence, legal coercion, and perpetual indebtedness. It stifles “the free economic and cultural development” of the Black masses “through racist persecution as a basic condition for maintaining” virtual enslavement.48 The entrapment of Black women in domestic labor throughout the twentieth century—a function of their “triple oppression”—is perhaps the most glaring example of labor superexploitation under modern U.S. racial capitalism. In 1936, the lifelong Black radical Louise Thompson explained that Black women’s superexploitation in the capitalist mode of production was based on their race, sex, and subordination in the labor market.49 That same year, Black militants Marvel Cooke and Ella Baker published an article titled “The Bronx Slave Market” in which they studied triple oppression as it related to Black domestic workers. Cooke and Baker explained that the entanglements of racism, sex-based labor subordination, and structural poverty were deeply intensified by the Great Depression and forced Black domestic workers to pauperize their labor for the abysmal wage of less than thirty cents an hour. This form of labor exploitation was unique to the female sex because domestic work was conventional “women’s work,” and it was racialized insofar as the denigration of Black people fitted this group of women for low-wage, unprotected, and contingent labor.50

#### AND legitimizes violent neoliberal governance while masking structural violence

Nieto 11, Professor at University of Icesi (Diego Nieto, 2011, “Neoliberalism, Biopolitics, and the Governance of Transnational Crime,” Colombia Internacional, 76, pp. 137-165)

CONCLUSION: SECURITY BEYOND NEOLIBERALISM

In the context of biopolitics, crime has a significant place to make sense of what is at stake in global governance. Crime discloses at least two very important dimensions: first, how the idea of a transnational governmentality is thought of through defining threats to the global society; and second, that power over subjects is exercised through various mechanisms derived from these “racist” discourses of criminal threats. Many of us have experienced these mechanisms of control exposed in the last part of the article, where the “fear” of terror and crime**—**typical biopolitical discourses—triggers forms of regulations and surveillance that go well beyond the fight against organized crime and terrorism itself. These mechanisms discipline subjects and control populations, devise policies targeting and classifying “dangerous” places and people, and in the end divide the world between the “respectable” and the outlaw and reckless populations. This last point is critical, and the place of neoliberalism in this discourse cannot be underestimated. Neoliberalism has a very specific definition of the ethos of the respectable individual, and therefore, of the valuable ways of enjoying freedom. For all neoliberalism’s defense of individual freedom, it is significant to see how, whereas entrepreneurs and millionaires are welcomed to enjoy the “benefits" of globalization (and accordingly policing mechanisms are designed), the vast majority of the population suffers all these controls and the severe consequences of diffuse wars such as those on drugs and terror. This is the great paradox of biopolitical power in neoliberal politics: to enhance individual freedom, neoliberalism must deploy many forms of power over subjects. As Foucault says about the interplay in liberalism between freedom and apparatuses of security: “The problems of what I shall call the economy of power peculiar to liberalism are internally sustained, as it were, by this interplay of freedom and security... the horsemen of the Apocalypse disappear and in their place everyday dangers appear, emerge, and spread everywhere... there is no liberalism without a culture of danger” (Foucault 2008, 65, 67). The neoliberal rationality of crime control epitomizes this paradox, illustrating how the homo economicus has become the grid and interface between the individual and the technologies of power designed for governing the population. In this way, thanks to this fundamental connection between the problems of the market and the problems of security and crime, a re-territorialization of forms of power takes place. The global assemblage for governing crime constitutes the extension of a political imagination of freedom to the production of subjects and populations through security apparatuses. My contention is that if we consider there is something questionable, normatively and in the practical consequences brought about by the mechanisms of policing and securitization developed over the last few decades (let alone the wars on drugs and terror), we cannot separate our criticism from a profound examination of the neoliberal rationality underlying them. This also demands we must re-imagine the interplay between freedom and security beyond neoliberalism.

#### Focus on competition and using sport as a method for profit and money is the life blood of capitalism

Simonovic 16, Serbian philosopher, (Ljubodrag, Sport as the religion of capitalism, An interview with Ljubodrag Simonoviç, author of The Philosophy of Olympism. Sport is central to his critique of capitalism., <https://libcom.org/library/sport-religion-capitalism>

Sport has become the most important political weapon of the class domination by which the bourgeoisie destroys the class consciousness of the working people, critical mind, libertarian dignity, depolitizes the oppressed, achieves “national integration”… In contrast to the earlier games, which expressed the spirit of the ruling order and had a class exclusivity, sport is a “supraclass” game which expresses the progressistic capitalist universalism by means of which the bourgeoisie draws into its spiritual orbit not only workers, but women and members of “lower races” as well. It serves to “overcome” class antagonism (“sport has nothing to do with politics”), achieves “class reconciliation” and thus “social peace”. For the ruling class, sport is an “ideological political cudgel” which destroys the critical mind and workers’ drive for changes. It is a vent releasing the discontent of the oppressed and preventing the creation of an organized political movement that can jeopardize the ruling order. The conflict between classes is transferred from the political (social) sphere to stadiums, the war waged in sport being the embodiment of the capitalist way of life. When a man gives vent to his discontent on a stadium, he does that in a way which does not question the existing order, but reproduces it. Sport is a capitalist ideology which “levels off” class differences based on the ruling principles of capitalism. To win! – that is the existential imperative both for those who are at the bottom and for those who sit in “blue loges”. Capitalism does not leave anybody alone. The existential uncertainty is Damocles’ sword hovering over everybody’s head. Trying to escape from the bottom and struggling not to come to the bottom – this is what makes the rich and the poor “get closer”. “Enjoying” wealth means letting off the fear of poverty. Sport repeatedly produces the awareness of an unavoidable world based on the Social Darwinist principle “The stronger win, the weaker are eliminated!” (Coubertin). It provokes a conflict between people (nations, races and genders) thus producing the existing world of injustice. Sport serves to provide the oppressed with “opponents” in the form of an “opponent team” and “opponent supporters” so that they can vent their anger at them because of their humiliating position. It absorbs the increasing discontent of the oppressed working people and their children – whose future is being destroyed. Capitalism produces an unhappy and mutilated man, and at the same time creates ever bloodier compensatory mechanisms and a need for them – which is attributed to the “evil” human nature. Sport clearly shows the truth that politics is an art of directing the discontent of the oppressed towards the realization of inhuman ends. That is why in sport everything is allowed: murder, serious physical injuries, verbal abuses… “Victory” on a sports field is the defeat of humanity.

#### Vote neg for international workers’ movements

Foster 20, Editor of Monthly Review, and a professor of sociology at the University of Oregon (John Bellamy Foster, “The Renewal of the Socialist Ideal,” *Monthly Review*, September 2020, Volume 72, Number 4)

Appearing simultaneously with this new reactionary political formation in the United States is a resurgent movement for socialism, based in the working-class majority and dissident intellectuals. The demise of U.S. hegemony within the world economy, accelerated by the globalization of production, has undermined the former, imperial-based labor aristocracy among certain privileged sections of the working class, leading to a resurgence of socialism.9 Confronted with what Michael D. Yates has called “the Great Inequality,” the mass of the population in the United States, particularly youth, are faced with rapidly diminishing prospects, finding themselves in a state of uncertainty and often despair, marked by a dramatic increase in “deaths of despair.”10 They are increasingly alienated from a capitalist system that offers them no hope and are attracted to socialism as the only genuine alternative.11 Although the U.S. situation is unique, similar objective forces propelling a resurgence of socialist movements are occurring elsewhere in the system, primarily in the Global South, in an era of continuing economic stagnation, financialization, and universal ecological decline.

But if socialism is seemingly on the rise again in the context of the structural crisis of capital and increased class polarization, the question is: What kind of socialism? In what ways does socialism for the twenty-first century differ from socialism of the twentieth century? Much of what is being referred to as socialism in the United States and elsewhere is of the social-democratic variety, seeking an alliance with left-liberals and thus the existing order, in a vain attempt to make capitalism work better through the promotion of social regulation and social welfare in direct opposition to neoliberalism, but at a time when neoliberalism is itself giving way to neofascism.12 Such movements are bound to fail at the outset in the present historical context, inevitably betraying the hopes that they unleashed, since focused on mere electoral democracy. Fortunately, we are also seeing the growth today of a genuine socialism, evident in extra-electoral struggle, heightened mass action, and the call to go beyond the parameters of the present system so as to reconstitute society as whole.

The general unrest latent at the base of U.S. society was manifested in the uprisings in late May and June of this year, which took the form, practically unheard of in U.S. history since the U.S. Civil War, of massive solidarity protests with millions of people in the streets, and with the white working class, and white youth in particular, crossing the color line *en masse* in response to the police lynching of George Floyd for no other crime than being a Black man.13 This event, coming in the midst of the COVID-19 pandemic and the related economic depression, led to the June days of rage in the United States.

But while the movement toward socialism, now taking hold even in the United States at the “barbaric heart” of the system, is gaining ground as a result of objective forces, it lacks an adequate subjective basis.14 A major obstacle in formulating strategic goals of socialism in the world today has to do with twentieth-century socialism’s abandonment of its own ideals as originally articulated in Karl Marx’s vision of communism. To understand this problem, it is necessary to go beyond recent left attempts to address the meaning of communism on a philosophical basis, a question that has led in the last decade to abstract treatments of The Communist Idea, The Communist Hypothesis, and The Communist Horizon by Alain Badiou and others.15 Rather, a more concrete historically based starting point is necessary, focusing directly on the two-phase theory of socialist/communist development that emerged out of Marx’s Critique of the Gotha Programme and V. I. Lenin’s The State and Revolution. Paul M. Sweezy’s article “Communism as an Ideal,” published more than half a century ago in Monthly Review in October 1963, is now a classic text in this regard.16

Marx’s Communism as the Socialist Ideal In The Critique of the Gotha Programme—written in opposition to the economistic and laborist notions of the branch of German Social Democracy influenced by Ferdinand Lassalle—Marx designated two historical “phases” in the struggle to create a society of associated producers. The first phase was initiated by the “revolutionary dictatorship of the proletariat,” reflecting the class-war experience of the Paris Commune and representing a period of workers’ democracy, but one that still carried the “defects” of capitalist class society. In this initial phase, not only would a break with capitalist private property take place, but also a break with the capitalist state as the political command structure of capitalism.17 As a measure of the limited nature of socialist transition in this stage, production and distribution would inevitably take the form of to each according to one’s labor, perpetuating conditions of inequality even while creating the conditions for their transcendence. In contrast, in the later phase, the principle governing society would shift to from each according to one’s ability, to each according to one’s need and the elimination of the wage system.18 Likewise, while the initial phase of socialism/communism would require the formation of a new political command structure in the revolutionary period, the goal in the higher phase was the withering away of the state as a separate apparatus standing above and in antagonistic relation to society, to be replaced with a form of political organization that Frederick Engels referred to as “community,” associated with a communally based form of production.19 In the later, higher phase of the transition of socialism/communism, not only would property be collectively owned and controlled, but the constitutive cells of society would be reconstituted on a communal basis and production would be in the hands of the associated producers. In these conditions, Marx stated, “labor” will have become not a mere “means of life” but “itself…the prime necessity of life.”20 Production would be directed at use values rather than exchange values, in line with a society in which “the free development of each” would be “the condition for the free development of all.” The abolition of capitalist class society and the creation of a society of associated producers would lead to the end of class exploitation, along with the elimination of the divisions between mental and manual labor and between town and country. The monogamous, patriarchal family based on the domestic enslavement of women would also be surmounted.21 Fundamental to Marx’s picture of the higher phase of the society of associated producers was a new social metabolism of humanity and the earth. In his most general statement on the material conditions governing the new society, he wrote: “Freedom, in this sphere [the realm of natural necessity], can consist only in this, that socialized man, the associated producers, govern the human metabolism of nature in a rational way…accomplishing it with the least expenditure of energy” in the process of promoting conditions of sustainable human development.22 Writing in The State and Revolution and elsewhere, Lenin deftly captured Marx’s arguments on the lower and higher phases, depicting these as the first and second phases of communism. Lenin went on to emphasize what he called “the scientific distinction between socialism and communism,” whereby “what is usually called socialism was termed by Marx the ‘first,’ or lower phase of communist society,” whereas the term communism, meaning “complete communism,” was most appropriately used for the higher phase.23 Although Lenin closely aligned this distinction with Marx’s analysis, in later official Marxism this came to be rigidified in terms of two entirely separate stages, with the so-called communist stage so removed from the stage of socialism that it became utopianized, no longer seen as part of a continuous or ongoing struggle. Based on a wooden conception of the socialist stage and the intermediary principle of distribution to each according to one’s labor, Joseph Stalin carried out an ideological war against the ideal of real equality, which he characterized as a “reactionary, petty-bourgeois absurdity worthy of a primitive sect of ascetics but not of a socialist society organized on Marxist lines.” This same stance was to persist in the Soviet Union in one way or another all the way to Mikhail Gorbachev.24 Hence, as explained by Michael Lebowitz in The Socialist Imperative, “rather than a continuous struggle to go beyond what Marx called the ‘defects’ inherited from capitalist society, the standard interpretation” of Marxism in the half-century from the late 1930s to the late ’80s “introduced a division of post-capitalist society into two distinct ‘stages,’” determined economistically by the level of development of the productive forces. Fundamental changes in social relations emphasized by Marx as the very essence of the socialist path were abandoned in the process of living with and adapting to the defects carried over from capitalist society. Instead, Marx had insisted on a project aimed at building the community of associated producers “from the outset” as part of an ongoing, if necessarily uneven, process of socialist construction.25 This abandonment of the socialist ideal associated with Marx’s higher phase of communism was wrapped up in a complex way with changing material (and class) conditions and eventually the demise of Soviet-type societies, which tended to stagnate once they ceased to be revolutionary and even resurrected class forms, heralding their eventual collapse as the new class or nomenklatura abandoned the system. As Sweezy argued in 1971, “state ownership and planning are not enough to define a viable socialism, one immune to the threat of retrogression and capable of moving forward on the second leg of the movement to communism.” Something more was needed: the continuous struggle to create a society of equals.26 For Marx, the movement toward a society of associated producers was the very essence of the socialist path embedded in “communist consciousness.”27 Yet, once socialism came to be defined in more restrictive, economistic terms, particularly in the Soviet Union from the late 1930s onward, in which substantial inequality was defended, post-revolutionary society lost the vital connection to the dual struggle for freedom and necessity, and hence became disconnected from the long-term goals of socialism from which it had formerly derived its meaning and coherence. Based on this experience, it is evident that the only way to build socialism in the twenty-first century is to embrace precisely those aspects of the socialist/communist ideal that allow a theory and practice radical enough to address the urgent needs of the present, while also not losing sight of the needs of the future. If the planetary ecological crisis has taught us anything, it is that what is required is a new social metabolism with the earth, a society of ecological sustainability and substantive equality. This can be seen in the extraordinary achievements of Cuban ecology, as recently shown by Mauricio Betancourt in “The Effect of Cuban Agroecology in Mitigating the Metabolic Rift” in Global Environmental Change.28 This conforms to what Georg Lukács called the necessary “double transformation” of human social relations and the human relations to nature.29 Such an emancipatory project must necessarily pass through various revolutionary phases, which cannot be predicted in advance. Yet, to be successful, a revolution must seek to make itself irreversible through the promotion of an organic system directed at genuine human needs, rooted in substantive equality and the rational regulation of the human social metabolism with nature.30 Freedom as Necessity Building on G. W. F. Hegel’s philosophy, Engels famously argued in Anti-Dühring that real freedom was grounded in the recognition of necessity. Revolutionary change was the point at which freedom and necessity met in concrete praxis. Although there was such a thing as blind necessity beyond human knowledge, once objective forces were grasped, necessity was no longer blind, but rather offered new paths for human action and freedom. Necessity and freedom fed on each other, requiring new periods of social change and historical transcendence.31 In illustrating this materialist dialectical principle, Lenin acutely observed, “we do not know the necessity of nature in the phenomena of the weather. But while we do not know this necessity, we do know that it exists.”32 We know the human relation to the weather and nature in general inevitably varies with the changing productive relations governing our actions. Today, the knowledge of anthropogenic climate crisis and of extreme weather events is removing human beings from the realm of blind necessity and demanding that the world’s population engage in the ultimate struggle for freedom and survival against catastrophe capitalism. As Marx stated in the context of the severe metabolic rift imposed on Ireland as a result of British colonialism in the nineteenth century, the ecological crisis presents itself as a case of “ruin or revolution.”33 In the Anthropocene, the ecological rift resulting from the expansion of the capitalist economy now exists on a scale rivaling the biogeochemical cycles of the planet. However, knowledge of these objective developments also allows us to conceive the necessary revolution in the social metabolic reproduction of humanity and the earth. Viewed in this context, Marx’s crucial conception of a “community of associated producers” is not to be viewed as simply a far-off utopian conception or abstract ideal but as the very essence of the necessary human defense in the present and future, representing the insistent demand for a sustainable relation to the earth.34 But where is the agent of revolutionary change? The answer is that we are seeing the emergence of the material preconditions of what can be called a global environmental proletariat. Engels’s Condition of the Working Class in England, published in 1845, was a description and analysis of working-class conditions in Manchester, shortly after the so-called Plug Plot Riots and at the height of radical Chartism. Engels depicted the working-class environment not simply in terms of factory conditions, but much more in terms of urban developments, housing, water supply, sanitation, food and nutrition, and child development. The focus was on the general epidemiological environment enforced by capitalism (what Engels called “social murder” and what Norman Bethune later called “the second sickness”) associated with widespread morbidity and mortality, particularly due to contagious disease.35 Marx, under the direct influence of Engels and as a result of his own social epidemiological studies twenty years later while writing Capital, was to see the metabolic rift as arising not only in relation to the degradation of the soil, but equally, as he put it, in terms of “periodical epidemics” induced by society itself.36 What this tells us—and we could find many other illustrations, from the Russian and Chinese Revolutions to struggles in the Global South today—is that class struggle and revolutionary moments are the product of a coalescence of objective necessity and a demand for freedom emanating from material conditions that are not simply economic but also environmental in the broadest sense. Revolutionary situations are thus most likely to come about when a combination of economic and ecological conditions make social transformations necessary, and where social forces and relations are developed enough to make such changes possible. In this respect, looked at from a global standpoint today, the issue of the environmental proletariat overlaps with and is indistinguishable from the question of the ecological peasantry and the struggles of the Indigenous. Likewise, the struggle for environmental justice that now animates the environmental movement globally is in essence a working-class and peoples’ struggle.37 The environmental proletariat in this sense can be seen as emerging as a force all over the world, as evident in the present period of ecological-epidemiological struggle in relation to COVID-19. Yet, the main locus of revolutionary ecological action in the immediate future remains the Global South, faced with the harsh reality of “imperialism in the Anthropocene.”38 As Samir Amin observed in Modern Imperialism, Monopoly Finance Capital, and Marx’s Law of Value, the triad of the United States, Europe, and Japan is already using the planet’s bio-capacity at four times the world average, pointing toward ecological oblivion. This unsustainable level of consumption of resources in the Global North is only possible because a good proportion of the bio-capacity of society in the South is taken up by and to the advantage of these centers [in the triad]. In other words, the current expansion of capitalism is destroying the planet and humanity. The expansion’s logical conclusion is either the actual genocide of the peoples of the South—as “overpopulation”—or, at the least, their confinement to ever-increasing poverty. An eco-fascist strand of thought is being developed which gives legitimacy to this kind of “final solution” to the problem.39 A New System of Social Metabolic Reproduction A revolutionary process of socialist construction aimed at building a new system of social reproduction in conformity with the demands of necessity and freedom cannot occur without an overall “orienting principle” and “measure of achievement” as part of a long-term strategy. It is here, following Mészáros, that the notion of substantive equality or a society of equals, also entailing substantive democracy, comes into play in today’s struggles.40 Such an approach not only stands opposed to capital at its barbaric heart but also opposes any ultimately futile endeavor to stop halfway in the transition to socialism. Immanuel Kant spelled out the dominant liberal view shortly after the French Revolution when he stated that “the general equality of men as subjects in a state coexists quite readily with the greatest inequality in degrees of the possessions men have.… Hence, the general equality of men coexists with great inequality of specific rights of which there may be many.”41 In this way, equality came to be merely formal, existing merely “on paper” as Engels pointed out, not only with respect to the labor contract between capitalist and worker but also in relation to the marriage contract between men and women.42 Such a society establishes, as Marx demonstrated, a “right of inequality, in its content, like every right.”43 The idea of substantive equality, consistent with Marx’s notion of communism, challenges all of this. It demands a change in the constitutive cells of society, which can no longer consist of possessive individualists, or individual capitals, reinforced by a hierarchical state, but must be based on the associated producers and a communal state. Genuine planning and genuine democracy can only start through the constitution of power from the bottom of society. It is only in this way that revolutions become irreversible. It was the explicit recognition of the challenge and burden of twenty-first-century socialism in these terms that represented the extraordinary threat to the prevailing order constituted by the Venezuelan Revolution led by Hugo Chávez. The Bolivarian Republic challenged capitalism from within through the creation of communal power and popular protagonism, generating a notion of revolution as the creation of an organic society, or a new social metabolic order. Chávez, building on the analyses of Marx and Mészáros, mediated by Lebowitz, introduced the notion of “the elementary triangle of socialism,” or (1) social ownership, (2) social production organized by workers, and (3) satisfaction of communal needs.44 Underlying this was a struggle for substantive equality, abolishing the inequalities of the color line and the gender line, the imperial line, and other lines of oppression, as the essential basis for eliminating the society of unequals. In “Communism as an Ideal,” Sweezy emphasized the new forms of labor that would necessarily come into being in a society that used abundant human productivity more rationally. Many categories of work, he indicated, would “be eliminated altogether (e.g. coalmining and domestic service), and insofar as possible all jobs must become interesting and creative as only a few are today.” The reduction of the enormous waste and destruction inherent in capitalist production and consumption would open up space for the employment of disposable time in more creative ways. In a society of equals—one in which everyone stands in the same relation to the means of production and has the same obligation to work and serve the common welfare—all “needs” that emphasize the superiority of the few and involve the subservience of the many will simply disappear and will be replaced by the needs of liberated human beings living together in mutual respect and cooperation.… Society and the human beings who compose it constitute a dialectical whole: neither can change without changing the other. And communism as an ideal comprises a new society and a new [human being].45 More than simply an ideal, such an organizing principle in which substantive equality and substantive democracy are foremost in the conception of socialism/communism is essential not only to create a socialist path to a better future but as a necessary defense of the global population confronted with the question of survival. Dystopian books and novels notwithstanding, it is impossible to imagine the level of environmental catastrophe that will face the world’s peoples, especially those at the bottom of the imperialist hierarchy, if capitalism’s creative destruction of the metabolism of humanity and the earth is not stopped mid–century. According to a 2020 article on “The Future of the Human Climate Niche” in the Proceedings of the National Academy of Sciences, based on existing trends, 3.5 billion people are projected to be living in unlivable heat outside the human climate niche by 2070, under conditions comparable to those of the Sahara desert.46 Even such projections fail to capture the enormous level of destruction that will fall on the majority of humanity under capitalist business as usual. The only answer is to leave the burning house and to build another now.47

The International of Workers and Peoples

Although untold numbers of people are engaged in innumerable struggles against the capitalist juggernaut in their specific localities all around the world, struggles for substantive equality, including battles over race, gender, and class, depend on the fight against imperialism at the global level. Hence, there is a need for a new global organization of workers based on the model of Marx’s First International.48 Such an International for the twenty-first century cannot simply consist of a group of elite intellectuals from the North engaged in World Social Forum-like discussion activities or in the promotion of social-democratic regulatory reforms as in the so-called Socialist and Progressive Internationals. Rather, it needs to be constituted as a workers-based and peoples-based organization, rooted from the beginning in a strong South-South alliance so as to place the struggle against imperialism at the center of the socialist revolt against capitalism, as contemplated by figures such as Chávez and Amin.

In 2011, just prior to his final illness, Chávez was preparing, following his next election, to launch what was to be called the New International (pointedly not a Fifth International) focusing on a South-South alliance and giving a global significance to socialism in the twenty-first century. This would have extended the Bolivarian Alliance for Peoples of Our America to a global level.49 This, however, never saw the light of day due to Chávez’s rapid decline and untimely death.

Meanwhile, a separate conception grew out of the efforts of Amin, working with the World Forum for Alternatives. Amin had long contemplated a Fifth International, an idea he was still presenting as late as May 2018. But in July 2018, only a month before his death, this had been transformed into what he called an Internationale of Workers and Peoples, explicitly recognizing that a pure worker-based International that did not take into account the situation of peoples was inadequate in confronting imperialism.50 This, he stated, would be an organization, not just a movement. It would be aimed at the alliance of all working peoples of the world and not only those qualified as representatives of the proletariat…including all wage earners of the services, peasants, farmers, and the peoples oppressed by modern capitalism. The construction must also be based on the recognition and respect of diversity, whether of parties, trade unions, or other popular organizations of struggle, guaranteeing their real independence.… In the absence of [such revolutionary] progress the world would continue to be ruled by chaos, barbarian practices, and the destruction of the earth.51

The creation of a New International cannot of course occur in a vacuum but needs to be articulated within and as a product of the building of unified mass organizations expanding at the grassroots level in conjunction with revolutionary movements and delinkings from the capitalist system all over the world. It could not occur, in Amin’s view, without new initiatives from the Global South to create broad alliances, as in the initial organized struggles associated with the Third World movement launched at the Bandung Conference in 1955, and the struggle for a New International Economic Order.52 These three elements—grassroots movements, delinking, and cross-country/cross-continent alliances—are all crucial in his conception of the anti-imperialist struggle. Today this needs to be united with the global ecological movement.

Such a universal struggle against capitalism and imperialism, Amin insisted, must be characterized by audacity and more audacity, breaking with the coordinates of the system at every point, and finding its ideal path in the principle of from each according to one’s ability, to each according to one’s need, as the very definition of human community. Today we live in a time of the perfect coincidence of the struggles for freedom and necessity, leading to a renewed struggle for freedom as necessity. The choice before us is unavoidable: ruin or revolution.

#### That requires critical epistemologies

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Looking forward: academic and practitioner pushback against colonialism, and cautionary tales

Given the historical and ongoing mutual complicity between knowledge producers and policy-makers in upholding imperial and racial orders, we now consider the responsibilities, possibilities and challenges faced in altering the nature of that nexus. Doing so requires turning to what Danso and Aning call an ‘episteme of alternativity’;41 and the primary way for academics to enact this would be to draw on anti-colonial practice and legacies, rather than imperial competition, as the foundation of their theorizing.

Thus, in his article, Sizwe Mpofu-Walsh forefronts global South policy-makers and focuses on the nuclear order (a topic that is typically associated with realist IR) to demonstrate how it can be approached through an alternative, critical epistemology.42 Disrupting the ‘Great Power gaze’, Mpofu-Walsh asks what the politics of non-proliferation looks like from the perspective of the global South, especially the African continent as the sole nuclear weapon-free zone (NWFZ). There, denuclearization is fundamentally linked to decolonization. Thus anti-colonial goals, rather than hegemonic/imperialist competition, are at the root of both policy and theorizing. How different would IR knowledge and theories on nuclear weapons be if African praxis and the importance of NWFZs were taken seriously? Turning to the Middle East, Gani similarly argues in her article that the inclusion of non-western history and voices—from policy-makers to activists and scholars—in think-tank discussions can mitigate the latent colonialism that shapes western policy.43

Nevertheless, even with an incorporation of non-western practice and knowledge in policy making and scholarly theorizing, multiple perspectives that are marginalized even in the local context, owing to class or gender, may continue to go unheard.44 One crucial way in which both academics and practitioners can challenge such patterns is by adopting a more expansive reading of what constitutes ‘knowledge’ and indeed ‘practice’. In doing so, we can dismantle some of the constructed and false hierarchies between elite ‘knowledge’ and ‘research’ on one hand, and local ‘tradition’ on the other.45 The former is assumed to be objective, reliable and associated with western (and western-validated) universities; while the latter is viewed as subjective, unscientific and commonly associated with Indigenous, racialized, grassroots communities. Assumptions about who counts as a true knowledge producer or ‘expert’ is not only elitist but heavily racialized and gendered. Definitions of who counts as a ‘practitioner’ are equally narrow, so that scholars or policy-makers may place much weight on the views and actions of state, global governance and corporate practitioners, but do not view as equal practitioners those involved in everyday practice in their communities—those who in fact sustain their ecology, livelihoods, security and identities, all while having to navigate the impact of top-down policies.46

Both the articles by Jan Wilkens and Alvine Datchoua-Tirvaudey on climate justice, and by Althea Rivas and Mariam Safi on the organizing and practices of Afghan women, share knowledge from non-elite local communities and challenge the above binaries and hierarchies. In their article on climate justice in the Arctic and the Mediterranean, Wilkens and Datchoua-Tirvaudey explain that academic–practitioner knowledge exchange has often been a contributing factor in continued climate injustice.47 The existing patterns of this knowledge exchange on climate governance are dependent on hierarchies of knowledge, namely, the valorization of western/‘scientific’ knowledge production at the expense of the needs and knowledges of the Indigenous and local communities most affected by climate change (i.e. the community-based practitioners, rather than the institutional/state ones). Moreover, the spaces where such knowledge exchange takes place are often exclusionary (in who is invited, in the parameters of discourse and/or in the extortionate costs of participating), producing an intra-elite debate.48 Having identified these racialized patterns, they offer a corrective decolonial strategy for ethical climate governance, founded on practice-based knowledge and diverse ways of knowing that bring in those excluded insights.

The article by Rivas and Safi also provides an example of how the academic–practitioner nexus can be ‘decolonized’, one in which everyday knowledges of Afghan women, in all their diversity and complexity, are centred in peacebuilding efforts.49 Their article, co-written by an academic and a local practitioner, offers a methodology of how to take into account the internal hierarchies of positionality, interests and knowledges that are always present when engaging with grassroots communities for the sake of ‘research’. Rivas and Safi also demonstrate the importance of registering and valuing the unlooked-for, atypical knowledges from below, such as the subtle observations offered by Afghan women in rural areas that, contrary to wider assumptions, reflect their political engagement and interest.

Caution against extractivism in the search for such local knowledge exchange is at the forefront of both the above contributions.50 Thus academics should remain reflexive in what the purpose of their research is, and who really benefits. Moreover, a praxis of decolonizing such research necessarily entails taking time in a way that is at odds with the current culture of speedy and multitudinous productivity in academia: the rapid churning out of articles from ‘the field’ should raise appropriate questions about how, why and for whom that research is being conducted.

Of course, at issue is not just whom but also what we consider as worthy of scholarly and policy attention, and how inclusive we are of alternative methodologies. Dependence on state and official archives, ‘canonical’ theorists, written records and English-language sources all reproduce the racialized hierarchies inherent in the prioritization of certain types of knowledge and transmission.51 These factors also close the door on appreciating the power—both practical and ideational—generated by collective social action, whose impact cannot (and should not) be individualized to one or a few visible and often romanticized protagonists. Recognizing all this and reading into the silences of the archives should encourage greater attention to non-hegemonic record-keeping, story-telling and witnessing beyond elitist and prohibitive barriers—from oral histories, to poetry, art and independent publishing on paper and online. As anti-colonial and anti-racist thinkers and activists have long argued, these are the ways in which those who are dispossessed and marginalized, but also, consequently, autonomous, have kept their identities, cultures and memories alive, and sought to prevent their experiences from being suppressed and erased.52 In the face of systematic racism and the colonial dismantling of their histories, those who are marginalized are not, in fact, silent but continue to cultivate and share knowledge, even if they may lack the resources and type of support received by hegemonic knowledges (and people).53 Recognizing the equal validity of marginalized forms of knowledges in both academic and policy realms pushes back against the de-representation in knowledge exchanges within elite spaces and formats.

However, it would be erroneous to assume from these arguments that knowledge produced by so-called elite communities is always bad, and that knowledge or cultural production from the bottom up is always more authentic and supports the cause of justice. Srdjan Vucetic's article unsettles multiple binaries, between the elite and the ‘masses’, as well as between academics and practitioners.54 Drawing on the work of Stuart Hall, he complicates what we read as knowledge production and who we see as its progenitors, challenging the notion of purely top-down (and imperialist) identity construction. Exploring the role (and popularity) of nationalistic films and novels as signifiers of this consensus between policy-makers and wider society, Vucetic demonstrates that it is not enough to hold accountable only those deemed to possess political capital, be they policy-makers or academics. Rather, it is necessary also to challenge the broader pressures and expectations of the public that produce a collusion between elite and mass discourse, and help to foreclose the adoption of more critical, justice-oriented policies. Thus, if we focus solely on academics and practitioners in any anti-racist work, we miss the uncomfortable reality that narrow, exclusionary nationalism that foments such racism and imperialist foreign policies actually enjoys substantial ‘buy-in’ from people and may be an accepted part of a local (in this case British) identity.

This observation reinforces the need outlined above for a more expansive approach to defining knowledges, but this time when interrogating the generators of coloniality. This in turn allows us to bring into equal focus other facilitating institutions and mediums of knowledge dissemination, many of which play a pivotal role in making colonial tropes and erasures more palatable, accessible, even culturally and economically valuable. This theme runs through several of the articles in this special issue. As noted above, Vucetic's article focuses on cultural output; Antweiler looks at museums and schools; Baji considers the instrumentalization of local folklore for imperialist ideologies in Japan; Plonski and Manchanda examine the power of racial capitalism via Israel's surveillance industry and marketing; and Gani scrutinizes the impact of journalistic discourse and think tanks.

Thus far, a lot of responsibility for challenging the racial and colonial dynamics of the academic–practitioner nexus has been placed with knowledge producers, whether within or outside academia. But it is necessary to emphasize that efforts have already been under way, not only to ‘decolonize’ our academic disciplines, but to bring that discourse into the public realm. At that point practitioners need to carry their share of responsibility in listening to and applying the expertise (whether academic or community-based) that can foster more just policies. Instead, the attention policy-makers give to expertise is often selective and politicized, based not on what can actually improve people's lives but on what helps to justify the existing approaches adopted by governments. The current denigration and growing securitization of critical race theory, especially in the United States but increasingly elsewhere, is an example of attacks on emancipatory knowledges that challenge power and oppression. Offering another stark example of this, Amal Abu-Bakare explores in her article the lack of any serious attempts to confront Islamophobia in society, despite the wealth of research and expert advice from scholars and community-based practitioners available to policy-makers.55 Focusing on the cases of the UK and Canada, she highlights the way in which practitioner intervention, in this case that of security and police officials, has actively prevented the adoption of expert guidelines on tackling Islamophobia on the grounds that they might interfere with their counterterrorism strategies. In many ways this is a blatant acknowledgement from policy-makers that their counterterrorism strategy is inherently built upon racial tropes and discrimination. In contrast, so-called ‘neutral’ research on terrorism and/or counterterrorism is embraced by practitioners, precisely because such research might not ask uncomfortable questions about the racial foundations or assumptions that are necessary to enact their policies.

Abu-Bakare's article offers an example of the limitations of academic–practitioner knowledge exchange. Exhorting scholars to make their research policy relevant does not address the unequal receptivity towards critical research that may challenge policy. Nor does it sufficiently take into account the implicit disciplining that can take place in that process of knowledge exchange. Those very spaces or channels that are created to facilitate sharing, listening and negotiation between knowledge producers and practitioners (through all the blurred boundaries between them) may reproduce and reify hierarchies through unequal interactions. Is real dialogue possible if power dynamics render the interlocutors unequal?56 Or, in their efforts to be heard, taken seriously, and make their presence worthwhile, academics and other knowledge producers may find themselves being subtly socialized into the very modes of speech and thought that they sought to criticize. This can also happen in reverse when grassroots practitioners share spaces with scholars and elite institutions. The path-breaking and radical ideas needed to initiate change on some of the most deep-seated problems in politics and society may be diluted in such spaces for the sake of pragmatism and communication, undermining the ability to imagine real alternatives to the status quo. This is not to say that knowledge producers, whether academic or community-based, should not engage with policy-makers, but rather that they should be clear in what they seek to achieve—if, for example, constructive dialogue or receptivity to expertise is unlikely, it is at times necessary and an ethical responsibility simply to register alternative ideas or contestation. Returning to the point made at the start of this piece, this cautions us in how we champion ‘impact’ and knowledge–policy engagement, especially if we only recognize engagements that supplement and are ‘useful’ to systems of power rather than those that hold them to account.

Conclusion

This special issue introduces the readers of International Affairs to the relatively undertheorized and underhistoricized relationship between race, knowledge production and policy-making. The articles demonstrate the ways in which practitioners have historically relied on research produced within the academy to inform policy, initiating the establishment of departments and disciplines for this purpose, but they also show the reverse to be equally true: that policy, both foreign and multilateral, influences the possibilities and parameters of research, funding and recruitment practices, and retention of jobs.57 A key goal of this special issue has been to foster reflection on the ways in which knowledge production (in its multifaceted forms) contributes to or challenges the practice of racism and coloniality; and the ways in which policy and practice shape, validate, limit or ignore knowledge production—in ways that either perpetuate or interrogate coloniality. As the three categories delineated above show, the academic–practitioner nexus is best captured as a series of foreclosures that actively work to uphold narrowly espoused evolutionary myths of the discipline and entrench a naturalization of white-racialized subject positions in academic discourse on the ‘international’, while sidelining scholars and activists, notably women and people of colour, who have made undeniable contributions to analysis of the contemporary world.58 All this brings into view, as one scholar puts it, ‘the fundamental ways in which IR already is, and always has been, complicit in ordering politics’.59

As we have argued in this introductory piece, the exposure in this special issue of the deep academic–practitioner nexus confronts and challenges the ‘gaps’ discourse advanced at the expense of making visible the existing reciprocity that disciplines the boundaries of acceptable enquiry. The outcome of this disciplining at the theoretical level can be seen in the construction of paradigms that normalize Eurocentric presuppositions on ‘how the world is’. But such outcomes are also made manifest through material implications generated by narrow policy responses and policy instruments.

The special issue is not just an exposure, though; it is also a call for repair. To embark on a project of repair, those involved in knowledge production, dissemination and application—within academia, think tanks, museums, schools, cultural production and policy—first and foremost need to recognize that their work is not detached from the real world, even if they seek to make it so. If the articles in this special issue have shown anything, it is that there can be no realistic and honest demarcation between political and apolitical knowledge: to assert neutrality is like offering a blank slate that will inevitably be written over. It is worth knowing that even with the best intentions, a scholar's work is likely to be co-opted for political ends; and that one's erasures and blind spots regarding injustice, even if innocently produced, will be taken as justification for inaction and marginalization of these injustices in the real world.

Sincerity in seeking to prevent racist or imperialist co-optation necessitates more open interrogations of power and commitments to justice: and without doubt IR, whether ‘analytical’ or ‘critical’, and academia more broadly, are filled with sincere and honourable scholars who care about the world they live in and have the capacity to enact positive change. Questioning and challenging accepted and expected modes of academic enquiry requires courage and creativity, both of which are aided through collective effort. This special issue, then, is an invitation to adopt that courage and creativity in how we cultivate knowledge, in questioning the purpose and the ends of that knowledge, and to be discerning in how we try to put it into practice.

### 1NC---CP

#### The United States Congress should:

#### 1. expand the scope of antitrust law to apply to Major League Baseball

#### 2. invest in infrastructure, education, affordable housing, healthcare

#### 3. pay all Minor League players at least $50,000

#### 1. Plan says Congress---competes AND solves without changing precedent

#### 2. Solves growth

Pinkus et. al, 16 — Gary Pinkus (managing partner for McKinsey & Company in North America); James Manyika (director of the McKinsey Global Institute); Sree Ramaswamy (senior fellow), 12-3-2016, "Here’s How to Get the U.S. Economy to Grow 3.5% or More," Fortune, <http://fortune.com/2016/12/03/us-gdp-growth-donald-trump/>) jbb

Our new research identifies five key priorities that can help shake off stagnation and create more widely shared prosperity. An ocean of ink has already been spilled about topics such as taxes, regulation, entitlements, and debt, but we believe it’s critical to shift the focus onto accelerating growth. We estimate that these five initiatives can collectively raise GDP growth to 3% or even 3.5%—levels not seen since the 1990s. Two of the biggest opportunities involve harnessing the forces of digital technology and globalization. This is somewhat ironic, since these two forces have deepened many of the disparities we see across the economy. Trade, in particular, has taken a beating of late. But the way to address those who have been left behind is to harness the growth opportunities digitization and globalization bring by getting more small businesses, more workers, and more parts of the country to participate and benefit. The United States has to reverse its persistent productivity slowdown, and improve the digital capabilities of lagging sectors and firms is an important piece of that puzzle. This effort can go hand-in-hand with encouraging more small firms to pursue opportunities in global markets. Today, fewer than 1% of US companies export, a far lower share than in any other advanced economy. Becoming an exporter was once daunting for small businesses, but the Internet has made borders less formidable. The United States can retool customs requirements and encourage small businesses to take advantage of digital e-commerce platforms to serve overseas customers. Globalization may have left some regions behind, but deeper engagement with global investors may help them catch up. Over the past decade, the top one-third of US cities captured 55% of all inward foreign direct investment, while the bottom third accounted for only 7%. Many of the regions that lost manufacturing jobs still have experienced workers, technical know-how, and industrial facilities. They are attractive destinations—and connecting them with foreign investors can help them script a second act. The three remaining priorities in our growth agenda involve putting America’s financial capital, human capital, and natural resources to work more effectively. First, we need to focus on the 80% of the population who live in the nation’s cities or surrounding metro areas. Investing in transportation infrastructure and affordable housing could make a huge difference to their productivity, their disposable income, and their quality of life. Second, the United States needs to build a more responsive labor market with more career paths outside the traditional degree track. Policy makers and the private sector need to work together to establish more apprenticeships and training programs and to leverage technology solutions to connect people with employment opportunities more efficiently. And finally, the United States can ride a wave of innovation to make the energy sector more productive, speeding the allocation of capital to the most promising opportunities. Making the entire economy more energy-efficient would spur capital investment and create household savings that could spur demand growth.

#### 3. Solves Advantage 2 via raising salaries

Brody ’20 — Shawn Brody; “Minor league raises could easily be more than they were raised;” SBNation; February 18th, 2020; <https://www.beyondtheboxscore.com/2020/2/18/21141930/minor-league-pay-raise-mlb-living-wage>

[TITLE]: Minor league raises could easily be more than they were raised

[SUB-TITLE]: Minor leaguers deserve to be paid a living wage, and Major League Baseball can absolutely afford it.

At the end of the day, one thing is undeniably true: MLB can afford to pay minor leaguers more than a living wage right now. If Manfred sent out a directive tomorrow that said every minor leaguer was to receive $50,000 annually, not a single team would miss the money needed for that raise. MLB is choosing an incremental path to higher minor league wages not because it’s necessary, but because it is the bare minimum. They could choose to completely change the lives of 7,500 players at any given moment, yet they don’t for the same reason that the [New York Mets](https://www.amazinavenue.com/) [won’t allow their minor league team](https://twitter.com/AnthonyDiComo/status/1226948128391286784?ref_src=twsrc%5Etfw) to use a new $57 million facility.

Like the Mets, MLB qualifies their cruelty with this idea that higher earnings are within a minor leaguers grasp if they just work hard enough. It’s the same argument large companies use when they pay their interns nothing (If you just work hard this is temporary; higher pay will come if you just let us exploit you now!). In reality, the money is there because the money is always there. It’s a function of Capitalism that tricks the worker into thinking the greater good benefits when the owner keeps all the fruits of the labor.

When you consider the fact that other professional sports leagues [are able to](https://www.theringer.com/mlb/2018/4/20/17259846/minor-league-baseball-anti-labor-ronald-acuna-scott-kingery) pay a living wage to their minor leaguers, only one conclusion is to be made. Major League Baseball is choosing to pay their youngest, most at-risk players [poverty wages](https://www.healthcare.gov/glossary/federal-poverty-level-fpl/). Some of these kids are high school graduates, international signings, college graduates [with student loans](https://www.theringer.com/mlb/2018/4/20/17259846/minor-league-baseball-anti-labor-ronald-acuna-scott-kingery), human beings with young families. 40 percent of drafted players and 37 percent of players signing internationally [receive signing bonuses](https://www.baseballamerica.com/stories/data-shows-most-players-don-t-get-big-bonuses/) of $10,000 or lower.

For pennies on the dollar, Major League Baseball could forever change the lives of 7,500 people. The only reason they haven’t is because, plain and simple, they just don’t want to. This isn’t just morally wrong, it’s economically wrong. Never let them trick you into thinking anything else.

## Courts

### Turn---1NC

#### No legitimacy crisis—Support for the court is moderate

Schmidt 2/22/22, professor at the Chicago-Kent College of Law. (Charles, Interviewed by Graham Vyse assoc Editor of Signal, ‘Zero Legitimacy’, <https://www.thesgnl.com/2022/02/us-supreme-court-legitimacy-christopher-schmidt/>

A growing number of Americans disapprove of the U.S. Supreme Court, which is returning to the center of their national politics this year as President Joe Biden chooses a nominee to fill retiring liberal Justice Stephen Breyer’s seat and the Court’s 6-3 conservative majority is poised to overturn the landmark abortion-rights decision Roe v. Wade. Earlier this month, the Pew Research Center reported that Americans’ view of the Supreme Court is “as negative as it has been in many years.” (The Pew survey, conducted before Breyer announced his retirement, found that 54 percent of U.S. adults still had a favorable view of the Court, but a Gallup poll last September showed just 40 percent—a low point since 2000.) The Court is facing perceptions of partisanship, with even a member of the Court, the liberal Justice Sonia Sotomayor, herself recently asking whether the institution would survive “the public perception that the Constitution and its reading are just political acts.” All of this has led to a growing public debate in America about the Court’s legitimacy—even talk of a “legitimacy crisis.” Is there one? Christopher W. Schmidt is a professor at the Chicago-Kent College of Law, a co-director of the school’s Institute on the Supreme Court of the United States, and the author of an upcoming book about the Court’s relationship with the American public over the last century. As Schmidt sees it, the institution isn’t anywhere near a real legitimacy crisis, because he sees a real legitimacy crisis as meaning mass defiance of the Court’s rulings. While overturning Roe would be controversial and consequential, Schmidt says, he won’t expect it to change the American public’s fundamental sense of the Court’s legitimacy—though the impact of such a ruling might be magnified by big victories for conservative opinion in upcoming cases on affirmative action, guns, and voting rights. At the same time, he says, the Court has become a more prominent political issue in U.S. elections than it was a decade ago—or than it’s been through most of U.S. history. This shift might make the Court more divisive, Schmidt says, but it will also help prevent it from seeming irrelevant to people’s lives. Graham Vyse: To start with, what does it mean for the Court to have legitimacy in America? Christopher W. Schmidt: The default meaning of legitimacy, as people tend to use the word in the media and most popular discussions—particularly with these concerns about a crisis—has to do with public opinion: Do people approve of or have faith in the Supreme Court? The Court has typically had an approval rating of 50 or 60 percent during the past two decades. You may have seen a lot of references to polling last fall, showing Court’s approval rating as being historically low—down to about 40 percent in some polling—if still nowhere near as bad as approval ratings for Congress. There are also legal and moral definitions of legitimacy. A lot of people on the political left are attacking the Court in strong terms right now, saying it’s acting in an illegitimate way. They’re not just saying it’s hurt its opinion polling; they’re saying it’s doing things wrong—abandoning legal precedent, using inappropriate legal interpretation, being too influenced by partisanship. Vyse: Do you think the Court is facing a legitimacy crisis? Schmidt: No—and I realize that’s a little against the grain. A lot of people in America think the Court is either in a legitimacy crisis or on the cusp of one. There’s some ideological division on that question. Liberals are more likely to say it’s facing a legitimacy crisis than conservatives are. Library of Congress Part of my thinking is, I’m not sure what public opinion of the Court ought to be. There’s an assumption that really high public-opinion polling is good for the Court as an institution. I’m not sure. If the Court wanted to increase its approval ratings, it could issue some patriotic rulings here and there, try to split differences, and not be in the public consciousness as much. But we don’t want a U.S. Supreme Court that would do what’s needed to have an 80 percent approval rating. We want a one that can intervene on certain issues in ways that may be very unpopular at the time.

#### Increasing legitimacy would embolden the conservative majority to be more aggressive—moderate or low credibility constrains the court

Gibson & Nelson 14 James L. Gibson¶ Sidney W. Souers Professor of Government¶ Department of Political Science¶ Professor of African and African American Studies¶ Washington University Michael J. Nelson¶ Ph.D. Candidate, Department of Political Science¶ Graduate Student Associate, Center for Empirical Research in the Law¶ Washington University in St. Louis¶, Can the U.S. supreme court have too much legitimacy? In Making Law and Courts Research Relevant: The Normative Implications of Empirical Research (pp. 169-179). Taylor and Francis.

Legitimacy is, in Eastons (1965, 273) original formulation, a “reservoir of favorable attitudes or goodwill that helps members to accept or tolerate outputs to which they are opposed or the effects of which they see as damaging to their wants.” prudishly, scholars assume that legitimacy is a good thing; legitimacy enables courts to survive the issuance of unpopular rulings and to secure implementation of their decisions by other branches of government. On the other hand, courts with low stores of legitimacy faced an uphill struggle. If they are not viewed by other political actors and by the public as having the power to issue rulings that must be followed, the judgments of courts are impotent. We suggest, like the Portage in the cottage of the three bears, neither extreme is preferable. Too little legitimacy causes courts to run ”too cold” While too much legitimacy inspires courts to make rulings that are “too hot.” Ideally, courts should have a moderate to high level of legitimacy that enables them to make rulings without fear of reprisal while also keeping them humble. In Goldilocks famous phrase courts should seek a level of legitimacy that is just right.” Scholars have investigated how having too little legitimacy or a shortfall of legitimacy can affect the behavior of judges. The most recent (and perhaps best) example is Clarks (2009, 2011) analysis of EU S Supreme Court, which indicates that the court becomes increasingly unwilling to use its power of judicial review during periods in which it perceives its legitimacy to be low (see also Helmke 2002; Vanberg 2005). In other words, the scholarly record indicates that courts, believing they have low levels of institutional legitimacy, become stymied by fear and issue non controversial rulings and opinions that do not aggrieved the elected branches of government. In the language of Goldilocks, courts become “too cold.” “Cold” courts are normatively undesirable. As institutions, constitutional courts are valuable, in large part, because their power to interpret the constitution and accompanying power of judicial review enables them to reign in the elected branches of government when they make policies that lay outside the boundaries of power prescribed to them by the constitution. If a lack of legitimacy prevents courts from “checking” and “balancing” the other institutions of government, courts are unable to fulfill their role as a coequal branch of government. In short, a lack of legitimacy makes courts 2 accountable to the public because it causes them to lack the ability to achieve implementation of countermajoritarian decisions. But what if having too much legitimacy? The question of too much legitimacy is ultimately a question of too much independence. Our traditional understanding of judicial independence is based, in large part, on the ability of a court to decide cases both without fear of reprisal from external actors and with the knowledge that its decisions will be implemented by those actors even if they disagree with the legal policies set forth by the court. As Rios-Figueroa and Staton (2014, 107) write, “[j]udicial Independence requires not only that judges resolve cases in ways that reflect their sincere preferences but also that these decisions are enforced in practice even when political actors would rather not comply.” The Supreme Court itself has acknowledged the close relationship between these two concepts: justices O'Connor, Souder, and Kennedy, in their joint opinion in Planned Parenthood versus Casey (1992) write, The court's power lies…. in its legitimacy, a product of substance and perception that shows itself in the people's acceptance of the judiciary as fit to determine what the nation's law means, and to declare what it demands.. the court must take care to speak and act in ways that allow people to accept its decisions on the terms the court claims for them, as grounded truly in principle, not as compromises with social and political pressures having, as such, no bearing on the principle choices that the court is obliged to make. Thus, the court's legitimacy depends on making legally principled decisions under circumstances in which their principled character is sufficiently plausible to be accepted by the nation. (865-866) In short, legitimacy and judicial independence are inextricably linked. Just as too little legitimacy encourages greater judicial timidity, too much legitimacy can encourage less judicial deference because justices may believe that their enhanced institutional support provides them the political currency to increase the number of countermajoritarian decisions they make. In the case of the U. S. Supreme Court, therefore, greater judicial legitimacy can aggravate the so-called countermajoritarian dilemma by heightening the court's level of judicial independence and assertiveness. Like their counterparts on the opposite side of the spectrum, “hot courts” are also normatively undesirable. Indeed, the countermajoritarian dilemma is exacerbated when judges believe their constituents will accept virtually any decision their court makes; This might happen when judges believe their court has an extensive store of institutional legitimacy. Legitimacy is a form of political capital, with more political capital judges are more likely to believe that they can make their decisions, even their unpopular decisions, stick. Judges no doubt differ in their perceptions of their courts institutional legitimacy, just as they no doubt differ in their concern for the consequences of their decisions. But anything that increases the political capital of courts is likely to embolden judges to make decisions and write opinions that challenge the views of the majority. In short, too much legitimacy can lead courts to issue rulings that are “too hot.” If t0o little legitimacy leads chords to make rulings that are “too cold” and too much legitimacy emboldens them to issue rulings that are “too hot,” one of the court with “just right” levels of legitimacy? courts with this level of legitimacy have enough judicial independence to check and balance the executive and legislative branches of government under most circumstances, but they lack the sky high levels of judicial independence that enable them to make long strings of unpopular, countermajoritarian decisions without experiencing any negative consequences of those decisions. A “just right” court is also the most normatively desirable court because it balances judicial independence with some level of judicial accountability. Courts with this level of legitimacy are able to make decisions without fear of massive institutional reprisal, yet they are unable to ignore popular sentiment for long periods of time without facing negative consequences. In short, a “just right” level of legitimacy ensures that the court can play its proper role in the democratic political system while ensuring that it cannot expand its role into one that overshadows the proper role played by the other branches of government.

#### The current level of lower legitimacy is constraining the conservative majority

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In this Article we reveal a dual dilemma, both material and institutional, that the Supreme Court in its current composition faces when reviewing liberal state court decisions based on the state constitution. The Article further describes substantive and procedural tactics that the Court adopts to address this dilemma, and illustrates the arguments by analyzing a number of recent Supreme Court decisions. The two dilemmas, the combination of which serve as a "power multiplier," of sorts, have arisen following the last three appointments to the Supreme Court, which resulted in a solid majority of conservative Justices nominated by Republican presidents. One dilemma, material in nature, that the Roberts Court faces, is between the federalist component of the conservative legal worldview, that requires federal courts to defer to state courts' rulings based on state constitutions, and its non-liberal component, based on conservative values. The second dilemma, institutional in nature, stems from the Roberts Court's legitimacy deficit among substantial sections of the American public, mainly supporters of the Democratic Party, which has increased as a result of the three recent appointments. The legitimacy deficit may make it difficult for conservative Justices to fully implement their judicial philosophy. We further argue that the emerging ambivalence of the Roberts Court, which is a consequence of the combination of these two dilemmas, is manifested, in addition to general avoidance doctrines and the specific state ground doctrine, also in two types of judicial tactics, substantive (such as seeking judicial compromise in order to reach a broad common denominator among the Justices) and procedural (such as encouraging other branches to carry out their obligations until the dispute is reasonably resolved), that the Court adopts in coping with liberal state court decisions based on the state constitution. In the last Part of the Article we illustrate our contentions by analyzing three recent Supreme Court decisions: Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission (2018), Espinoza v. Montana Department of Revenue (2020) following Trinity Lutheran Church of Columbia, Inc. v. Comer (2017), and Republican Party of Pennsylvania v. Boockvar (2020).

#### Lower legitimacy is constraining the agenda of the conservative court

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[\*40] This legitimacy deficit may lead the Supreme Court to make strategic calculations that balance preserving public confidence in the Court and the Justices' judicial independence against their desire, and even commitment, 164 to realize their legal worldviews. As Professor Grove puts it: "In cases of conflict between sociological and legal legitimacy, the Justices face a challenging (and unappealing) normative choice." 165 [\*41] In light of the empirical findings regarding the influence of public opinion on the Supreme Court, 166a decline in public confidence in the Court can erode judicial independence. The recent decline in public confidence in the Supreme Court has contributed to the erosion of the Court's independence during the Chief Justice Roberts' tenure. 167 In an essay written shortly before the November 2020 election, in which a Democratic candidate won the presidential election and the Democratic Party won a majority in both the Senate and the House of Representatives, Professor Keith Wittington wrote: If Republicans continue to win electoral victories, the still-narrow conservative majority on the Roberts Court will be joined by reinforcements and will be able to count on support in the political branches. If not, then an aggressive conservative majority on the Court might find itself in political hot water and emboldening the growing chorus of activists and politicians on the left who are calling for Courtpacking. 168 Professor Wittington further claims that in an era of polarized politics, even judges deliberating in good faith may come to be perceived as illegitimate if they reach the "wrong" conclusions about high-profile, contentious constitutional issues. 169 [\*42] At the same time, the Supreme Court Justices enjoy full judicial independence, 170which can also be viewed as an obligation. 171They are obviously not obliged to rule in accordance with the ideology of the President who appointed them. As Professor Donald Alexander Downs puts it, "[m]embers of the US Supreme Court are obligated to follow the evident dictates of law regardless of judicial predisposition." 172However, the Justices are generally appointed on the basis of the views expressed in their previous positions. 173 [\*43] IV. TYPES OF JUDICIAL TACTICS FOR ADDRESSING THE DILEMMAS The difficulty that Supreme Court Justices' face when asked to decide controversial cases not in accordance with their constitutional views on the substance of the matter, does not mean that "it would be impossible to construct a theory -- perhaps a 'meta theory' of legitimacy that would guide judges in resolving trade-offs among types of legitimacy." 174Thus, the dual ambivalence, which we have described in previous Parts, may lead the Supreme Court--and, in practice, seems to have led it--to adopt tactics to cope with the two dilemmas we describe. Over the years, the Supreme Court has developed various avoidance doctrines. Some avoidance doctrines, such as standing requirements, are based on the Case or Controversy Clause, 175while others are based on judge-made doctrines that reflect judicial [\*44] minimalism. 176Avoidance doctrines of the second category include, inter alia, the last resort doctrine, according to which a federal court should refuse to rule on a constitutional issue if the case can be resolved on a non-constitutional basis, 177and the measured steps doctrine, whereby federal judges have to decide constitutional issues, when necessary, as narrowly as possible. 178 Special relevance to the scope of the Supreme Court's judicial review of state court decisions based on the state constitution has the well-established adequate and independent state ground doctrine. According to this doctrine, when reviewing decisions of state courts, the U.S. Supreme Court will decline to hear a case--as a matter of judicial restraint 179 --if an adequate and independent state ground supports the state court decision. 180 It can be assumed that the two dilemmas discussed above will lead the Roberts Court to expand the application of general avoidance doctrines as far as possible, and especially when the implementation of those avoidance doctrines relate specifically to [\*45] reviewing state court rulings based on the state constitution. But as we will illustrate in Part V, the Court may also cope with these dilemmas by means of additional judicial tactics. The control of the Supreme Court by conservative Justices may also oblige liberal judges to make tactical choices. 181However, the main dilemmas of this type plague the conservative Justices, who are in the majority. This is because the conservative Justices have to balance their federalist view with their material constitutional views, and deal with the Court's current legitimacy problems. In this Part we point out further Supreme Court tactics for addressing the dilemmas we have described in the previous Parts. The judicial tactics we describe are of two types: substantive and procedural. Substantive Tactics: In terms of substantive law, the Court may try to seek judicial compromise in order to reach a broad common denominator among the Justices. The power of the Justices to form compromises was described as "legitimate if limited" 182and in some [\*46] cases even as a "constitutional imperative." 183Indeed, Supreme Court decisions based on judicial compromises do form and "presidents [that] will not be in a very strong position to challenge the Court, . . . may find ways to support the Court in the name of consensus or moderation." 184Indeed, a series of examples of compromise between Justices can be found, with a view to reaching a consensus--among all the Justices, or at least between the majority Justices. 185In a different context, it has been argued that [\*47] the Supreme Court may "respond to both sides of the . . . dispute by fashioning a constitutional law in which each side can find recognition." 186And it has been argued that considerations of public legitimacy of the Supreme Court influenced the vote of Chief Justice Roberts in a number of recent cases. 187A further tactic on the [\*48] substantive law level is to prevent or delay Supreme Court rulings regarding the constitutionality of state court decisions based on the state constitution, narrowly ruling on a technical jurisprudence issue. 188 Procedural Tactics: In terms of procedural policy, the Roberts Court may further develop the "Babysitter Model," which the Court has already implemented in Zubik v. Burwell 189and Trump v. International Refugee Assistance Project. 190According to this model, the Supreme Court does not provide a well-founded resolution, but rather accompanies, attends, and encourages other branches to carry out their constitutional obligations. The case is ongoing until the dispute is reasonably resolved. 191 Another procedural tactic is delaying the Court's decision as much as possible. The Supreme Court has already adopted this tactic in certain cases, and it has been argued that the delay was beneficial both to the court and the parties. 192Indeed, normally, "[i]f the Justices knew that there always would be an even sharing of power, they could not delay their rulings in the hope that they would later be able to secure a majority for their views." 193However, the Supreme Court may delay a polarizing decision as long as the Court [\*49] is in a legitimacy deficit. Furthermore, federal courts can delay decisions by requiring the litigants to pursue unclear state law issues in state courts before seeking a federal constitutional ruling. 194 However, excessive use by the Supreme Court of procedural tactics may be perceived by the public as procrastination, and may undermine the sociological legitimacy of the Court. We therefore anticipate that the Supreme Court will not make frequent use of such tactics.

## Stadium Subsidies

### AT: Stadiums---1NC

#### Other leagues are alt causes

Schein, et al., 2017, (MBA, J.D., Ph.D., is the Director of Graduate Programs at the Cameron School of Business at the University of St. Thomas, David, RICHMOND PUBLIC INTEREST LAW REVIEW, American Cities Held Hostage: Public Stadiums and Pro Sports Franchises, p. 93. D.A. 2/13/22)//MW

Defenders of baseball's anti-trust exemption contend that removing the anti-trust exemption will not fix the current problem surrounding MLB sports teams and publicly funded stadiums. 131 They argue that exposing the league to anti-trust regulations will have no greater impact on the demands placed upon the public for tax subsidies than the league's current selfimposed regulations. **Other sports leagues continue to demand subsidies** **from cities for stadiums**, and anti-trust laws are ineffective in protecting the public from this economic harm. 132 Upholding an exemption that keeps the MLB unreachable from anti-trust law will not alleviate the issues that critics use as justification for the exception. The issue involving the other major sports is more complex. Without a specific Congressional exemption, the other major sports have managed to be deemed not in violation of Section 1 of the Sherman Anti-Trust Act. 133 Law Professor Jessie Markham explains that judges traditionally have used two approaches to evaluate anti-trust claims under Section 1 of the Sherman Anti-Trust Act. First, a per se approach. This was used when a blatant anticompetitive act occurred and there was little need for further analysis. The second approach was the "rule of reason" approach where the defendants were given a great deal more leeway to explain the actions they had taken. The rule of reason, by its very nature, is a flexible, some might call it a "vague" standard. 134 Markham argues that the situation has become more difficult to interpret as judges are finding fewer cases meet the per se standard, thereby inviting a less structured analysis under the rule of reason. As more cases are being decided under such vague standards, Markham and others allege that there is no real standard that leads to inconsistent rulings across the United States. 135 It **is under these conditions that the other major sports teams have been able to enjoy monopoly markets even without the specific exemption afforded to MLB**.

### AT: Financial Burdens---1NC

#### Covid nuked state and city budgets

Siripurapu and Master 21, are writers at CFR. (Anshu and Jonathan, 3-19-2021, “How COVID-19 Is Harming State and City Budgets,” https://www.cfr.org/backgrounder/how-covid-19-harming-state-and-city-budgets)

Many U.S. state and local governments, on the front lines of the response to the coronavirus pandemic, are facing severe budget shortfalls. A distressing combination of dwindling tax revenues, record unemployment, and rising health costs have pushed them to cut back on spending for infrastructure and education—of which states and cities are by far the primary funders. Some still bear the scars of the 2008 financial crisis, which forced painful spending cuts to public services. Even before the pandemic, subnational governments were grappling with ballooning costs, including health care and pensions for public employees. Some had already sought bankruptcy protection. In response to COVID-19, states and municipalities have made cuts, frozen spending and hiring, laid off workers, and drawn down rainy day funds. Some states have seen revenues rise due to the uneven nature of this recession, but by and large the pandemic has drained state and local coffers. The federal government has stepped in to provide substantial aid.

### Alt Causes---1NC

## Minor Leagues

### AT: MLB---1NC

#### MLB has implemented wage increases and housing – squo solves

**Passan 10/17 –** (Jeff Passan journalist for ESPN and the author of "The Arm: Inside the Billion-Dollar Mystery of the Most Valuable Commodity in Sports." ESPN. [https://www.espn.com/mlb/story/\_/id/32419545/major-league-baseball-require-teams-provide-housing-minor-league-players-starting-2022-sources-say D.A](https://www.espn.com/mlb/story/_/id/32419545/major-league-baseball-require-teams-provide-housing-minor-league-players-starting-2022-sources-say%20D.A). 11/12/2021)//MW

Amid mounting pressure from players and advocacy groups, **Major League Baseball said on Sunday it will require teams to provide housing for minor league players starting in 2022.** While MLB has yet to outline its plan formally, six team officials told ESPN they are starting to prepare to help house players across each of their four minor league affiliates. In mid-September, owners from the league's 30 teams agreed unanimously to a plan that would provide housing for certain minor league players, the league said in a statement. Whether they will offer stipends that fully cover housing or provide the lodging itself has yet to be decided, sources said. Minor league players have grown increasingly outspoken about their working conditions, criticizing teams for salaries that leave some below the poverty line, and the financial issues that stem from having to provide their own housing for home games. The emergence of groups Advocates for Minor Leaguers and More Than Baseball, their use of social media to highlight the living conditions of minor league players and the willingness of players to talk on the record about their experiences illuminated issues about which players have spoken privately for years. "**This is a historic victory for minor league baseball players**," Harry Marino, executive director of Advocates of Minor Leaguers and a former minor league player, told ESPN. "When we started talking to players this season about the difficulties they face, finding and paying for in-season housing was **at the top of almost every player's list**. As a result, addressing that issue became our top priority." In a statement, the league said in part: "MLB is engaged in a multi-year effort to modernize the minor league system and better assist players as they pursue their dreams of playing in the Major Leagues. In 2021, we increased the salaries for minor league players by 38-72%, depending on level, and significantly reduced travel requirements during the season. In addition, hundreds of millions of dollars worth of improvements to minor league ballparks around the country are already underway, including substantial renovations to player-facing facilities like locker rooms and training rooms." Momentum toward providing housing at the team level already was increasing behind the scenes, sources told ESPN. Multiple teams were discussing following the lead of the Houston Astros, who this season covered lodging for all their minor league players at home and on the road. Other teams offered rooms or stipends at certain affiliates. The total cost for a team to house all minor league players at home for one season, according to two executives whose teams had explored doing so before the league pursued its mandate, is less than $1 million. Though the minor leagues especially are populated with small towns and lower rents, they also include some of the most expensive cities in the country, such as Brooklyn, the High-A affiliate of the New York Mets, and San Jose, the Low-A affiliate of the San Francisco Giants.

#### Democracy solves extinction.

**Twining 21**, PhD, president of the International Republican Institute, former director of the Asia Program at the German Marshall Fund. (Daniel, 10-10-2021, "America must double down on democracy", *The Hill*, <https://thehill.com/opinion/campaign/575693-america-must-double-down-on-democracy>) \*language edited

The hard truth is that a world that is **less free** is one that is **less** secure, **stable** and prosperous. The **greatest dangers** to the American way of life emanate from **hostile autocracies**. There are no quick fixes, but the **best antidotes** to the challenges of **great-power conflict**, **terrorism** and **mass migration** of desperate refugees lie in the **building** of inclusive **democratic institutions** — and working with allied democracies to sustain the free and open order that China, in particular, wishes to replace with a world that’s safe for autocracy. The conventional wisdom that authoritarianism has popular momentum is wrong. No one anywhere is taking to the street to demand more corrupt governance, the adoption of one-man rule, a stronger surveillance state, or greater intervention by malign foreign powers. Democratic freedoms are unquestionably under assault in many nations. Autocrats are aggressive precisely because of the growing demands for change in their more modern, connected societies — and the rising risk that middle classes in nations such as China and Russia will not be willing forever to forfeit political rights for prosperity. American retrenchment and isolationism **compound the danger**. It would be nice to live in a world where failed states and dictatorships were a problem for someone else to worry about. But rather than producing stability, Western retreat only **emboldens autocrats** in ways that **amplify dangers** to American national security. We know that violent extremism **flourishes** under state failure and **dictatorship**. Broken states become breeding grounds for extremist groups because they leave vacuums that terrorists are only too happy to fill. In nations without **democratic accountability**, citizens become drawn to the only forms of expression available to them, which are often **violent** and **extreme**. The good news is that we have billions of allies around the world: citizens on every continent chafing for greater freedom and dignity. They do not want U.S. military-led nation-building. They want peaceful support for their independent efforts to create democratic space in systems distorted by overweening government control, dangerous governance gaps and foreign malign influence. The free world **cannot be neutral** in the face of **autocracy’s resurgence**. Rather, it should play to its strengths. The appeal of democratic opportunity is a strategic asset for the United States — despite our own shortcomings — because people around the world similarly aspire to live in societies that guarantee justice, rights and dignity. America’s **closest allies are democracies**. Democracies **don’t fight each other**, **export violent extremism**, or **produce the conflicts** that drive **mass migration**. Democracies are **better partners** in **fighting terrorism**, human trafficking and **poverty**, as well as establishing reliable **trad**ing relationships. Open societies **incubate the tech**nologies that will help **solve** the world’s **most pressing problems**, including **climate change**. Citizens can **hold leaders accountable** when they fall short, and democratic **institutions** are **stronger than any** [**individual**] ~~man~~ — as America itself witnessed after the assault on the U.S. Capitol on Jan. 6.

# 2NC

## Critique

### 2NC ⁠— AT: War (0:40)

#### 2. Populist backlash ensures instability and flips benefits of globalization

⁠— specifically indicts interdependence theory.

Gonzalez-Vicente 18, University Lecturer in Global Political Economy @ U Leiden (Ruben, “The liberal peace fallacy: violent neoliberalism and the temporal and spatial traps of state-based approaches to peace,” *Territoriality, Politics, Governance*, 8.1)

Yet, the contemporary ascension of nationalist and populist movements and leaders that herald deeply illiberal views (Xi included) must come as no surprise after decades of neoliberal triumphalism and the promotion of a transnational order that placed the crafting of a world market above the needs of societies themselves. In such a context, the contemporary rise of nationalism and populisms across the world is not some liberal order antithesis emerging from a vacuum, but rather a logical consequence of this liberal order, constituting an often reactionary ‘counter movement’ that cannot be tackled with liberal prescriptions for increased market globalization (Polanyi, 2001). This paper takes aim at the now long-held and recently revitalized argument for a liberal peace. While not attempting to predict any specific outcome regarding the future of global peace, it argues that the rise of illiberal and reactionary discourses that we now observe, and their potential corollaries, must be understood in a dialectical sense as the result of a liberal market-oriented inter-state order that failed to tackle the great social dislocation that it played a fundamental role in fomenting.

To develop this critique, I draw upon three main bodies of literature that, despite their apparent affinities, are seldom brought together. These include Polanyi and Gramsci-inspired understandings of hegemonic crisis, counter-movements, and the rise of nationalism and populism (Gill, 2015; Gonzalez-Vicente & Carroll, 2017); critical political economies of social conflict within a context of neoliberal globalization (Harvey, 2005; Springer, 2015); and political geography analyses of international relations theory (IRT), and more specifically critical geographies of peace (Agnew & Corbridge, 1995; Flint, 2005; Koopman, 2016; McConnell, Megoran, & Williams, 2014; Megoran, 2011; Nagle, 2010; Williams & McConnell, 2011). Elaborating upon these, I contend that the methodological nationalism of the disciplines of economics and international relations – in which much of the liberal view is based – has left them in a sorry state in making sense of recent political development throughout the world, specifically when addressing the contemporary rise of reactionary forms of populism.

In this sense, the high degrees of violence and vulnerability associated with processes of market integration have often escaped the radars of economics and IR analyses, fixated as they are with mono-scale scrutiny of national economies and state-to-state relations. Although some liberal IR scholars have laid the grounds for a less normative paradigm that incorporates domestic variables and bottom-up societal processes into the understanding of state action, the assumption remains that policy interdependence and compatibility between states, combined with the Pareto-efficient outcomes of globally integrated production and trade, result in ‘strong incentives for coexistence with low conflict’ (Moravcsik, 1997, p. 521; see also Oneal & Russett, 1997; McDonald & Sweeney, 2007). Recent developments suggest there are fundamental flaws with this largely deductive hypothesis. Whereas on aggregate terms, and according to some measurements, nation-states may have benefitted more or less from globalization, social conflict occurring at multiple scales – and indeed in a class-based dimension – is an undeniable constitutive element of state action, the latter reflecting and/or attempting to contain particular constellations of social forces and their interests. In this way, the damage inflicted upon many by increasingly disembedded markets and post-political states that shield policy from popular deliberation (both the products of the liberal agenda) are at the very root of the current crisis of liberal hegemony (Gonzalez-Vicente & Carroll, 2017).

In what follows, I draw upon a variety of cases to explain how a dialectical approach to liberalism, neoliberalism and their illiberal responses,1 and a multi-scalar analysis of market violence are indispensable in explaining much of the turbulence that world politics faces today. To be clear, the paper’s goal is not to deny that state leaders factor in the economic repercussions of conflict when they contemplate its possibility – a logical assumption of liberal international relations scholarship. The aim is instead to argue that these calculations tell very little about the nature of peace and conflict as historically bounded processes that need to be studied in relation to broader transformations in the global political economy, the latter affecting state behaviour in terms of both economic policy and inter-state rivalry. In this way, and crucially, I also wish to refute the liberal argument that the pursuit of economic integration at any (social) cost will unequivocally lower the prospects for international conflict or, indeed, structural violence more broadly understood as a multi-scalar phenomenon.

The paper is structured as follows. The next section problematizes the concept of peace in IRT, with a more detailed discussion of economic liberalism. The following section presents a temporal critique, contextualizing the contemporary rise of illiberal politics within the transformation of the global political economy under world market capitalism. After this, I build upon Agnew (1994) to develop a scalar critique and argue that liberalism’s methodological nationalism hampers a proper assessment of the transnational dimensions of processes such as development, violence or peace. I chart various scales of market-induced violence and vulnerability (as a form of economic violence) in the global era, tracing the rescaling of violence and risk from the interstate scale to the individual sphere. I conclude by discussing the transition from a ‘durable disorder’ (Cerny, 1998) to an emerging (albeit contested) new populist order under world market capitalism. To do so, I echo Polanyi and Marx in contending that processes of marketization, replete as they are with contradiction, cannot engender liberal or capitalist peace, but result instead in anti-liberal reactions of various kinds (what Polanyi called ‘counter movements’) to the violence of unrestrained markets. Importantly, these counter movements can often take reactionary characteristics, as people under threat or the perception of threat retreat into culture and nationalism against the ‘other’ and internationalism in all its variants.

INTERNATIONAL RELATIONS AND THE LIBERAL PEACE

While the pursuit of peace is a central preoccupation for progressive IR scholarship, peace as a concept and as an actual manifestation is rarely discussed in the IR literature. Instead, peace often appears as a negative occurrence, intuitively understood as the avoidance of war or an absence of overt inter-state violence (Galtung, 1969; Richmond, 2016, p. 57). Thereby, most IR literature focuses on the challenges to state-based peace, with commentary typically dominated by the two main competing schools, realism and liberalism, both subdivided into further dissenting subcamps. Conventional realist approaches take the ‘anarchic’ or violent nature of international politics as a given and place their focus on states’ survival strategies. Offensive realists warn of the disruptive effects of ‘power transitions’ and in the contemporary context claim, for example, that as China grows economically and militarily, and as its interests expand and it seeks greater influence, tensions with other countries are certain to arise (Mearsheimer, 2014). Defensive neorealists hold similar assumptions about the foundations of the international system, yet contend that states privilege security over domination and that the incentives for conflict are contingent rather than endemic, with balances of power potentially keeping states at bay and preventing conflict (Waltz, 1979).

Liberal theorists dispute these interpretations and reject that competition alone guides state behaviour. Elaborating on the Kantian ideal of ‘perpetual peace’, and drawing upon Adam Smith, David Ricardo or John Stuart Mill, liberal theories contend that economic integration and institutional enmeshment or socialization exercise a constraining force on conflict and are conductive to peaceful scenarios (Doyle, 1986; Howard, 1981; Johnston, 2008; Keohane & Nye, 1977). While there is no absolute agreement on the exact shape that such ‘interdependence’ should take (Mansfield & Pollins, 2001), liberal IR scholars often hold that large-scale conflict in the 21st century can be avoided if the liberal world order survives the relative decline of the United States and manages to assimilate rising powers such as China. The emphasis is placed both on institutions and norms of reciprocity, on the one hand, and on economic integration, on the other. Regarding the latter, and evoking Smithian language, the agenda for a ‘capitalist peace’ assumes that free markets represent ‘“a hidden hand” that  …  build(s) up irrevocable and peaceful connections between states’ (Gartzke, 2007; Richmond, 2008, p. 23), and that ‘put simply, globalisation promotes peace’ (Gartzke & Li, 2003, p. 562). The theory is in many ways deductive, but relies also on the statistical data that on aggregate tends partially to support the liberal peace argument (except for the period leading to the First World War; see also Barbieri, 1996) and on the ‘logic’ that national leaders are not expected to act irrationally or be insensitive ‘to economic loss and the preferences of powerful domestic actors’ (Hegre, Oneal, & Russett, 2010, p. 772).

A more nuanced exposition of the liberal argument suggests that what brings nations together and heightens the opportunity cost of conflict is market integration according to a set of commonly devised regulations – rather than the realization of an ideal ‘free’ trade archetype (Moravcsik, 2005). This results in a sort of ‘embedded liberalism’, with the successful integration of post-Soviet states and China in world market capitalism through World Trade Organization (WTO) membership and other liberalizing initiatives understood as a deterrent to military action and, hence, as an effective strategy for both global growth and security, particularly in the face of China’s rising economic and military might (Funabashi, Oksenberg, & Weiss, 1994). From this perspective, not only is violence avoidable but also peace may indeed be engineered with the creation of a world market society being key to this endeavour as well as to the broader goal of crafting a liberal hegemony able to deliver a veritable ‘end of history’ where markets and functioning liberal democracies prevail (Fukuyama, 1992). The engineering of market-orientated democracies has indeed often been the main task of liberal peace- and state-building operatives in post-conflict areas (Campbell, Chandler, & Sabaratnam, 2011).

Yet, decades of neoliberal integration have not brought Fukuyama’s prophecy closer to its realization. Across the world, liberal market integration has facilitated convivial relations among key countries and paid important dividends to elites, yet it has also resulted in the concentration of wealth in ever fewer hands, rising inequalities within countries (although not between them) and higher concentration of wealth at the top, and increased risks and vulnerability as the logic of market competitiveness takes hold of many aspects of our lives (Anand & Segal, 2015; Lynch, 2006). The relation between the United States and China or the processes of economic integration in the European Union are clear examples of these trends. In these places as well as others, inequalities, precarization and economic insecurity have given way to a populist and nationalist momentum that can be interpreted both as a popular response to the extreme and diverse forms of violence engendered by processes of market integration, or as a manoeuvre to channel discontent towards the ‘other’ in order to protect elite interests (Gonzalez-Vicente & Carroll, 2017). By prescribing ever more market globalization to counter populist politics and avoid conflict, liberal elites add fuel to the fire as they sever the very conditions that led to the disfranchisement of significant segments of the population in the first place. Thereby, it is crucial to understand how the argument for capitalist peace fails to factor in the crisis-prone and socially destructive tendencies of capitalism, particularly in a context of unfenced global competitiveness along market lines.2

Two of the underlying problems in the liberal peace argument stand out. The first has to do with the statistical selection of fixed points in time that suggest correlations between growth in trade and diminished conflict – while failing to discern mechanisms of causation (Hayes, 2012). A wider temporal lens is needed to situate the contemporary rise of mercantilist and illiberal politics in the context of neoliberal globalization, representing the same sort of ‘counter movement’ that Polanyi had warned of in his reading of the 19th-century downward spiral towards war – aided in our contemporary case by the demise of the traditional left (Blyth & Matthijs, 2017; Carroll & Gonzalez-Vicente, 2017). The second problem relates to liberal international political economy and IRT’s scalar fixation on inter-state matters and hence their inability to factor in violence in the absence of war. I turn now to these two points.

NEOLIBERALISM’S ILLIBERAL MOMENT AS COUNTER MOVEMENT

On paper, the two intertwined arguments for liberal peace would seem to make sense: if countries remove the barriers to trade and investment and choose to specialize in their comparative advantages, international productivity will be raised and we will enjoy a more prosperous global economy with satisfied consumers and states; also, if states develop close economic linkages, they will have important material incentives to avoid conflict with one another. In the real world, competition between jurisdictions and social groups implies often that the development and prosperity of some is based on the exploitation and vulnerability of others, as typically emphasized by the extensive literature on bifurcated economies, temporally constrained and contradictory growth patterns, and uneven and destructive forms of development. In this way, it is not that economic interdependence, when removed from its social context and put under the microscope, does not raise the costs of conflict. However, the political choices and social transformations needed to achieve interdependence are a key variable to understanding a state’s behaviour and predisposition to conflict. And while governments may in many junctures align with the interests of capital, they are not immune to crises of legitimacy, and will need to mediate issues of accumulation and social cohesion when people perceive the social transformations required to achieve interdependence to have a negative impact on their lives (Jessop, 2016, p. 189). This will reflect in a way or another on state behaviour as political elites, current and prospective, jostle for votes and/or legitimacy.

A key problem with the argument for liberal peace lies in its emphasis on narrow temporal correlations between trade and (lack of) conflict, which removes interdependence from its broader political economic context, disembedding peace and conflict from the broader set of historically bounded and politically contingent social relations that underpin them. A widened analytical timeframe renders clear the dialectical relationship between (neo)liberal social projects and their social responses, both progressive and reactionary. Whereas high volumes of trade may coincide at a particular ‘optimal’ period of liberal expansionism with interstate peace, they may also transform societies in ways that engender the conditions for a potential ‘illiberal’ turn or counter movement resulting in a higher risk of conflict as beggar-thy-neighbour positions emerge and new enemies need to be sought by political elites to bind national-constrained constituencies to their agendas to maintain power.

We can observe this temporal incongruity in the work of some of the key proponents of the capitalist peace. For example, Oneal and Russett (1999, p. 439) argue that trade ‘sharply reduces the onset of or involvement in militarized disputes among contiguous and major-power pairs’, which are identified by Maoz and Russett (1993) as the set of countries more likely to enter into conflict with each other. Despite Oneal and Russett’s sophisticated approach to the data (modelling, for example, to avoid ‘false negatives’ by factoring in geographic contiguity, or controlling for alliances) and the attention paid to statistical rejections of the liberal peace argument, trade interdependence and the occurrence of conflict are analyzed on a year-by-year basis (Oneal & Russett, 1999, p. 428). This is also the case with other comparable studies (Hegre, 2000; Oneal & Russett, 2001; Souva & Prins, 2006). This temporal frame is problematic, as inter-national conflict tends to build up over prolonged periods of time, and the adverse impacts of interdependence and liberal integration are more likely to result first in crisis and social dislocation, followed by some sort of economic distancing (perhaps under a new administration that replaces the one that embraced liberalization) and a wide range of policy measures, before leading to military conflict – underpinned either by the state that perceives that liberal integration is having negative impacts on socioeconomic development, or more often than not by the one which wants to prevent the deterioration of important trade and investment links.

Here, one vital issue often left out of the liberal peace equations is the fact that most military interventions in the post-Second World War period were aimed at disciplining countries that opted out of the United States’ global liberalizing project and sought to pursue a variety of indigenous pathways to modernity, often including many that did so under the rubric of socialism, democratically achieved or otherwise. The reverse is also true, as countries that chose to ally with the United States during the Cold War were shielded from attacks, and in some cases given preferential trade access, technology transfer and allowed to engage in market protection. In this context, associating conflict with the lack of strong trade links, rather than to the meticulous unfolding of a market-based imperial agenda, would be tantamount to concluding that low opium consumption was responsible for British military expeditions in 19th-century China. While there is certainly a correlation between China’s ban on opium and British intervention, nobody could seriously suggest that opium consumption reduces interstate conflict. Similarly, in many of these cases, it is not that the absence of trade results in conflict, but on the contrary, that military intervention has often been aimed at expanding markets and protecting investment.

### 2NC ⁠— Framework (0:30)

### 2NC ⁠— Link (0:30)

#### 2. Turns case AND predictions fail

Rozga 20, J.D. at BU, former FTC merger review and litigation expert (Kai Rozga, 8-31-2020, “How tech forces a reckoning with prediction-based antitrust enforcement,” Tech Law Decoded, <https://techlawdecoded.com/how-tech-forces-a-reckoning-with-prediction-based-antitrust-enforcement/>, accessed: 9-12-2021)

In private antitrust litigation, plaintiffs and defendants alike rely on armies of economists to make out the elements of a case or defend against it. Too often, the result is a series of warring expert reports submitted by uber-qualified economists with stellar reputations who—based on the exact same factual record—reach diametrically opposing positions about a market’s dynamics or likely competitive effects. Equally troubling is how the uncertainty of the expert opinions can be seen fading away by the time the court chooses a winner, as the prevailing view achieves a supreme prescience when cited by the judge in support of its decision.

Alarm bells should be going off. An academic field’s reputation would seem to be put in doubt, and with it the foundation of an influential body of law that shapes our economy and society. Instead, academics and policymakers are more likely to be heard describing the rigor and rationality that they believe neoliberal economic thinking has brought to antitrust enforcement. And while some reforms proposed by the mainstream antitrust community might seem dramatic within the existing paradigm, they are trivial when considering how none tackle the fundamental flaws of the status quo.

And so, paradoxically, as antitrust turns its focus on increasingly difficult-to-predict markets, it does so increasingly with Economism-driven prediction as its lodestar—like a captain that insists on navigating a ship with the stars even when it is obvious that clouds cover the night sky.

### 2NC ⁠— AT: Link Turn (0:05)

#### Competitive professional sport for profit is the central instrument of capitalism

Simonovic 16, Serbian philosopher, (Ljubodrag, Sport as the religion of capitalism, An interview with Ljubodrag Simonoviç, author of The Philosophy of Olympism. Sport is central to his critique of capitalism., <https://libcom.org/library/sport-religion-capitalism>

Officially, “sport has nothing to do with politics” but, in fact, it is a universal political instrument of the world rulers in their attempt to preserve capitalism. “Sportivization” has become the most important ideological form of the capitalist totalizing of the world, while stadium has become the most important cult venue of the contemporary world – where to the ruling spirit a critical and change-oriented mind is sacrificed. Sport, as the chief “mondialist” religion, becomes a means for destroying traditional religions, cultural heritage of peoples and political ideas and movements which oppose the “new world order”, which means a destructive (ecocide) capitalist totalitarism. Coubertin does not hide that the chief task of IOC is to create, through sport, a global positive one-mindedness. The establishment of a total and unquestionable unique (capitalist) worldview has become the leading political principle. In the world, there are thousands and thousands of sports manifestations every day; the sports commentaries from the sports fields are given the prime time in the news and cover most of the space in public media; “sports” TV channels broadcast sports programme non-stop; sport is becoming the chief advertising billboard in an increasingly ruthless economic war and the most important political platform; sports paganism becomes a means of Christian churches (and other leading religious communities) for courting the “masses”; the ruling “aesthetic model” becomes the sports body; everyday language takes over sports terminology, especially the political language and that of business; politicians and capitalists place primary importance to their sports biographies, the photos of them are taken while engaged in a sports activity, they strive to attain a “sporting image” which is meant to demonstrate their “victorious spirit”; sport becomes the chief means for “money laundering”, meaning a mafia business of utmost importance; coaches acquire the status of supreme managers of capitalism; sportsmen become moving billboards, while stadiums, sports and betting places become the temples of capitalism.

#### The reification of sport is the key to sustaining capitalism

Simonovic 16, Serbian philosopher, (Ljubodrag, Sport as the religion of capitalism, An interview with Ljubodrag Simonoviç, author of The Philosophy of Olympism. Sport is central to his critique of capitalism., <https://libcom.org/library/sport-religion-capitalism>

Sport is an area in which the technicization of the environment, man and interpersonal relations attained the climax. It is one of the most important instruments of capitalism for destroying a humanistic and creating a” Technical civilization”. “Sportification” of the world is the most radical form of man’s denaturalization and decultivization and a means of his being involved in the life and spiritual orbit of “technical civilization”. Science strives to create a being (machine) which will be deprived of all those human qualities that hinder the breaking of records and the production of increasingly bloody sports spectacles. Sport draws on a mechanistic philosophy of the body and finds mimetic impulses in the industrial and militaristic movements. Instead of a natural movement and natural body, the prevailing movement is mechanistic, the body becomes the cage of technical rationality, while the “competitive character” becomes the embodiment of the ruling destructive spirit. Coaches become body technicians and slave drivers who are to enable the achievement of a desired result (record) at the cost of man’s destruction. At the same time, man’s spirit is also being crippled and the cult of a technicized body is being created and thus the cult of a “technical civilization”. This way of thinking absolutizes the quantitatively measurable result achieved at the cost of the destruction of man’s natural being. Sport creates a capitalist ideological sphere and the appropriate “public opinion” by destroying the emancipatory heritage of the civil society which offers an opportunity for man to get rid of the ecocide capitalist tyranny.

#### Their focus on making sport the domain of profiting off of talent is the most destructive form of capitalism

Simonovic 16, Serbian philosopher, (Ljubodrag, Sport as the religion of capitalism, An interview with Ljubodrag Simonoviç, author of The Philosophy of Olympism. Sport is central to his critique of capitalism., <https://libcom.org/library/sport-religion-capitalism>

As man is, by way of his body, “immediately in the world”, the most fatal and inevitable form of the impact of capitalism, as the order of destruction, on man is through the body: the crisis of the world is, at the same time, the crisis of the body. Hence the basic form of man’s self-alienation is the alienation from one’s own body. Man experiences himself as an otherness as against the existing world through the suffering which is the consequence not only of his unsatisfied primary needs, but also of their mutilation. He flees the world by fleeing from his body, or by fleeing to his body (narcissism). Most people in the West experience everyday frustration because they discard their own body as worthless, unfitted to the ruling (consumer-advertising) model of the body which becomes the basis of social evaluation. Man experiences his body as a punishment, as something alien, and tries to mask it (“fashion”), or change it with exhausting physical exercises, “treatments”, operations… A capitalistically degenerated man has an instrumental relation to his own body based on the principle of profit. Physical appearance and health are not the purpose, but a vehicle for achieving social prestige and existence. The desirable model of the body is that which is in line with the dominant value-related model dictated by the dominant fashion concerns. The frequently changing fashion forces people to ever more frequent changes, which means an increasingly merciless treatment of the body. An industry was born for the production of images. The image becomes a commodity similarly to garments. The entertainment industry offers increasingly diversified forms of physical degeneration. Plastic surgery, body-building, fitness-centres and diets – all these serve to make man conform to the dominant model of the “beautiful” according to the standards of advertising industry. “Barbie” doll becomes the “most beautiful” form of man’s devaluation. As far as “Rocky”, “Rambo”, “Terminator” and other Hollywood freaks are concerned, they are the picture of the contemporary capitalist “superman”, whose cultural conscience has been “erased” and who is guided in his behaviour by a destructive idiocy.

#### It is the very striving for competition in markets and sports that makes the commodification of sport central to capitalism

Simonovic 16, Serbian philosopher, (Ljubodrag, Sport as the religion of capitalism, An interview with Ljubodrag Simonoviç, author of The Philosophy of Olympism. Sport is central to his critique of capitalism., <https://libcom.org/library/sport-religion-capitalism>

Strivings for records condition a specific (concrete historical) nature of sports competitions. A victory over the opponents is worthless without setting a record. It becomes a universal measure, alienated from man, for determining the performance (value), which means a peculiar “superior power” to which man is submitted. A record is the market value of a sports result, and the prevailing logic in sport corresponds to the process of the reproduction of capital: the apsolutized principle of record corresponds to the apsolutized principle of profit. The increasing domination of the apsolutized principle of performance in sport has led to a gradual elimination of combative individualism, the corner-stone of the ideology of liberalism. It has nothing to do with the struggle between people for victory, but with a contest without contestants, where man fights “phantom” records incarnated in the measuring instruments which are the symbols of a dehumanized and denaturalized “pace” of the capitalist time. The history of the ancient Olympic Games is a succession of winners; the history of sport comes down to a linear increment of numbers to which the names of depersonalized “recorders” are assigned. The absolutized performance (record) acquires a mythical dimension: sports “achievements” become the measure of “progress” and “perfectioning” of humankind and thus historical milestones. Simultaneously, the quantitative comparison becomes an “objective” criterion for the distribution of positions on the social ladder of power, which appears in the form of Arnold’s elitist “theory of pyramid” that Coubertin was to adopt: a hundred people should devote themselves to physical culture if fifty of them are to engage in sport; fifty people are to engage in sport if twenty of them are to specialize; twenty people are to specialize if five of them are to become capable of “astonishing bravery” (prouesse étonnante). The pyramid of success indicates a hierarchy of “natural selection” in sport and a mechanistic logic of “contest” which corresponds to the market “competition” and “industrial society”. The qualitative measurement becomes a form of domination of “progress” over man confirming its superiority and eternity. It is not a historical product, but a “fact” which cannot be brought into question and thus is an instrument for training the oppressed how to accept inequality in society as something inevitable. At the same time, a record is not important as a human achievement, but as a means of proving the “progressive” nature of the ruling order. As there are no medical or moral barriers to the progressistic principle citius, altius, fortius, it is clear that man’s “perfectioning” leads to his (self) destruction. Sport crushes the modern (humanistic) idea of progress which involves qualitative leaps in the development of society, the affirmation of man as a being of freedom and the creation of a novum. It enables only (endless) quantitative shifts, advancing in the given spatial and time dimensions, which involves progressing without a progress. DK: Many intellectuals aren’t interested in sport. Indeed, sport appears to be the epitome of anti-intellectualism. How do you see sports vis-à-vis the degradation of the human intellect? LS: In sport, there is an evident distinction between intellectual and physical labour, as well as specialization (at an increasingly early age). Each sport has a specific training technique, which means that each sport in a specific way cripples people both mentally and physically and turns them into specialized sportsmen-recorders. The one-sided sports activity leads to the hypertrophy of some and atrophy of other extremities, organs, bodily and mental functions. A sportsmen becomes a specific working force (a self-destructive character), a tool for labour (highly specialized machine) and material for processing (body as a raw material) – for producing a particular record. The bigger the gap between man’s biological powers and the record that must be reached, the more the sports training contributes to man’s self-alienation as a human being and the destruction of his individual dispositions and abilities. Based on the absolutized principle of performance, sport turned a healthy physical strain into an exertion that destroys man as a living being. A sportsman becomes a robot and as such a commodity on the market of sports show-business, while “sports technique” becomes a technical form of the destruction of man’s natural and cultural being. The methods and means applied in sport are those used in the industrial production and modern science: sport is an engine for the production of recorders (records). The maxim “Recorders are born in vials!” suggests the real nature of “top sport” which is, as its name suggests, the highest challenge for sport generally. Behind technical terms and scientific formulations an industry of death is hiding: “top sport” has become a supreme form of man’s destruction. Sport is a means by which man, as a biological and human being, turns into a mechanical device. At the same time, it brings about an ecocide conscious and ecocide relation of man to his (her) own body. The “competitive mind” becomes a form of irrational processes of the capitalist reproduction which, by way of a “sports spirit”, are infused into man. The “aggressive animal nature” is replaced by a self-destructive fanaticism.

### 2NC ⁠— AT: Perm (0:15)

### 2NC ⁠— AT: Other Instances (0:05)

### 2NC ⁠— Alternative (0:15)

### 2NC ⁠— AT: Socialism Fails (0:10)

#### 2. There’s no one-size-fix-all alt---our task is shaping the best proposals into a unified alternative to capitalism

Monbiot 19, columnist for The Guardian, has held visiting fellowships or professorships at the universities of Oxford (environmental policy), Bristol (philosophy), Keele (politics), Oxford Brookes (planning), and East London (environmental science) (George Monbiot, 4-25-2019, "Dare to declare capitalism dead – before it takes us all down with it," The Guardian, https://www.theguardian.com/commentisfree/2019/apr/25/capitalism-economic-system-survival-earth/)

So what does a better system look like? I don’t have a complete answer, and I don’t believe any one person does. But I think I see a rough framework emerging. Part of it is provided by the ecological civilisation proposed by Jeremy Lent, one of the greatest thinkers of our age. Other elements come from Kate Raworth’s doughnut economics and the environmental thinking of Naomi Klein, Amitav Ghosh, Angaangaq Angakkorsuaq, Raj Patel and Bill McKibben. Part of the answer lies in the notion of “private sufficiency, public luxury”. Another part arises from the creation of a new conception of justice based on this simple principle: every generation, everywhere, shall have an equal right to the enjoyment of natural wealth.

I believe our task is to identify the best proposals from many different thinkers and shape them into a coherent alternative. Because no economic system is only an economic system but intrudes into every aspect of our lives, we need many minds from various disciplines – economic, environmental, political, cultural, social and logistical – working collaboratively to create a better way of organising ourselves that meets our needs without destroying our home.

### 2NC ⁠— AT: Case Outweighs (0:30)

#### 2. Their framing sacrifices billions at the altar of extinction and elites

Torres 21, PhD candidate at Leibniz Universität Hannover. Previously studied at Harvard University and Brandeis University. Author of Morality, Foresight, and Human Flourishing: An Introduction to Existential Risks (Phil Torres, 7-28-2021, “The Dangerous Ideas of ‘Longtermism’ and ‘Existential Risk’,” Current Affairs, <https://www.currentaffairs.org/2021/07/the-dangerous-ideas-of-longtermism-and-existential-risk>, accessed: 10-27-2021)

It’s this line of reasoning that leads Bostrom, Greaves, MacAskill, and others to argue that even the tiniest reductions in “existential risk” are morally equivalent to saving the lives of literally billions of living, breathing, actual people. For example, Bostrom writes that if there is “a mere 1 percent chance” that 10^54 conscious beings (most living in computer simulations) come to exist in the future, then “we find that the expected value of reducing existential risk by a mere one billionth of one billionth of one percentage point is worth a hundred billion times as much as a billion human lives.” Greaves and MacAskill echo this idea in a 2021 paper by arguing that “even if there are ‘only’ 1014 lives to come … , a reduction in near-term risk of extinction by one millionth of one percentage point would be equivalent in value to a million lives saved.”

To make this concrete, imagine Greaves and MacAskill in front of two buttons. If pushed, the first would save the lives of 1 million living, breathing, actual people. The second would increase the probability that 10^14 currently unborn people come into existence in the far future by a teeny-tiny amount. Because, on their longtermist view, there is no fundamental moral difference between saving actual people and bringing new people into existence, these options are morally equivalent. In other words, they’d have to flip a coin to decide which button to push. (Would you? I certainly hope not.) In Bostrom’s example, the morally right thing is obviously to sacrifice billions of living human beings for the sake of even tinier reductions in existential risk, assuming a minuscule 1 percent chance of a larger future population: 1054 people.

All of this is to say that even if billions of people were to perish in the coming climate catastrophe, so long as humanity survives with enough of civilization intact to fulfill its supposed “potential,” we shouldn’t be too concerned. In the grand scheme of things, non-runaway climate change will prove to be nothing more than a “mere ripple” —a “small misstep for mankind,” however terrible a “massacre for man” it might otherwise be.

Even worse, since our resources for reducing existential risk are finite, Bostrom argues that we must not “fritter [them] away” on what he describes as “feel-good projects of suboptimal efficacy.” Such projects would include, on this account, not just saving people in the Global South—those most vulnerable, especially women—from the calamities of climate change, but all other non-existential philanthropic causes, too. As the Princeton philosopher Peter Singer writes about Bostrom in his 2015 book on Effective Altruism, “to refer to donating to help the global poor … as a ‘feel-good project’ on which resources are ‘frittered away’ is harsh language.” But it makes perfectly good sense within Bostrom’s longtermist framework, according to which “priority number one, two, three, and four should … be to reduce existential risk.” Everything else is smaller fish not worth frying.

If this sounds appalling, it’s because it is appalling. By reducing morality to an abstract numbers game, and by declaring that what’s most important is fulfilling “our potential” by becoming simulated posthumans among the stars, longtermists not only trivialize past atrocities like WWII (and the Holocaust) but give themselves a “moral excuse” to dismiss or minimize comparable atrocities in the future. This is one reason that I’ve come to see longtermism as an immensely dangerous ideology. It is, indeed, akin to a secular religion built around the worship of “future value,” complete with its own “secularised doctrine of salvation,” as the Future of Humanity Institute historian Thomas Moynihan approvingly writes in his book X-Risk. The popularity of this religion among wealthy people in the West—especially the socioeconomic elite—makes sense because it tells them exactly what they want to hear: not only are you ethically excused from worrying too much about sub-existential threats like non-runaway climate change and global poverty, but you are actually a morally better person for focusing instead on more important things—risk that could permanently destroy “our potential” as a species of Earth-originating intelligent life.

## CP

### 2NC ⁠— O/V

### 2NC ⁠— Congress Solves

#### Congress solves --- they can expand the curt flood act

**Blair and Wang 20 –** (Roger D. Blair, PhD, is a professor and chair of the Department of Economics and affiliate faculty of law at the University of Florida. Wenche Wang, PhD, is an assistant professor of sport management in the School of Kinesiology at the University of Michigan. "Rethinking Major League Baseball's Antitrust Exemption." Journal of Legal Aspects of Sport, vol. 30, no. 1, 2020, p. 38-40. HeinOnline. https://journals.iupui.edu/index.php/jlas/article/view/23893)//mw

There is ample evidence that Congress was well aware of MLB's antitrust exemption. With the exception of the Curt Flood Act, Congress has been a pillar of inaction. Given the political process, this is not too surprising. Congress is vulnerable to determined lobbying efforts.9 ' Those with much to gain (or lose) may well be more determined than those in opposition. The beneficiaries of the exemption are wealthy, influential club owners, while the victims, such as scouts, umpires, and minor league players, are small in number or politically unconnected. To the extent that fans are victims, they are vast in number, their injury may be substantial in the aggregate, but diffused. Put differently, each fan's injury will be small and not worth pursuing vigorously. In Toolson and again in Flood, the Supreme Court rationalized its own inaction in failing to correct its Federal Baseball mishap **by pointing to Congress's inaction** in not legislatively overturning Federal Baseball. This seems a bit odd. Congress did not take any affirmative steps to exempt MLB from the reach of the Sherman Act. **Although it was the Court that created the MLB exemption, the Court holds Congress responsible for undoing the exemption**. We think that this responsibility is misplaced. 7. Proposed Reform: Withdraw MLB's Antitrust Exemption There is no obvious reason why MLB's antitrust exemption should not be withdrawn. The original rationale for antitrust immunity was jurisdictionalMLB was not engaged in "trade or commerce" and what it was engaged in was not "interstate" in character. These fictions have long been abandoned. Consequently, the Supreme Court could revisit Federal Baseball and simply overrule it. Alternatively, **Congress could expand the coverage of the Curt Flood Act to include the business of baseball.** In either case, MLB and its member clubs would still have to impose a variety of restraints if they are going to produce competition on the field. Those restraints would be subject to antitrust scrutiny under the rule of reason. Those restraints that are procompetitive on balance would be permissible while those that are not would be unlawful. It is generally understood that sports leagues must collaborate on many dimensions. These include rules of play, roster size, equipment, schedules, playoff structure, and championships. The absence of agreements on these issues would result in confusion and reduce fan satisfaction. Cooperation would seem to be procompetitive and, therefore, desirable. There are a host of current restraints, however, that would not pass muster under the rule of reason. Agreements that restrain competition in labor markets 91 For economic analyses of these political difficulties, see George Stigler, The Theory ofEconomic Regulation, 2 THE BELL JOURNAL OF ECONOMICS AND MANAGEMENT SCIENCE, 3 (1971) and Sam Peltzman, Toward a More General Theory ofRegulation, 19 JOURNAL OF LAW AND ECONOMICS, 211 (1976). 4)- JLAS 29-2-2019 39 would be hard to justify. 2 Horizontal agreements among the MLB clubs restricting competition for major league players, minor league players, umpires, scouts, coaches, and front office personnel would be anticompetitive on their face. Consequently, without more, these agreements would violate §1 of the Sherman Act. In response, the clubs would have to provide procompetitive justifications to offset the anticompetitive effects. MLB and its members might turn to competitive balance as a rationale for collusion, but this argument should fail. First, there is no conclusive evidence that fans actually care about competitive balance. For instance, fans of a lower-ranked team may simply want to see the well-known players from the top teams even though the uncertainty of the game result is very low.93 Second, neither depressing salaries directly by exercising monopsony power nor doing so indirectly by curtailing free agency will improve competitive balance.94 Consequently, this argument should be rejected in a rule of reason analysis. 8. Conclusion Nearly 100 years ago, Oliver Wendell Holmes stumbled in his Federal Baseball opinion and exempted MLB from antitrust scrutiny. In subsequent decisionsToolson and Flood-the Court recognized its earlier mistake, but refused to correct it. The time has come for the Court to review the unwarranted exemption and subject the business ofbaseball to the same rules that governthe conduct of the 92 In a speech at the Economic Policy Institute and Open Markets Institute conference, FTC Commissioner Rohit Chopra called for more attention to employer conduct that limits compensation and other terms of employment. Available at httns://www.ftc.gov/system/files/documents/ public statements/1408196/chopra\_-\_comment tohearing \_1\_9-6-18.pdf 93 The empirical evidence of the impact of competitive balance on fan demand has been mixed. Earlier papers such as Glenn Knowles, Keith Sherony, & Mike Haupert, The Demandfor Major League Baseball: A Test of the Uncertainty of Outcome Hypothesis, 36 THE AMERICAN ECONOMIST 72 (1992), and Daniel A. Rascher, A Test of the Optimal Positive Production Network Externality in Major League Baseball, in John Fizel, Elizabeth Gustafson, & Lawrence Hadley, eds., Sports Economics: Current Research 27 (1999), find that competitive balance increased MLB game attendance. More recent papers such as James W Meehan., Randy A. Nelson, & Thomas V. Richardson, Competitive Balance and Game Attendance in Major League Baseball, 8 JOURNAL OF SPORTS ECONOMICS 563 (2007), Brian Soebbing, Competitive Balance and Attendance in Major League Baseball: An Empirical Test of the Uncertainty of Outcome Hypothesis, 3 INTERNATIONAL JOURNAL OF SPORT FINANCE 119, (2008). Scott Tainsky & Jason Winfree, Short-Run Demand and Uncertainty of Outcome in Major League Baseball, 37 REVIEW OF INDUSTRIAL ORGANIZATION 197 (2010), find that the effect of competitive balance on attendance depends on the timing in the season, the current standings of the teams, the importance of the game in qualifying for playoffs, the team's change in performance between seasons, and the league-wide competitive balance. Furthermore, Young Hoon Lee & Rodney D. Fort, Attendance and the Uncertainty-of-Outcome Hypothesis in Baseball, 33 REVIEW OF INDUSTRIAL ORGANIZATION 281 (2008), suggest that only the uncertainty during the playoffs improve game attendance. Thus, Rodney D. Fort, Pro Sports League Antitrust 'Beliefs': Applied Theory and the Rule ofReason, 38 MANAGERIAL AND DECISION ECONOMICS 655 (2017) argues that it is only a hypothesis that fans prefer more competitive balance, and therefore, it must be proved in every case. 94 James Quirk & Rodney D. Fort, Pay Dirt: The Business of Professional Team Sports, (1992). 0 40 Blair, Wang other sports leagues and organizations. Neither stare decisis nor Congressional inaction provides a basis for the Supreme Court's reluctance to overturn Federal Baseball. Continuing special treatment cannot be justified and the Court should put an end to it. Oliver Wendell Holmes observed that "it is revolting to have no better reason for a rule of law than that is was so laid down in the time of Henry IV. It is still more revolting if the grounds upon which it was laid down have vanished long since and the rule simply persists from the blind imitation of the past"." Presumably, Holmes would apply this bit of wisdom to his ruling in Federal Baseball.

### 2NC ⁠— Econ Key

#### Affordable housing creates millions for local and state governments – empirics prove

Wadrip et al 11 – Keith Wardrip joined the CDS&E Department of the Federal Reserve Bank of Philadelphia in 2011 and has served as the community development research manager since 2013. In this role, he has the dual responsibilities of supervising the work of the department's research analysts and contributing to the development of its research agenda. His work focuses primarily on employment and economic inclusion, as well as funding to support community and economic development. Before joining the Philadelphia Fed, Wardrip spent six years in Washington, D.C., conducting affordable housing research at the Center for Housing Policy and the National Low Income Housing Coalition. He has an M.A. in geography, with an emphasis in urban studies and affordable housing, from the University of Colorado and a B.A. in geography from the University of Kentucky. Laura Williams as a research associate; and Suzanne Hague as an intern. (“The Role of Affordable Housing in Creating Jobs and Stimulating Local Economic Development: A Review of the Literature” Center of Housing Policy, <https://providencehousing.org/wp-content/uploads/2014/03/Housing-and-Economic-Development-Report-2011.pdf>) jbb

2. The Development and Rehabilitation of Affordable Housing Provides Immediate Fiscal Benefits for States and Localities SUMMARY: Cities and states benefi t fi nancially from the development or substantial rehabilitation of affordable housing. Some of the most signifi cant sources of revenue during the construction or rehabilitation phase are sales taxes on building materials, corporate taxes on builders’ profi ts, income taxes on construction workers, and fees for zoning, inspections, and the like. Modeling one-time fi scal benefi ts: The fi scal effects of the construction of affordable housing vary from place to place depending on local tax structures, construction costs, development fees, and whether the local mix of industries is conducive to capturing construction-related activity. As with the economic impact estimates discussed above, the fi scal effects discussed in this section are largely derived from one of the input/output models, which are based on actual, industry-specifi c purchasing and production activities and adjusted to account for local variations. The National Association of Home Builders (2010) uses national averages to estimate that local jurisdictions stand to gain roughly $827,000 in immediate revenue from the construction of 100 LIHTC family units and roughly $768,000 when 100 LIHTC senior units are built.8 As Figure 2 shows, permitting/impact fees and utility user fees represent more than half of all local government revenues associated with the construction of a 100-unit LIHTC property for families.9 These estimates provide an important national baseline for the country’s most prolifi c affordable housing production program but, given local economic and project nuances, cannot be directly applied to any specifi c housing market or project. FIGURE 2. One-Time Sources of Local Revenues for a 100-Unit Family LIHTC Property Source: National Association of Home Builders, 2010 The input/output models discussed above have also been applied by researchers to produce more localized information on the fi scal effects of specifi c affordable housing programs and developments. The following are examples: h Hangen and Northrup (2010) analyze the effects of developing and rehabilitating 582 affordable homes in Rhode Island in 2007 and 2008 using 8 The one-time fi scal effect of a 100-unit family tax credit property is identical to that of a market-rate development; tax revenues for a senior property are modestly lower because units are smaller and are thus less expensive to build (National Association of Home Builders 2010, 2009a). 9 The breakdown of government revenues by the type of taxes and fees is very similar for a 100-unit LIHTC property for seniors (National Association of Home Builders 2010). Other Taxes Other Fees and Charges General Sales Taxes Business Property Taxes Utility User Fees Permit/Impact Fees 6% 37% 18% 13% 8% 18% 6 THE ROLE OF AFFORDABLE HOUSING IN CREATING JOBS AND STIMULATING LOCAL ECONOMIC DEVELOPMENT $25 million in housing bond funds and conclude that the activity had a signifi cant impact on the income, corporate, and sales taxes collected by the state. The authors estimate that the $25 million in state funding leveraged an additional $231 million in investments, and the subsequent income, corporate, and sales taxes and fees associated with the total economic activity increased state revenues by roughly $16.7 million during the development period (excluding local taxes and fees).10 h A study conducted by the Minnesota Housing Finance Agency (2009) provides further evidence that a public investment in affordable housing can leverage signifi cant capital and generate real revenue for state and local governments. Over two years (2006-08), an investment of $260.1 million in affordable housing leveraged roughly $470 million in additional public and private funds and resulted in nearly $1.4 billion in direct, indirect, and induced economic activity. This level 10 This includes $4.1 million in sales taxes, which some nonprofi t developers report paying in Rhode Island according to a recent newsletter from HousingWorks Rhode Island, the study’s sponsor. of activity generated roughly $62.5 million in state and local tax revenue. h In an analysis of a proposed Pennsylvania state housing trust fund, Econsult (2009) focuses on state-level impacts and fi nds that for every $1 million in proposed spending, the state stands to gain $82,000 in revenue from the construction of new affordable single-family homes; one-time state revenues would be even higher if the $1 million were spent on the construction of affordable multifamily housing ($86,000) or on remodeling or rehabilitating existing homes ($116,000). These estimates exclude taxes and fees that local jurisdictions may impose. Making these estimates even more conservative, they do not include the impact of the construction spending generated by any public or private funds that would be leveraged by housing trust fund dollars. h Zielenbach et al. (2010) conduct a fi scal analysis of nine HOPE VI projects and fi nd that the development of affordable housing can represent a signifi cant source of revenue for BigStockPhoto THE ROLE OF AFFORDABLE HOUSING IN CREATING JOBS AND STIMULATING LOCAL ECONOMIC DEVELOPMENT 7 local jurisdictions. One-time fi scal impacts based solely on sales taxes related to the redevelopment activity (and income taxes in the District of Columbia) range from $38,000 for a 120-unit property to $612,000 for a project with more than 700 units.11 While substantial, these estimates are signifi cantly lower than those reported for tax credit properties above because they exclude fees collected by jurisdictions (e.g., impact and permit fees), corporate taxes on builders, and revenues related to indirect and induced spending. h Wood (2004) provides a straightforward calculation of one-time fi scal benefi ts for states and localities in Utah. The author estimates that more than 7,300 jobs — and $200.1 million in subsequent earnings — are supported annually by housing construction subsidies, rental subsidies to landlords, and down payment assistance provided to low- and moderate-income households. Applying the average state and local tax rate of 10.2 percent to these estimated earnings, Wood pegs the resulting fi scal impact at $20.4 million, which is likely conservative because it ignores other sources of state revenue such as sales taxes on construction materials and corporate taxes on builders’ profi ts. In addition to these one-time benefi ts, the development of affordable housing can have positive fi scal effects for localities in a variety of other ways. Depending on the taxes paid and services received by a household living in a new unit, affordable housing can also have a positive annual ongoing impact on a municipality’s bottom line. This issue is reviewed 11 Ongoing fi scal benefi ts exceed $1 million in four of the nine sites, but as they are primarily dependent on the higher incomes and signifi cantly higher property values characteristic of HOPE VI redevelopments compared to the public housing they replaced, they are not reported here. This brief focuses on the benefi ts of the housing investment itself and not on the benefi ts that accrue as a result of displacement or resident turnover. below, as one of several hypotheses that are supported by preliminary research but require additional investigation to refi ne and confi rm. In addition, in certain circumstances, affordable housing construction can increase the value of, and thus the property taxes collected from, surrounding properties. The evidence for this hypothesis is reviewed below

#### Comprehensive federal reform is key:

#### 1 — states fail — only the plan mandates compliance

Robinson 16 — Kimberly J. Robinson (national expert who speaks domestically and internationally about educational equity, equal educational opportunity, civil rights, and the federal role in education, Commentary, “Fisher’s Cautionary Tale and the Urgent Need for Equal Access to an Excellent Education”, 130 Harvard Law Review 185

B. Overturning Rodriguez To be most effective, a comprehensive federal agenda requires the assistance of all three branches of government. The executive branch enjoys the fewest obstacles to reform because it could use its existing authority to accomplish incremental shifts to education federalism through modest reforms that employ its existing authority and resources. n295 Nevertheless, given the full scope of the shift to education federalism that I recommend, reforms instituted without any significant involvement of Congress or the Court would lack the comprehensive nature that ensuring equal access to an excellent education for all schoolchildren will ultimately demand. Legislation consistent with this agenda would send an even more powerful message that the agenda represents the will of the people and thus may encourage greater state and local buy-in. n296 However, the eight-year delay in reenacting the Elementary and Secondary Education Act of 1965, which eventually led to the reduction of the federal role in education in the Every Student Succeeds Act, n297 and the great difficulties that Congress is experiencing in passing legislation n298 suggest that legislative reform consistent with my proposal is unlikely in the near term. [\*231] Fortunately, the Court possesses the authority to unleash a powerful tool that could help to reduce the opportunity and achievement gaps that lead universities and colleges to rely on affirmative action in admissions. It could overturn Rodriguez, which held that the Constitution does not protect education as a fundamental right. n299 For over forty years, Rodriguez has served as a roadblock to access to federal courts for those who hope to address the entrenched disparities in funding and resources that relegate many disadvantaged and minority students to inferior educational opportunities in the United States. n300 Because the Court held that education was not a fundamental right, Rodriguez applied rational basis review to the funding gaps between districts within Texas. n301 The Court determined that Texas easily met this standard because its funding approach advanced local control of education, the Court lacked the expertise to second-guess the Texas system, and a ruling for the plaintiffs would greatly upset the balance of federalism. n302 The Court nonetheless noted the need for reform of school funding and challenged the states to undertake this reform. n303 Although many states have implemented funding reform since Rodriguez and state litigation has resulted in some important victories, these state efforts have fallen far short of the reforms required to provide all children equal access to an excellent education. n304 In light of the continuing disparities in educational opportunity, numerous scholars, myself included, have argued that Rodriguez was wrongly decided and should be overturned to provide a consistent and powerful federal remedy to address these disparities. n305 [\*232] However, disagreement exists over the scope of the right that the Court should recognize. The Court left the existence of a fundamental right to some minimum education an open question in Rodriguez n306 and subsequently acknowledged that the question remains open. n307 If Rodriguez is overturned, some scholars envision the Court addressing only extreme forms of educational inequality by providing a federal right to a minimally adequate education. n308 Leading education scholar Professor Derek Black, on the other hand, has argued that such an education today would require that students receive the state-defined minimum of education and that this definition does not have to equal "a minimalist education." n309 Given the likelihood that the Court will insist that affirmative action eventually end, the Court should take some responsibility for addressing the conditions that lead institutions to rely on affirmative action by overturning the decision that insulated opportunity gaps from federal accountability. The Court could choose from a variety of constitutional provisions to recognize a right to education. n310 For [\*233] instance, the Court could hold that the Fourteenth Amendment's requirement that states not deny equal protection of the laws n311 serves as a prohibition of the inequitable state disparities in educational opportunity or guarantees students an education that enables them to effectively employ their First Amendment rights and to be competent voters. n312 Recognizing and enforcing a federal right to education would provide greater authority and consistent impact than the state education clauses that vary widely in their protection — or lack thereof — of the right to education. n313 The federal courts have been and will remain an important and powerful avenue for enforcing education rights for all students throughout the United States in ways that do not make the content of a right dependent on the happenstance of geography or state law. n314 A federal constitutional right also would enable the federal courts to address the substantial interstate disparities in funding that currently account for seventy-eight percent of per-pupil spending gaps. n315 This tremendous interstate disparity, which has reached a [\*234] "historic high" for spending differences, n316 reveals the failure of state courts to close spending gaps on their own. n317 If the Court chooses to overturn Rodriguez in a manner that would help to close opportunity gaps, it should incorporate four essential principles into a constitutional right to education. First, the Court must embrace a robust fundamental right to education that moves beyond guaranteeing a rudimentary floor of educational opportunity. A minimal right would not make a meaningful impact on opportunity or achievement gaps. Instead, the Court should consider recognizing a right to education that requires states to provide an education-based justification for the quality of education provided and any disparities in educational opportunity. Such a standard would enable states to offer disparate opportunities to students with disabilities, English-language learners, and low-income children, but would force states to end the superior opportunities that are provided to wealthier children absent an educational justification for such disparities. Defining a fundamental right to education in this way would help to level the playing field within public schools and insist that states design education systems based on research and students' needs rather than power, politics, and privilege. Second, the Court should include safeguards that reduce the likelihood that states level down their educational opportunities n318 or seek to avoid the Court's requirements. n319 One safeguard could be an instruction to states that guaranteeing a federal right to education should avoid reducing the quality and nature of existing educational opportunities and instead should seek ways to expand the delivery of a high-quality education to those who are currently denied it. The Court also can reduce the likelihood of decreasing the quality of educational opportunities within a state by providing clear requirements on the nature of the education right. In this regard, the Court can learn from decades of school finance litigation that has worked to give meaning to the right to education embodied in state constitutions, n320 while recognizing [\*235] that this litigation has had significant shortcomings and has not ultimately resulted in equal access to an excellent education for all children. n321 Third, the Court must acknowledge that a constitutional right to education would shift education federalism in ways that would increase federal influence over education and reduce some aspects of state control over education. The Court must wrestle with its own prior pronouncements heralding the importance of local control of education. n322 Such a shift in an area of traditional state control must be justified with an explanation for why this shift is both appropriate and warranted. n323 When the Court provides this explanation, it should remind the states that Rodriguez urged state reform of school finance systems in light of the persistent and heavy reliance on property taxes and the disparities in educational opportunity. n324 The limited nature and impact of subsequent reforms remains apparent in light of the Equity and Excellence Commission's finding in 2013 that "students, families and communities are burdened by the broken system of education funding in America." n325 The Commission further noted that over forty years of reforms "have not addressed the fundamental sources of inequities and so have not generated the educational gains desired." n326 Scholars also have recognized the limited success of decades of funding litigation to remedy longstanding inequitable disparities in educational opportunity. n327 School funding data and research also confirm a host of shortcomings in state funding systems despite the Court's invitation to reform funding in ways that increase equal educational opportunities. n328 In addition to the shortcomings noted above, most states have not designed their funding systems to accomplish their education goals. n329 Instead, politics oftentimes drives the distribution of funding as state [\*236] politicians assess how much funding is available for a given school year and then bargain over how that amount should be divided among the students in the state. n330 When the Court acknowledges that its decision will result in a shift in education federalism, it also should acknowledge that the laboratory of the states has failed to develop the reforms needed to ensure an equitable and excellent education for every child. Fourth, the Court must acknowledge that recognizing a constitutional right to education would only begin the process of closing opportunity and achievement gaps. The reform of funding systems and the redistribution of educational opportunity will take a significant amount of time. The Court will need to encourage lower courts to retain jurisdiction over cases enforcing this right, just as state courts typically retain jurisdiction over cases enforcing a state right to education. n331 In this regard, the Court must avoid the errors of its desegregation cases, which initially insisted on effective desegregation in the late 1960s and early 1970s, n332 but then eventually emphasized the return to local control of schools rather than the effectiveness of desegregation orders. For example, in Milliken v. Bradley, n333 the Court overturned an interdistrict desegregation plan for the metropolitan Detroit area in part because the plan's inclusion of districts surrounding Detroit would cause a reduction in local control. n334 The Court took this action in spite of the Sixth Circuit's finding that crossing district boundaries was particularly appropriate given the state's discrimination that maintained racial segregation across school district boundaries and that failing to include the surrounding districts would "nullify" Brown v. Board of Education. n335 As I have explored in prior work, the Court's desegregation decisions in Board of Education of Oklahoma City Public Schools v. Dowell, n336 Freeman v. Pitts, n337 and Missouri v. Jenkins n338 [\*237] also reified local control of the schools by focusing on releasing districts from court supervision rather than on effective and lasting school desegregation. n339 Scholars have documented how these cases signaled that the Court had determined that desegregation had gone on long enough and it was time for school boards to regain control even if desegregation was never ultimately accomplished. n340 If a federal right to education is going to serve as a mechanism to close educational opportunity gaps and to reduce the need for selective institutions to rely on consideration of an applicant's race to achieve diversity's benefits, the Court must learn from how its desegregation decisions undeniably contributed to the racial isolation that pervades so many school districts today. n341 The Court's impatience with the slow nature of desegregation reveals a shallow understanding of the depth of the social ill that the Court declared unconstitutional in Brown and an unwillingness to insist upon ongoing federal court investment in the effective dismantling of segregation. Overturning Rodriguez will require the Court to confront longstanding and deeply entrenched inequalities within public education. The federal courts will be called upon to oversee reforms that topple the settled expectations of more privileged sectors of society, just as the Court confronted the expectations of racism and white privilege that supported racial segregation. Thus, the reforms required by the Court cannot give a wink and a nod to those who benefit from the status quo while simultaneously claiming to demand reform. The Court must eschew any approval of unwarranted delay, as occurred in Brown II's command to desegregate with "all deliberate speed," n342 or any invitation to incomplete or ineffective results, as the Court sanctioned in Dowell, Freeman, and Jenkins. n343 Instead, the Court must insist that states implement the reforms that will ensure [\*238] equal access to an excellent education. It must make clear that states will not be released from court oversight until they have done so. Consistent Supreme Court insistence on an excellent and equitable education for all children will provide lower federal courts the support that they will need both to confront state legislatures that resist chang[e]ing the status quo and to prevent evasive actions similar to those invited by the Court's ambiguous pronouncements in Brown II. n344 In sum, a federal right to education that embraces these principles provides the most promising path toward closing opportunity and achievement gaps such that selective postsecondary institutions may not be required to consider race to achieve diversity's benefits. n345 Unless the Court overturns Rodriguez, the Court will remain complicit with the deeply entrenched educational opportunity gaps and should not blame postsecondary institutions that must build diverse institutions despite those gaps. Foonote n345: Additionally, Congress could take a variety of actions to support the Court's recognition of a constitutional right to education. Congress could embrace the Court's requirements as conditions on funding in the Elementary and Secondary Education Act of 1965 or on any education funding, authorize grants to support reform, extend funding for the DOE to enforce new conditions, and monitor DOE enforcement of the conditions. See Robinson, supra note 141, (manuscript at 34-49) (proposing congressional mechanisms that could lead states to offer equal access to an excellent education); Robinson, supra note 18, at 1006-12 (describing how Congress can still expand the federal role in education despite the limits NFIB v. Sebelius, 132 S. Ct. 2566 (2012), placed on congressional spending). The executive branch could issue an executive order on the importance of compliance with the Court's decision recognizing a federal right to education, establish a commission to study and recommend effective responses, enforce any statutory conditions on education funding, and modify education regulations and guidance consistent with the Court's pronouncements. These efforts would provide critical support for the Court's decision to recognize a constitutional right to education by overturning Rodriguez. See San Antonio Indep. Sch. Dist. v. Rodriguez, 411 U.S. 1, 35 (1973).

#### 2 — it’s vital to gradual overhaul in education finance

Robinson 16 — Kimberly Jenkins Robinson, Professor of Law and Austin Owen Research Scholar at the University of Richmond School of Law, Researcher at the Charles Hamilton Houston Institute for Race and Justice at Harvard Law School, former Associate Professor at the Emory School of Law, former General Attorney in the Office of the General Counsel at the United States Department of Education, holds a J.D. from Harvard Law School, 2016 (“No Quick Fix for Equity and Excellence: The Virtues of Incremental Shifts in Education Federalism,” *Stanford Law & Policy Review* (27 Stan. L. & Pol'y Rev 201), Available Online to Subscribing Institutions via Lexis-Nexis)

In light of the need for additional concerted action to spark state reform of school finance systems, some scholars and advocates are beginning to call for the federal government to leverage its influence on states to ensure that they implement equitable school funding systems. In his 2015 book, Jack Jennings, the founder and former CEO of the Center on Education Policy who served for more than a quarter century as a staff director and general counsel for the U.S. House of Representatives Committee on Education and Labor, identified the need for federal reform that promotes both equitable and adequate funding as essential for continued progress in education. n20 In addition, the Equity and Excellence Commission recommended "bold action" on school funding reform that would, among other things, require states to implement funding systems that provide all students the resources they need to meet state standards; incentivize states to increase funding for low-performing, low-income and minority students; and create federal monitoring of these new investments to ensure that they are improving student outcomes. n21 David Sciarra and Danielle Farrie, who are leading the New Jersey funding litigation, have made similar calls. Sciarra and Farrie, an attorney and scholar of education finance, respectively, recently contended that federal funding should be linked to state finance reform that is closely tied to state education standards. n22 Michael Rebell, scholar and successful litigator of the New York funding litigation, has also called for federal intervention to promote equitable funding systems. n23 Education law scholar Derek Black has proposed reforms to Title I of the Elementary and Secondary Education Act that would incentivize states to adopt progressive funding systems that provide greater funding to [\*205] districts with substantial high-need populations and that reward fiscal effort. n24 A recent paper by Diana Epstein, a Senior Education Policy Analyst at the Center for American Progress, argues that given state reluctance to provide greater aid to districts with more students with greater needs, the federal government should incentivize states to revise their funding systems to accomplish such reforms. n25 These calls for federal influence to promote equitable and adequate school funding systems build upon the scholarship calling for federal action that promotes greater equality of educational opportunity. n26 In this Article, I join these calls for the federal government to lead states to reform their school funding systems. In doing so, I build upon my recent scholarship that calls for additional federal leadership insisting that states prioritize equity and excellence in education. n27 I recommend that we restructure education federalism by requiring the federal government to serve as the ultimate guarantor of equal access to an excellent education. n28 My theory of education federalism embraces federal policymaking strengths in education, such as federal research, technical, and financial assistance, that support state and local reforms to promote equity and excellence. n29 This theory would retain state and local control over education where states and localities possess superior policymaking strengths, including preserving states as laboratories of reform that determine how to achieve equity and excellence. It also would [\*206] promote new forms of state and local control over education by enhancing state and local capacity for reform. n30 This Article provides a practical application of my theory for reconstructing education federalism in ways that would support equal access to an excellent education. My analysis serves two goals. First, I present research regarding some of the central school funding system shortcomings that may not be widely understood. The shortcomings that I analyze are: the provision of less revenue to districts with substantial concentrations of students with greater needs; the failure to tailor funding to the objective of the education system; substandard funding amounts; and insufficient oversight of school funding. Second, scholars have increasingly begun to call for a federal role in education funding by proposing a single-step reform. In contrast, I contend that the United States should incrementally increase federal influence over school funding to prompt states to maintain equitable funding systems. Foonotes in this card: n20. Jennings, supra note 3 at 179-83, 206-17. n21. U.S. Dep't of Educ., Equity & Excellence Comm'n, supra note 2, at 19. n22. See David Sciarra & Danielle Farrie, From Rodriguez to Abbott: New Jersey's Standards-Linked School Funding Reform, in The Enduring Legacy of Rodriguez: Creating New Pathways to Equal Educational Opportunity, supra note 2, at 119, 139. n23. Michael A. Rebell, Rodriguez: Past, Present, and Future, in The Enduring Legacy of Rodriguez: Creating New Pathways to Equal Educational Opportunity, supra note 2, at 65, 72-75. n24. Derek W. Black, Leveraging Federal Funding for Equity and Integration, in The Enduring Legacy of Rodriguez: Creating New Pathways to Equal Educational Opportunity, supra note 2, at 227, 242. n25. Diana Epstein, Ctr. for Am. Progress, Measuring Inequity in School Funding 2 (2011), https://cdn.americanprogress.org/wp-content/uploads/issues/2011/08/pdf /funding\_equity.pdf. n26. See, e.g., Michael A. Rebell & Jessica R. Wolff, Moving Every Child Ahead: From NCLB Hype to Meaningful Educational Opportunity 69-81 (2008) (arguing that Congress should enact legislation to guarantee all children meaningful educational opportunity); Goodwin Liu, Education, Equality, and National Citizenship, 116 Yale L.J. 330, 399-406 (2006) (contending that Congress should enact legislation that remedies any impediments to all children receiving the educational prerequisites for national citizenship); Kimberly Jenkins Robinson, The Case for a Collaborative Enforcement Model for a Federal Right to Education, 40 U.C. Davis L. Rev. 1652, 1711-26 (2007) (proposing a collaborative enforcement model for a federal right to education); Robinson, supra note 2, at 214-223 (proposing a reconstruction of education federalism that would build upon federal policymaking strengths to ensure equal access to an excellent education). Cf. Linda Darling Hammond, Inequality and School Resources: What It Will Take to Close the Opportunity Gap, in Closing the Opportunity Gap: What America Must Do to Give Every Child an Even Chance 77, 80-97 (Prudence L. Carter & Kevin G. Welner eds., 2013) (identifying educational opportunity gaps and proposing funding equitable education to close these gaps). n27. Kimberly Jenkins Robinson, Disrupting Education Federalism, 92 Wash. U. L. Rev. 959, 985-88 (2015). n28. See id. at 1002-05. n29. See id. at 985-86, 994-1000, 1003, 1015. n30. See id. at 1014-15.

### 2NC ⁠— Plank 3

## Stadiums

### 2NC ⁠— Alt Causes

#### Threshold for alt causes is low

1AC Coleman, 2020, <writer and organizer with NOlympics LA, a coalition that supports the anti-gentrification efforts of LITU and Los Angeles Tenants Union, Jonny>, THE STRUGGLE AGAINST A STADIUM’S CONSTRUCTION BECAME A BATTLE FOR THE SOUL OF LOS ANGELES, September 10, p. https://theappeal.org/sofi-stadium-gentrification-displacement-lennox-inglewood-tenants-union/

Sports venues have been crushing poor communities around the country for over a century, and they’ve been doing it in a variety of ways. Often public funding is a part of the story. According to an article by Reuben Fischer-Baum in Deadspin, 61 percent of the 186 stadiums built since 1909 were publicly funded. Fischer-Baum also cites the Los Angeles Memorial Coliseum, built in the 1920s, as the first major example of publicly financed stadiums in America. What’s truly amazing is that a century later, the Coliseum—a historically corrupt structure that was used by the Los Angeles Police Department as a staging area for Operation Hammer in the 1980s and is tied to one of the country’s most corrupt academic institutions—is still being used as a cudgel to displace working class tenants in the immediate vicinity. In more recent years, developments like Barclays Center in Brooklyn and Nationals Park in Washington, D.C., have driven out poor residents and business owners. The consequences can quickly pile up. Despite the coronavirus pandemic, the East Oakland Stadium Alliance in California has spent the summer protesting a proposed new baseball stadium because they argue it will disrupt labor at the Oakland port, which in turn would price working class people out of the area.

## Minor Leagues

### 2NC ⁠— Status Quo Solves

# 1NR

## T

### Violation---1NR

### MLB is not a Business---1NR

#### The court excluded baseball because it’s America’s pastime and not a business

Barnett 10 (Larry D. Barnett- Professor, School of Law, Widener University, “ARTICLE: THE PUBLIC-PRIVATE DICHOTOMY IN MORALITY AND LAW”, 18 J.L. & Pol'y 541, 566. 2010. Lexis accessed online via KU libraries, date accessed 2/2/22)

To combine the above, a business is a recurring, 98 profit-seeking activity of a person (human being or entity). In addition, the society in which the activity occurs must identify the activity as a business rather than as a form of relaxation or a means of amusement. A business, consequently, has the purpose of obtaining an economic return and is an activity that society classifies as a business.

#### Their card is about each franchise

2AC Burton & Mitten, 2003, <Retired Professor of Law. Formerly Professor of Law at South Texas College of Law and Dean and Professor of Law at William Mitchell College of Law, Bruce; Associate Dean for Academic Affairs, Professor of Law, and Director, National Sports Law Institute, Marquette University Law School, Matthew>, New Remedies for Breach of Sports Facility Use Agreements: Time for Marketplace Realism, Iowa Law Review, p. 814

For its part, MLB asserted that the Commerce Clause of the United States Constitution placed MLB and its widespread national network of professional teams beyond the reach of local remedies. Such local relief, MLB argued, would unconstitutionally interfere with interstate commerce by affecting all major league baseball franchises - private business operations located in thirty-one cities and two countries (plus an array of MLB club farm teams spread throughout the minor leagues).

### Baseball is not Practice---1AR

#### Even if it is a business, it’s not a practice!

Rodenberg and Eagleman 11 (Ryan M. Rodenberg; Andrea N. Eagleman, "Uneven Bars: Age Rules, Antitrust, and Amateurism in Women's Gymnastics," University of Baltimore Law Review 40, no. 4 (Summer 2011): 587-606. Accessed online via KU libraries, date accessed 12/19/21)

The interaction between sports and antitrust began inauspiciously. In 1922, the Supreme Court granted Major League Baseball an antitrust exemption based on a finding that the interstate commerce aspects of the sport were merely incidental to the staging of professional ballgames.7 ' Although subsequently described as an "anomaly," 7 7 an "aberration confined to baseball,"" and a "derelict in the stream of law,"7 9 the 1922 Federal Baseball Club of Baltimore v. National League of Professional Baseball Clubs case has yet to be explicitly overruled by Congress or the Supreme Court.o Baseball's peculiar antitrust exemption did not extend to other sports, however. In International Boxing Club v. United States, the Supreme Court concluded that there was no unique aspect in sports meriting an across-the-board exemption from federal antitrust laws." After boxing was found nonexempt, other sports were similarly deemed subject to antitrust scrutiny, including basketball,8 2 football, hockey,84 golf,85 and tennis.86

### AT: Counter-Interpretation---1NR

### AT: Functional Limits---1NR

### AT: Extraneous---1NR

### AT: Overlimiting---1NR

### AT: Reasonability---1NR

### AT: Not a Voting Issue---1NR

## T

### AT: Core Antitrust---1NR

### !---1NR

#### Democracy outweighs:

#### 1---magnitude

#### 2---speed

Diamond 19, PhD in Sociology, professor of Sociology and Political Science at Stanford University (Larry, “Ill Winds: Saving Democracy from Russian Rage, Chinese Ambition and American Complacency,” Kindle Edition)

In such a near future, my fellow experts would no longer talk of “democratic erosion.” We would be spiraling downward into a time of democratic despair, recalling Daniel Patrick Moynihan’s grim observation from the 1970s that liberal democracy “is where the world was, not where it is going.” 5 The world pulled out of that downward spiral—but it took new, more purposeful American leadership. The planet was not so lucky in the 1930s, when the global implosion of democracy led to a catastrophic world war, between a rising axis of emboldened dictatorships and a shaken and economically depressed collection of self-doubting democracies. These are the stakes. Expanding democracy—with its liberal norms and constitutional commitments—is a crucial foundation for world peace and security. Knock that away, and our most basic hopes and assumptions will be imperiled. The problem is not just that the ground is slipping. It is that we are perched on a global precipice. That ledge has been gradually giving way for a decade. If the erosion continues, we may well reach a tipping point where democracy goes bankrupt suddenly—plunging the world into depths of oppression and aggression that we have not seen since the end of World War II. As a political scientist, I know that our theories and tools are not nearly good enough to tell us just how close we are getting to that point—until it happens.

#### 3---controls the case:

#### Creeping authoritarianism collapses US influence

Kendall-Taylor 16, PhD in Political Science @ UCLA, Senior Fellow and Director of the Transatlantic Security Program at the Center for a New American Security (CNAS). She works on national security challenges facing the United States and Europe, focusing on Russia, populism and threats to democracy, and the state of the Transatlantic alliance (Andrea, “How Democracy’s Decline Would Undermine the International Order,” *Center for Strategic and International Studies*, <https://www.csis.org/analysis/how-democracy%E2%80%99s-decline-would-undermine-international-order>)

Although none of these burgeoning relationships has developed into a highly unified partnership, democratic backsliding in these countries has provided a basis for cooperation where it did not previously exist. And while the United States certainly finds common cause with authoritarian partners on specific issues, the depth and reliability of such cooperation is limited. Consequently, further democratic decline could seriously compromise the United States’ ability to form the kinds of deep partnerships that will be required to confront today’s increasingly complex challenges. Global issues such as climate change, migration, and violent extremism demand the coordination and cooperation that democratic backsliding would put in peril. Put simply, the United States is a less effective and influential actor if it loses its ability to rely on its partnerships with other democratic nations.

#### Authoritarian spread collapses human rights

Kagan 19 – MPP @ Harvard, PhD in American history @ American University (Robert, “The strongmen strike back,” Washington Post, Proquest)

The enormous progress of the past seven-plus decades was not some natural evolution of humanity; it was the product of liberalism’s unprecedented power and influence in the international system. Until the second half of the 20th century, humanity was moving in the other direction. We err in thinking that the horrors perpetrated against Ukrainians and Chinese during the 1930s, and against Jews during the 1940s, were bizarre aberrations. Had World War II produced a different set of victors, as it might have, such behavior would have persisted as a regular feature of existence. It certainly has persisted outside the liberal world in the postwar era — in Cambodia and Rwanda, in Sudan and the Balkans, in Syria and Myanmar. Even liberal nations are capable of atrocities, though they recoil at them when discovered. Non-liberal nations do not recoil. Today, we need only look to the concentration camps in China where more than 1 million Muslim Uighurs are being subjected to mental and physical torture and “re-education.” As authoritarian nations and the authoritarian idea gain strength, there will be fewer and fewer barriers to what illiberal governments can do to their people. We need to start imagining what it will be like to live in such a world, even if the United States does not fall prey to these forces itself. Just as during the 1930s, when realists such as Robert Taft assured Americans that their lives would be undisturbed by the collapse of democracy in Europe and the triumph of authoritarianism in Asia, so we have realists today insisting that we pull back from confronting the great authoritarian powers rising in Eurasia. President Franklin D. Roosevelt’s answer, that a world in which the United States was the “lone island” of democratic liberalism would be a “shabby and dangerous place to live in,” went largely unheeded then and no doubt will go largely unheeded again today. To many these days, liberalism is just some hazy amalgam of idealisms, to be saluted or scorned depending on whose ox is being gored. Those who have enjoyed the privileges of race and gender, who have been part of a comfortable majority in shaping cultural and religious norms, are turning away from liberalism as those privileges have become threatened — just as critics of liberal capitalism on the American left once turned away from liberalism in the name of equality and justice and may be doing so again. They do so, however, with an unspoken faith that liberalism will continue to survive, that their right to critique liberalism will be protected by the very liberalism they are critiquing. Today, that confidence is misplaced, and one wonders whether Americans would have the same attitude if they knew what it meant for them. We seem to have lost sight of a simple and very practical reality: that whatever we may think about the persistent problems of our lives, about the appropriate balance between rights and traditions, between prosperity and equality, between faith and reason, only liberalism ensures our right to hold and express those thoughts and to battle over them in the public arena. Liberalism is all that keeps us, and has ever kept us, from being burned at the stake for what we believe.

#### Authoritarian spread collapses economic resiliency

Kendall-Taylor 16 – PhD in Political Science @ UCLA, Senior Fellow and Director of the Transatlantic Security Program at the Center for a New American Security (CNAS). She works on national security challenges facing the United States and Europe, focusing on Russia, populism and threats to democracy, and the state of the Transatlantic alliance (Andrea, “How Democracy’s Decline Would Undermine the International Order,” *Center for Strategic and International Studies*, <https://www.csis.org/analysis/how-democracy%E2%80%99s-decline-would-undermine-international-order>)

A slide toward authoritarianism could also challenge the current global order by diluting U.S. influence in critical international institutions, including the United Nations , the World Bank, and the International Monetary Fund (IMF). Democratic decline would weaken Western efforts within these institutions to advance issues such as Internet freedom and the responsibility to protect. In the case of Internet governance, for example, Western democracies support an open, largely private, global Internet. Autocracies, in contrast, promote state control over the Internet, including laws and other mechanisms that facilitate their ability to censor and persecute dissidents. Already many autocracies, including Belarus, China, Iran, and Zimbabwe, have coalesced in the “Likeminded Group of Developing Countries” within the United Nations to advocate their interests. Within the IMF and World Bank, autocracies—along with other developing nations—seek to water down conditionality or the reforms that lenders require in exchange for financial support. If successful, diminished conditionality would enfeeble an important incentive for governance reforms. In a more extreme scenario, the rising influence of autocracies could enable these countries to bypass the IMF and World Bank all together. For example, the Chinese-created Asian Infrastructure and Investment Bank and the BRICS Bank—which includes Russia, China, and an increasingly authoritarian South Africa—provide countries with the potential to bypass existing global financial institutions when it suits their interests. Authoritarian-led alternatives pose the risk that global economic governance will become fragmented and less effective.

### Uniqueness---1NR

#### Legitimacy has been low in the past, that means there is no impact to advantage and only risk of a turn

2AC Cillizza, 7-23-21, <CNN Editor-at-large, Chris>, CNN Wire, The Kavanaugh news proves it's impossible to have an apolitical Supreme Court, pfactiva

And that's before you consider the fact that trust in the court -- as well as every high-profile institution in the country -- had dipped precipitously over the last few decades as more and more people have come to see it through a partisan lens. In Gallup's annual trust in institutions survey -- released earlier this month-- just more than a third of Americans (36%) said they had a "great deal" or "quite a lot" of confidence in the court, down from 4 in 10 who said the same in 2020. Remarkably, the lack of confidence in the Supreme Court is bipartisan; 39% of Democrats have "great deal" or "quite a lot" of confidence in the court while 35% of Republicans say the same. That decline in confidence is the result of our ever-increasing polarization, yes. People now see the world solely through the lens of politics -- and that very much includes the Supreme Court. But the erosion in confidence is also due to the fact that the Court has been the final arbiter on a serious of hot-button issues in recent years. The court allowed the flow of massive sums of hard-to-track dollars into politics with its Citizens United ruling. It legalized same-sex marriage. It upheld the Affordable Care Act -- repeatedly. It allowed the Deferred Action for Childhood Arrivals program to stand. And most recently, it declined to hear an attempt to disqualify presidential ballots in a series of swing states.

### AT: Roe---1AR

#### Barrett and Kavanaugh are moderating and defecting from the conservative bloc---that foretells a liberal decision on abortion.

Gerstein ’21 [Josh; July 7; Senior Legal Affairs Reporter, B.A. in Government from Harvard University; Politico, “Trump’s Supreme Court shrinks from controversy,” <https://www.politico.com/news/2021/07/07/trump-supreme-court-courage-498459>]

As the court delivered its final decisions of the term in recent weeks, some conservatives complained they were not seeing as much of that trait as they would like.

Although the court continued to move in a conservative direction and split along the usual ideological lines as it handed down major 6-3 decisions on [voting rights](https://www.politico.com/news/2021/07/01/supreme-court-arizona-voting-rights-decision-497518) and [dark money disclosure](https://www.politico.com/news/2021/07/01/supreme-court-california-disclosure-law-donors-497554), divides on the right were also vividly on display in a series of high-profile cases this term, including the latest challenge to Obamacare and a case over Catholic social services group’s obligation to deal with same-sex couples seeking to become foster parents.

In the Affordable Care Act case, Justices Brett Kavanaugh and Amy Coney Barrett sided with the court’s liberals and other justices to reject the challenge 7-2 on standing grounds, over strenuous objections from Justice Samuel Alito and Neil Gorsuch.

And in the foster-care case, while the court ruled unanimously in favor of the Catholic organization, Barrett and Kavanaugh demurred on overturning a longstanding precedent limiting the right to defy laws for religious reasons.

That maneuver prompted Alito, Gorsuch and Justice Clarence Thomas to rip into their colleagues for signing onto “a wisp of a decision” that “might as well be written on the dissolving paper sold in magic shops.”

The fusillade of criticism continued in other cases, with Alito complaining that Barrett, Kavanaugh and other justices took an “easy out” by sending back to an appeals court a [case](https://www.politico.com/news/2021/06/28/supreme-court-police-abuse-case-496717) over the death of a suspect who was held face down on the floor in a St. Louis holding cell for 15 minutes.

The justices’ orders from their final conference before their summer break also contained other disappointments for social conservatives. The court refused to review a ruling in favor of a transgender high school student in Virginia seeking to use the bathroom of choice. And it turned down review of a long-running case involving a Washington state floral shop found to have violated a state anti-discrimination law by refusing to prepare arrangements for a same-sex wedding.

This was not, as Trump suggested in little-noticed remarks on the subject, the “courage” he was looking for from his prized Supreme Court picks.

After Obamacare managed another death-defying escape at the Supreme Court last month, Trump expressed dismay about Kavanaugh and Barrett voting to reject that challenge.

“I was disappointed, and that's the way it goes. Very disappointed, I fought very hard for them,” Trump [told David Brody of Just The News](https://justthenews.com/government/white-house/read-full-water-cooler-interview-president-trump-here) a few days after the 7-2 decision.

Asked whether the ruling led him to “second guess” his nomination decisions, Trump signaled that his disenchantment went beyond the Affordable Care Act case.

“Second guessing does no good, but I was disappointed with a number of rulings that they made,” he said.

To conservative activists, every disappointment conjures up fears anchored in recent history: They fight to confirm worthy jurists to open Supreme Court seats, only to see them moderate once in the chair itself. Two of Ronald Reagan’s picks, Sandra Day O’Connor and Anthony Kennedy, and one of George H.W. Bush’s, David Souter, would go on to take centrist positions on abortion and social issues.

There haven’t been many boldly conservative decisions from the Trump appointees so far, one conservative legal advocate involved in the Supreme Court confirmation process under the George W. Bush and Trump administrations acknowledged.

### Link---1NR

### Turn---1NR

#### Future conservative court rulings will collapse democracy

Levitz 12/27/21, Associate Editor of Daily Intelligencer. (Eric, Why Is John Roberts So Popular Among Democrats?, https://nymag.com/intelligencer/2021/12/john-roberts-boasts-majority-approval-among-democrats.html)

Which is somewhat alarming. According to one recent analysis, conservatives are now likely to retain a majority on the Supreme Court into the 2050s. If the Court’s right-wing majority finds that it can continually push the boundaries of conservative judicial activism without undermining its own popular legitimacy, then the consequences for progressivism and popular democracy could be dire.

#### Emboldened conservative court in a future decision is the Greatest threat to Democracy

Litman 21, former U.S. attorney and deputy assistant attorney general. (Harry, Column: Why the Supreme Court is one of the biggest threats to American democracy, <https://www.latimes.com/opinion/story/2021-08-24/american-coup-supreme-court-donald-trump-bush-vs-gore-william-rehnquist>)

In the popular imagination, successful coups require the participation of the military. Carol Leonnig and Philip Rucker, in their latest book on the Trump presidency, “I Alone Can Fix It,” paint Gen. Mark A. Milley, chairman of the Joint Chiefs of Staff, in heroic colors. During the runup to the 2020 election, Milley, worried about a “Reichstag moment,” resolved with his colleagues to thwart whatever the former president might try. The truth is, the biggest threat to American democracy isn’t a military coup, as Milley’s laudable behavior tends to show. The more probable danger is much less dramatic and much more terrifying: a horrible decision from the final arbiter of our constitutional system — the Supreme Court of the United States. A constitutional theory is gaining ground at the court that could theoretically have awarded the 2020 election to Donald Trump, despite his having been swamped at the polls. Its basis is an obscure and muddled argument that first surfaced when the Supreme Court stepped into the George W. Bush-Al Gore 2000 presidential contest and stopped a state-court ordered recount in Florida. Chief Justice William Rehnquist, straining to explain why the U.S. Supreme Court should meddle in the matter, seized on Article I, Section 4 and Article 2, Section 2 of the Constitution, which specify that state legislatures may establish rules for the “Manner” in which federal elections are conducted (unless Congress sets a contradictory national rule). In a separate opinion in Bush vs. Gore, joined by Antonin Scalia and Clarence Thomas, Rehnquist discerned from these provisions that “a significant departure from [a state] legislative scheme for appointing Presidential electors presents a federal constitutional question.” In other words, if in the judgment of the Supreme Court, a state court decision about state election law seems to strain the state legislature’s intent, the federal high court can strike it down as a violation of the Constitution. This is a wholly wild-eyed theory. Its chief flaw (there are others) is that it ignores the fact that the U.S. Supreme Court had neither the authority nor the expertise to pronounce a state court ruling a “significant departure” from a state legislative scheme. The Supreme Court interprets federal law, not state law. Anything else runs roughshod over core constitutional principles of federalism. It also clears a path for making mischief with free and fair elections. Rehnquist’s dubious theory has not yet commanded a majority of the court, but sad to say, it has struck the fancy of several justices. In the last two years, Thomas, Justice Brett Kavanaugh and Justice Samuel Alito have all cozied up to Rehnquist’s opinion in their own writings. Thomas weighed in in February, in a case that challenged Joe Biden’s victory in Pennsylvania. The Supreme Court ultimately denied it a hearing, but Thomas penned a dissent. With the pandemic raging before the 2020 election, the Pennsylvania Supreme Court had ruled, based on the state constitution, in favor of a three-day extension of the deadline for receiving mail-in ballots. Thomas argued that the added days represented a federal constitutional violation: The Pennsylvania justices had changed an election law, coopting the role the U.S. Constitution reserved for state legislatures. If the court had agreed to hear the case and had Thomas’ view of the facts prevailed, the likely remedy would have been to toss the Pennsylvania election back to the state — and into the Legislature — for a do-over. At an extreme, the partisan Republicans that dominate the Pennsylvania Legislature might have tried to declare a new set of electors — for Trump, not Biden — and the voters be damned. This is the kind of legal coup Trump conjured when he tweeted on the morning of Jan. 6, “All Mike Pence has to do is send them” — the election results — “back to the States, AND WE WIN.” It would also have been the endgame of the attempt by a Trump loyalist to strongarm the Department of Justice into disparaging the election results in Georgia. A wave of lawsuits would have followed, and the Trump forces could have dressed up their treachery with the Rehnquist argument, potentially empowering state legislatures in the president’s thrall to defeat democratic rule. It should be unthinkable that the Supreme Court would be party to such a cataclysmic outcome as overturning the clear will of voters on the basis of a lawless theory. As the aphorism goes, “The Constitution is not a suicide pact.” At the same time, it was beyond belief for many legal scholars that a bare conservative majority of the court would bulldoze the law in Bush vs. Gore, all but handing the White House to the GOP. That notorious decision played out amid extreme partisan fervor on all sides. The passions that would accompany another election-law showdown in the Supreme Court — in, say, 2024 — could make the Florida frenzy look like a school board squabble. It’s conceivable that the partisan instincts of a majority of the court would again override their legal judgment about both constitutional provisions and the court’s proper role.

#### Turn—lower legitimacy constrains use of the shadow docket that kills democracy

Bedell 12/23/21, MA Student University of Chicago, (Mike, Public Perception May Curb Supreme Court’s Shadow Docket, https://chicagopolicyreview.org/2021/12/23/public-perception-may-curb-supreme-courts-shadow-docket/)

The term “shadow docket” refers to the Supreme Court’s non-merits docket and consists of the many emergency orders and summary decisions that the court must issue as part of its routine judicial duties. The merits docket, by contrast, is what is typically used when the court hands down its most important decisions. In contrast to the merits docket, shadow docket rulings are made without full briefing or oral arguments and often do not include any supporting reasoning. Additionally, they provide no indication of how the Justices vote. The shadow docket is often used to deny certiorari (a petition for the court to hear a case) or in cases where the court must act quickly to prevent an imminent harm, such as emergency appeals in death penalty cases. But recently, the shadow docket has been used more frequently in controversial cases that impact the rights of large numbers of people, and it appears that the court is using it in an inconsistent, and arguably partisan, way. For example, although the court refused to intervene to block the Texas abortion ban, it has been all too willing to step in to protect religious liberties by blocking New York’s occupancy-based restrictions on religious services during the COVID-19 pandemic and to limit the reach of executive power by striking down the CDC’s ban on residential evictions during the . In other words, the court’s shadow docket rulings, and how the court utilizes the shadow docket, appear to favor Republican policies over Democratic ones. This raises serious questions about the public’s perception of the Supreme Court and the transparency of its decision-making. As part of an independent judiciary, the Supreme Court is supposed to be guided and constrained by the rule of law, not the principles of any political party or the personal or political beliefs of the Justices. When it is not, the public’s faith in the independence of the court and its decisions suffers. The Supreme Court is constrained in salient cases In response to these concerns, the Senate Judiciary Committee recently held a hearing in which University of Texas law professor Stephen Vladeck, an expert on the federal courts, laid out a series of reforms to the shadow docket that Congress could implement. However, a recent study by Logan Strother suggests that the court is sometimes responsive to external constraints without formal restrictions. The article identifies a disagreement among scholars about the extent to which external factors constrain the Supreme Court. These external factors include, for example, the public’s perception of the court’s legitimacy, the court’s fear of sanctions such as impeachment or court packing, and its concern that its decisions will not be implemented by those who disagree with the decisions and are charged with enforcing them. One previous study concluded that the Supreme Court is constrained in salient cases (as measured by mentions of decisions in media sources after the decisions are announced by the court), especially in “lateral” decisions (those that must be implemented by non-court actors), because the court fears non-implementation by such actors (Strother 2019, 130). But another study found that the court is constrained in non-salient cases, because it doesn’t want to damage its institutional legitimacy, and that it reserves counter-majoritarian decisions for particularly important cases (Strother 2019, 130-31). It’s possible that the court may curb its use of the shadow docket in significant cases To resolve this conflict, Strother replicates these studies using a pre-decision measure of salience, which accounts for media mentions of cases prior to the Supreme Court’s decisions in those cases, rather than a post-decision measure. This allows him to test the effect of the salience of cases as they come before the court. He finds that public opinion constrains the Supreme Court in salient cases, especially in salient lateral cases, but not in non-salient cases. Of course, Strother’s study concerns external constraint on the Supreme Court’s decisions on its merits docket, not its use of its non-merits docket. But could the court be similarly constrained in its use of the shadow docket? After all, the term “shadow docket” has appeared in at least twenty pieces in the New York Times, Washington Post, Chicago Tribune, and Wall Street Journal between September 1, 2021, the date of the court’s decision in Whole Woman’s Health, and October 16, 2021. In contrast, it appeared in fewer than 15 pieces in these newspapers in the eight months prior to that, and fewer even than that during all of 2020. This increasing media attention surrounding the matter reflects greater public awareness of, and likely heightened concern over, the shifting use of the shadow docket by the Supreme Court. As a consequence, if Strother’s findings can be extended to Supreme Court procedure, it’s possible that the court may curb its use of the shadow docket in significant cases, or at least use it in a more consistent way, out of fear of erosion of public perception of its legitimacy and the transparency of its decision-making.

#### shadow docket crushes democracy

Rachwalski, Co-Editor in Chief of The Southerner, (Anna, <https://thesoutherneronline.com/84434/comment/misuse-of-supreme-court-shadow-docket-damages-democracy/>)

Misuse of Supreme Court shadow docket damages democracy

Just before midnight on Sept. 1, 2021, the Supreme Court ruled that a Texas law banning abortions after six weeks would stand, gutting Roe v. Wade. Chief Justice John Roberts, who usually votes conservative, joining the liberal wing to vote against the abortion law on procedural grounds. Despite this flip, the court still ruled 5-4, in favor of the law. Not only was this action harmful to the women in Texas, but the process with which the Supreme Court made this decision is directly damaging to American democracy. The recent ruling on the Texas abortion law was achieved through what is called the Supreme Court’s “shadow docket.” The term, coined by a law professor at the University of Chicago, describes when the Supreme Court makes rulings on emergency appeals and the processes by which those rulings are made. To apply to get a case on the shadow docket, the applicant has to prove that “irreparable harm” will take place if the case isn’t ruled on quickly. The court then evaluates the case with no full briefing or oral arguments from the lawyers. They then vote on it and release a short decision with little reasoning, as opposed to the pages of explanation and days of oral arguments required for a regular decision. In the case of the Texas law, the majority opinion released was unsigned and consisted of a single long paragraph. The shadow docket also keeps judges’ votes anonymous — if the dissenting justices hadn’t released their opinions on the Texas ruling, we wouldn’t even know how each justice voted on this issue. There is little to no transparency on shadow docket cases. For important issues such as abortion, federal execution and election security, the public is largely left in the dark as to the reasoning behind the decisions. As the Supreme Court’s rulings do influence ordinary citizens, it’s troubling that their constituency doesn’t know how these decisions were made. If shadow docket decisions happened rarely, these cases wouldn’t be so disturbing. This process was meant to be used so emergency applications can be decided quickly. However, it’s beginning to become a way for the conservative majority on the court to quickly pass legislation without having to show their work, as occurred during the Texas ruling. During the Trump administration, the government applied for shadow docket applications at 20 times the rate of the previous two administrations. Out of the eight cases heard in previous administrations, there was only one public dissent. Twenty seven out of the 36 cases heard during the Trump administration resulted in dissent. As the number of shadow docket cases increased, the justices disagreed more on how to rule on those cases. If shadow docket cases are resulting in this much controversy among the justices, the American people deserve to hear the explanation behind the final decisions. The court’s current 6-3 conservative majority means the court may be able to overturn previous precedent with these shadow docket cases, creating massive changes in the country’s legal system with little explanation. The highest court in the land should not be able to hide its rulings and its processes from the public. According to a 2021 poll by the Pew Research Center, only 24 percent of Americans feel that they can trust their government. While misinformation and election security are heavily responsible for this low percentage, so is secrecy.

### Conservative Decision-Making---1NR

#### In the long run the conservative decisions will collapse institutional legitimacy as well

Grove 19, Professor of Law at the William and Mary Law School, (Tara, The Supreme Court’s Legitimacy Dilemma, <https://harvardlawreview.org/2019/06/the-supreme-courts-legitimacy-dilemma/>)

Until recently, “diffuse support” scholars have insisted that there is no reason to worry about this potential risk to the Court’s sociological legitimacy. After all, with swing Justices (like Justices O’Connor and Kennedy), the Supreme Court has reliably issued a mix of “progressive” and “conservative” decisions in salient cases. In the past fifteen years, although progressives may have disliked the Court’s rulings on issues such as gun rights and campaign finance, they had good reason to cheer the jurisprudence on same-sex marriage and affirmative action; conservatives could do the reverse. That is, there have been no repeat “losers.” But this research also suggests that if the Court’s decisions in high-profile cases begin to point in only one direction, the “losers” might over time see little reason to treat the Court as a legitimate source of authority.

#### A more conservative court ultimately collapses legitimacy

Gibson 17, Sidney W. Souers Professor of Government, Department of Political Science, Washington University in St. Louis., (James, Article: Performance Evaluations Are Not Legitimacy Judgments:A Caution About Interpreting Public Opinions Toward the United States Supreme Court\*, 54 Wash. U. J.L. & Pol'y 71)

One obvious criticism of the empirical evidence adduced in this study is that it is static: it represents a snapshot of public opinion at only a single point in time. In the longer term, one could spin a story from these data that spells danger and peril for the Court. At the present, evaluations of the Court are connected to ideology; as partisan sorting in all phases of American politics takes place, it may not take much time for ideological differences to bleed into partisan differences. More important, performance evaluations today, which are indeed grounded in ideological differences, may ultimately [\*88] contaminate attitudes toward the institution itself. No theory of legitimacy suggests that a badly performing institution can maintain its institutional support ad infinitum. Adding fuel to this argument is that, although the Court today appears to some scholars to be moderate in its policy making, it is quite likely, given the Trump presidency, to become more ideologically extreme in the near future, which can, it seems, erode the institution's basic support. How long this might take, no social scientist can say. That there may be danger for the Court in the near future, however, seems reasonably likely.

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### !---DPT---1NR

#### Democratic spread puts a cap on conflict, and authoritarianism makes all of their impacts more likely

Diamond 19 – PhD in Sociology, professor of Sociology and Political Science at Stanford University (Larry, “Ill Winds: Saving Democracy from Russian Rage, Chinese Ambition and American Complacency,” Kindle Edition)

To make our republics more perfect, established democracies must not only adopt reforms to more fully include and empower their own citizens. They must also support people, groups, and institutions struggling to achieve democratic values elsewhere. The best way to counter Russian rage and Chinese ambition is to show that Moscow and Beijing are on the wrong side of history; that people everywhere yearn to be free; and that they can make freedom work to achieve a more just, sustainable, and prosperous society. In our networked age, both idealism and the harder imperatives of global power and security argue for more democracy, not less. For one thing, if we do not worry about the quality of governance in lower-income countries, we will face more and more troubled and failing states. Famine and genocide are the curse of authoritarian states, not democratic ones. Outright state collapse is the ultimate, bitter fruit of tyranny. When countries like Syria, Libya, and Afghanistan descend into civil war; when poor states in Africa cannot generate jobs and improve their citizens’ lives due to rule by corrupt and callous strongmen; when Central American societies are held hostage by brutal gangs and kleptocratic rulers, people flee—and wash up on the shores of the democracies. Europe and the United States cannot withstand the rising pressures of immigration unless they work to support better, more stable and accountable government in troubled countries. The world has simply grown too small, too flat, and too fast to wall off rotten states and pretend they are on some other planet. Hard security interests are at stake. As even the Trump administration’s 2017 National Security Strategy makes clear, the main threats to U.S. national security all stem from authoritarianism, whether in the form of tyrannies from Russia and China to Iran and North Korea or in the guise of antidemocratic terrorist movements such as ISIS. 1 By supporting the development of democracy around the world, we can deny these authoritarian adversaries the geopolitical running room they seek. Just as Russia, China, and Iran are trying to undermine democracies to bend other countries to their will, so too can we contain these autocrats’ ambitions by helping other countries build effective, resilient democracies that can withstand the dictators’ malevolence. Of course, democratically elected governments with open societies will not support the American line on every issue. But no free society wants to mortgage its future to another country. The American national interest would best be secured by a pluralistic world of free countries—one in which autocrats can no longer use corruption and coercion to gobble up resources, alliances, and territory. If you look back over our history to see who has posed a threat to the United States and our allies, it has always been authoritarian regimes and empires. As political scientists have long noted, no two democracies have ever gone to war with each other—ever. It is not the democracies of the world that are supporting international terrorism, proliferating weapons of mass destruction, or threatening the territory of their neighbors.

#### DPT true

Hegre et al. ’18 (Havard; Professor Department of Peace and Conflict Research Uppsala University; Michael Bernhard; Miriam Ehrlich Chair in Political Science Department of Political Science University of Florida; Jan Teorell; Professor of Political Science Department of Political Science Lund University; *Reassessing the Democratic Peace: A Novel Test Based on the Varieties of Democracy Data*; <https://gupea.ub.gu.se/bitstream/2077/56045/1/gupea_2077_56045_1.pdf>; accessed 7/17/19)

4. Results

We estimated two sets of models for all pairs of states for every year over the 1900–2010 period with the democratic peace hypothesis represented as the democracy score(s) of the stronger country, that of the weaker country, the interaction of these two, and several control variables. In the first set of models, we entered the five indicators of constraint one by one along with our control variables. Figure 3 summarizes the results from these models. Complete estimation results in table form with all control variables are found in Appendix Table A-1.

The first model (called ‘Electoral accountability’) enters the three terms based on the electoral accountability index along with control variables. The estimates from this model are printed in green color at the top of the figure. The points represent the estimates and the whiskers their estimated 95% confidence interval. The two main terms are both positive, although that for the weaker country is not statistically significant. The interaction between the index values for the two countries in the dyad, on the other hand, is negative and highly significant – when both countries score highly in terms of electoral accountability, the risk of fatal dispute is much lower than if either have low scores. In line with expectations, we show in Appendix Table A-3 that the effect of electoral democracy is driven by the “Schumpeterian” core dimensions tapping into contestation – whereas suffrage does not play an independent role in promoting peace.

The second model enters the ‘Legislative constraints’ index terms. Again, the interaction term is negative and significant, whereas the main terms are positive and significant. Similar patterns are observed for the other three individual indicators.

Figure 4 shows that the net effect for each of these indicators is consistent with the democratic peace. In the left panels, the dashed line plots the estimated log odds of a MID when the weaker country j is at the mean of the index, as a function of the score for the stronger country (along the x-axis). The metric for the y-axis is log odds relative to the case where both countries have scores of 0 for the index. The dotted and solid lines show the same when the index is one standard deviation below or above the mean.19

The graph on the right plots the marginal effect of this relationship – it shows the change in the estimated probability of a fatal dispute when comparing a pair of countries where the weaker country has a value for the index one standard deviation below the mean and one standard 22 deviation above, respectively, as a function of the index for the stronger country. Both these graphs show a clear dyadic democratic peace in terms of all our indices of constraint – a more democratic weaker country means a clearly lower risk of fatal MID if the stronger country is relatively democratic.20

All of our individual indicators of constraint reflect the democratic peace when entered on their own. Given the high correlation between them, however, each of them may serve as a proxy for one of the other. We investigate which of them are relatively most important along two routes.

#### Prefer our evidence---newest methods provide clear causality.

Hegre et al. ’18 (Havard; Professor Department of Peace and Conflict Research Uppsala University; Michael Bernhard; Miriam Ehrlich Chair in Political Science Department of Political Science University of Florida; Jan Teorell; Professor of Political Science Department of Political Science Lund University; *Reassessing the Democratic Peace: A Novel Test Based on the Varieties of Democracy Data*; <https://gupea.ub.gu.se/bitstream/2077/56045/1/gupea_2077_56045_1.pdf>; accessed 7/17/19)

5. Conclusion

In this article we have introduced two novelties into the study of the democratic peace. First, we make use of the V-Dem data and demonstrate that it improves on Polity, the dominant measure in that literature, along at least two dimensions. First, V-Dem has a superior concept-to measurement consistency, given its starting point was the overt modeling of democracy. Moreover, the V-Dem data are vastly more detailed than Polity, allowing us to operationalize much more precise theoretical mechanisms than the simpler datasets. Accordingly, our fit tests show that our V-Dem-based indices model the democratic peace much better than Polity, both in terms of in-sample goodness of fit and out-of-sample predictive performance.

Second, and more importantly, we have identified a subset of the multiplicity of democracy’s attributes that seem to explain its ability to deter war-like behavior. Specifically we show that, when entered individually, electoral accountability, judicial and legislative constraints on the executive, media freedom and civil society participation promote the democratic peace, when controlling for the other standard determinants of inter-state disputes. When pitted against each 28 other, however, only horizontal constraints on the executive and civil society participation continue to have a direct effect on dyadic peace. We thus find most consistent support for the horizontal and informal-vertical accountability mechanisms underlying the democratic peace. Earlier we cited the claim of Maoz and Russett (1993, 626) that ‘the mobilization of … general public opinion’ matters at the same order of importance as the ‘variety of institutions that make up the system of government’. Our findings provide support for the institutional side of their claims but to some extent contradict what they say about social mobilization. We confirm important aspects of earlier work on the democratic peace such as Doyle’s (1983a,b) ‘liberal peace’ argument and Choi’s (2010) focus on legislative veto players. However, our results on the role of civil society suggest that social mobilization is also important. The exclusion of the peace-making role of civil society in this literature may well be a function of the past paucity of data to measure it. Given the strong model fit and predictive performance of the models that include this new V-Dem variable, this omission has been an important oversight in the literature from the perspective of our constraint-based theorization of the mechanisms behind the democratic peace.

### !---Spillover---1NR

#### Norm decline spills over and leads to extinction.

Diamond 19, Professor of Political Science and Sociology at Stanford University, Senior Fellow at the Hoover Institution, Senior Fellow at the Freeman Spogli Institute for International Studies, PhD in Sociology from Stanford University, (Dr. Larry, Ill Winds: Saving Democracy from Russian Rage, Chinese Ambition, and American Complacency, pg. 199-202)

The most obvious response to the ill winds blowing from the world’s autocracies is to help the winds of freedom blowing in the other direction. The democracies of the West cannot save themselves if they do not stand with democrats around the world. This is truer now than ever, for several reasons. We live in a globalized world, one in which models, trends, and ideas cascade across borders. Any wind of change may gather quickly and blow with gale force. People everywhere form ideas about how to govern—or simply about which forms of government and sources of power may be irresistible—based on what they see happening elsewhere. We are now immersed in a fierce global contest of ideas, information, and norms. In the digital age, that contest is moving at lightning speed, shaping how people think about their political systems and the way the world runs. As doubts about and threats to democracy are mounting in the West, this is not a contest that the democracies can afford to lose. Globalization, with its flows of trade and information, raises the stakes for us in another way. Authoritarian and badly governed regimes increasingly pose a direct threat to popular sovereignty and the rule of law in our own democracies. Covert flows of money and influence are subverting and corrupting our democratic processes and institutions. They will not stop just because Americans and others pretend that we have no stake in the future of freedom in the world. If we want to defend the core principles of self-government, transparency, and accountability in our own democracies, we have no choice but to promote them globally. It is not enough to say that dictatorship is bad and that democracy, however flawed, is still better. Popular enthusiasm for a lesser evil cannot be sustained indefinitely. People need the inspiration of a positive vision. Democracy must demonstrate that it is a just and fair political system that advances humane values and the common good. To make our republics more perfect, established democracies must not only adopt reforms to more fully include and empower their own citizens. They must also support people, groups, and institutions struggling to achieve democratic values elsewhere. The best way to counter Russian rage and Chinese ambition is to show that Moscow and Beijing are on the wrong side of history; that people everywhere yearn to be free; and that they can make freedom work to achieve a more just, sustainable, and prosperous society. In our networked age, both idealism and the harder imperatives of global power and security argue for more democracy, not less. For one thing, if we do not worry about the quality of governance in lower-income countries, we will face more and more troubled and failing states. Famine and genocide are the curse of authoritarian states, not democratic ones. Outright state collapse is the ultimate, bitter fruit of tyranny. When countries like Syria, Libya, and Afghanistan descend into civil war; when poor states in Africa cannot generate jobs and improve their citizens’ lives due to rule by corrupt and callous strongmen; when Central American societies are held hostage by brutal gangs and kleptocratic rulers, people flee—and wash up on the shores of the democracies. Europe and the United States cannot withstand the rising pressures of immigration unless they work to support better, more stable and accountable government in troubled countries. The world has simply grown too small, too flat, and too fast to wall off rotten states and pretend they are on some other planet. Hard security interests are at stake. As even the Trump administration’s 2017 National Security Strategy makes clear, the main threats to U.S. national security all stem from authoritarianism, whether in the form of tyrannies from Russia and China to Iran and North Korea or in the guise of antidemocratic terrorist movements such as ISIS.1 By supporting the development of democracy around the world, we can deny these authoritarian adversaries the geopolitical running room they seek. Just as Russia, China, and Iran are trying to undermine democracies to bend other countries to their will, so too can we contain these autocrats’ ambitions by helping other countries build effective, resilient democracies that can withstand the dictators’ malevolence. Of course, democratically elected governments with open societies will not support the American line on every issue. But no free society wants to mortgage its future to another country. 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# 2NR

#### Authoritarianism collapses global climate efforts

Kendall-**Taylor 16**– PhD in Political Science @ UCLA, Senior Fellow and Director of the Transatlantic Security Program at the Center for a New American Security (CNAS). She works on national security challenges facing the United States and Europe, focusing on Russia, populism and threats to democracy, and the state of the Transatlantic alliance (Andrea, “How Democracy’s Decline Would Undermine the International Order,” *Center for Strategic and International Studies*, <https://www.csis.org/analysis/how-democracy%E2%80%99s-decline-would-undermine-international-order>)

Although none of these burgeoning relationships has developed into a highly unified partnership, democratic backsliding in these countries has provided a basis for cooperation where it did not previously exist. And while the United States certainly finds common cause with authoritarian partners on specific issues, the depth and reliability of such cooperation is limited. Consequently, further democratic decline could seriously compromise the United States’ ability to form the kinds of deep partnerships that will be required to confront today’s increasingly complex challenges. Global issues such as **climate change**, migration, and violent extremism demand the coordination and cooperation that democratic backsliding would put in peril. Put simply, the United States is a **less effective and influential actor** if it loses its ability to rely on its partnerships with other democratic nations.