# 1NC vs Emory PR

### T---1NC

#### Interpretation: Topical affirmatives must instrumentally defend an expansion of the scope of the United States core antitrust laws to substantially increase prohibitions on anticompetitive business practices.

#### Resolved means a policy

Louisiana House 5

(<http://house.louisiana.gov/house-glossary.htm>)

Resolution A legislative instrument that generally is used for making declarations, stating policies, and making decisions where some other form is not required. A bill includes the constitutionally required enacting clause; a resolution uses the term "resolved". Not subject to a time limit for introduction nor to governor's veto. ( Const. Art. III, §17(B) and House Rules 8.11 , 13.1 , 6.8 , and 7.4)

#### Federal government is the legislative, executive and judicial

US Legal No Date (United States Federal Government Law and Legal Definition https://definitions.uslegal.com/u/united-states-federal-government/)

The United States Federal Government is established by the US Constitution. The Federal Government shares sovereignty over the United Sates with the individual governments of the States of US. The Federal government has three branches: i) the legislature, which is the US Congress, ii) Executive, comprised of the President and Vice president of the US and iii) Judiciary. The US Constitution prescribes a system of separation of powers and ‘checks and balances’ for the smooth functioning of all the three branches of the Federal Government. The US Constitution limits the powers of the Federal Government to the powers assigned to it; all powers not expressly assigned to the Federal Government are reserved to the States or to the people.

#### Should requires action

AHD 2k

(American Heritage Dictionary 2000 (Dictionary.com))

should. The will to do something or have something take place: I shall go out if I feel like it.

#### ‘Its’ means United States Antitrust Laws.

US District Court 7 (United States District Court for the District of the Virgin Islands, Division of St. Thomas and St. John, “AGF Marine Aviation & Transp. v. Cassin,” *2007 U.S. Dist. LEXIS 90808*, Lexis)

The Court inadvertently used the word "his" when the Court intended to use the word "its." The possessive pronoun was intended to refer to the party preceding its use--AGF. Indeed, that reference is consistent with the undisputed facts in this case, which indicate that Cassin completed an application for the insurance policy and submitted it to his agent, Theodore Tunick & Company ("Tunick"). Tunick, in turn, submitted the application to AGF's underwriting agent, TL Dallas. (See Pl.'s Mem. of Law in Supp. of Mot. for Summ. J. 5.)

#### The “core” antitrust statutes are the Sherman Act, Clayton Act, and FTC Act

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U.S. antitrust law is defined by federal and state statutes, as interpreted by the courts. The core federal statutes are the Sherman Act,1 passed by Congress in 1890, and the Federal Trade Commission2 and Clayton Acts,3 both passed in 1914. The United States Department of Justice (“DOJ”) and the Federal Trade Commission (“FTC” or “Commission”) (together the “agencies”) share enforcement of most areas of federal antitrust law but with some differences in the scope of their authority. The FTC has sole authority to enforce Section 5 of FTC Act, which prohibits (1) unfair methods of competition and (2) unfair or deceptive acts or practices. The FTC almost always pursues claims for anticompetitive conduct as unfair methods of competition and reserves charges of unfair or deceptive acts or practices for consumer protection violations. Though the FTC's authority to challenge unfair methods of competition goes beyond conduct prohibited by the Sherman and Clayton Acts, in practice the FTC brings most unfair methods of competition cases under the same standards that courts apply to Sherman Act claims. The most prominent exception is the invitation to collude offense, which falls outside the scope of the Sherman Act (if the invitation is not accepted, there is no agreement). The FTC challenges invitations to collude as so-called “standalone” violations of Section 5.4 The DOJ has sole authority to pursue criminal violations of the antitrust laws. Most states have their own state antitrust and unfair competition statutes. State law follows federal law to some extent, though as discussed below, may differ from federal law in meaningful ways that vary state to state. State attorneys general and private parties can also typically file suit to enforce both federal and state antitrust law.

#### They violate each of the above words’ requirements of government action.

#### Two impacts:

#### Fairness — debate requires effective competition between the aff and the neg---the only way for any benefit to be produced from debate is if the judge can make a decision between two sides who have had a relatively equal chance to prepare for a common point of debate.

#### Clash, debate is unique because of the iteration of limited arguments over the course of a season that forces debaters to improve their arguments and reconsider their positions. Their topic is unilaterally declared and imprecise, which prevents iteration through shallow debates, unpredictable advocacies, and lack of testing. Turns case.

#### Clash outweighs – a predictable point of disagreement allows for in depth preparation that results in iterative improvement of our arsguments and superior education – abdication of a predictable stasis point flips incentives and prevents contradiction. Turns the case – rigorous testing is key to avoid false positives, polarization, and prove anything they said is true.

Poscher, 16—director at the Institute for Staatswissenschaft and Philosophy of Law at the University of Freiburg (Ralf, “Why We Argue About the Law: An Agonistic Account of Legal Disagreement”, *Metaphilosophy of Law*, Tomasz Gizbert-Studnicki/Adam Dyrda/Pawel Banas (eds.), Hart Publishing, forthcoming, dml)

Hegel’s dialectical thinking powerfully exploits the idea of negation. It is a central feature of spirit and consciousness that they have the power to negate. The spirit “is this power only by looking the negative in the face and tarrying with it. This […] is the magical power that converts it into being.”102 The tarrying with the negative is part of what Hegel calls the “labour of the negative”103. In a loose reference to this Hegelian notion Gerald Postema points to yet another feature of disagreements as a necessary ingredient of the process of practical reasoning. Only if our reasoning is exposed to contrary arguments can we test its merits. We must go through the “labor of the negative” to have trust in our deliberative processes.104 This also holds where we seem to be in agreement. Agreement without exposure to disagreement can be deceptive in various ways. The first phenomenon Postema draws attention to is the group polarization effect. When a group of like‐minded people deliberates an issue, informational and reputational cascades produce more extreme views in the process of their deliberations.105 The polarization and biases that are well documented for such groups106 can be countered at least in some settings by the inclusion of dissenting voices. In these scenarios, disagreement can be a cure for dysfunctional deliberative polarization and biases.107 A second deliberative dysfunction mitigated by disagreement is superficial agreement, which can even be manipulatively used in the sense of a “presumptuous ‘We’”108. Disagreement can help to police such distortions of deliberative processes by challenging superficial agreements. Disagreements may thus signal that a deliberative process is not contaminated with dysfunctional agreements stemming from polarization or superficiality. Protecting our discourse against such contaminations is valuable even if we do not come to terms. Each of the opposing positions will profit from the catharsis it received “by looking the negative in the face and tarrying with it”. These advantages of disagreement in collective deliberations are mirrored on the individual level. Even if the probability of reaching a consensus with our opponents is very low from the beginning, as might be the case in deeply entrenched conflicts, entering into an exchange of arguments can still serve to test and improve our position. We have to do the “labor of the negative” for ourselves. Even if we cannot come up with a line of argument that coheres well with everybody else’s beliefs, attitudes and dispositions, we can still come up with a line of argument that achieves this goal for our own personal beliefs, attitudes and dispositions. To provide ourselves with the most coherent system of our own beliefs, attitudes and dispositions is – at least in important issues – an aspect of personal integrity – to borrow one of Dworkin’s favorite expressions for a less aspirational idea. In hard cases we must – in some way – lay out the argument for ourselves to figure out what we believe to be the right answer. We might not know what we believe ourselves in questions of abortion, the death penalty, torture, and stem cell research, until we have developed a line of argument against the background of our subjective beliefs, attitudes and dispositions. In these cases it might be rational to discuss the issue with someone unlikely to share some of our more fundamental convictions or who opposes the view towards which we lean. This might even be the most helpful way of corroborating a view, because we know that our adversary is much more motivated to find a potential flaw in our argument than someone with whom we know we are in agreement. It might be more helpful to discuss a liberal position with Scalia than with Breyer if we want to make sure that we have not overlooked some counter‐argument to our case. It would be too narrow an understanding of our practice of legal disagreement and argumentation if we restricted its purpose to persuading an adversary in the case at hand and inferred from this narrow understanding the irrationality of argumentation in hard cases, in which we know beforehand that we will not be able to persuade. Rational argumentation is a much more complex practice in a more complex social framework. Argumentation with an adversary can have purposes beyond persuading him: to test one’s own convictions, to engage our opponent in inferential commitments and to persuade third parties are only some of these; to rally our troops or express our convictions might be others. To make our peace with Kant we could say that “there must be a hope of coming to terms” with someone though not necessarily with our opponent, but maybe only a third party or even just ourselves and not necessarily only on the issue at hand, but maybe through inferential commitments in a different arena. f) The Advantage Over Non‐Argumentative Alternatives It goes without saying that in real world legal disagreements, all of the reasons listed above usually play in concert and will typically hold true to different degrees relative to different participants in the debate: There will be some participants for whom our hope of coming to terms might still be justified and others for whom only some of the other reasons hold and some for whom it is a mixture of all of the reasons in shifting degrees as our disagreements evolve. It is also apparent that, with the exception of the first reason, the rationality of our disagreements is of a secondary nature. The rational does not lie in the discovery of a single right answer to the topic of debate, since in hard cases there are no single right answers. Instead, our disagreements are instrumental to rationales which lie beyond the topic at hand, like the exploration of our communalities or of our inferential commitments. Since these reasons are of this secondary nature, they must stand up to alternative ways of settling irreconcilable disagreements that have other secondary reasons in their favor – like swiftness of decision making or using fewer resources. Why does our legal practice require lengthy arguments and discursive efforts even in appellate or supreme court cases of irreconcilable legal disagreements? The closure has to come by some non‐argumentative mean and courts have always relied on them. For the medieval courts of the Germanic tradition it is bequeathed that judges had to fight it out literally if they disagreed on a question of law – though the king allowed them to pick surrogate fighters.109 It is understandable that the process of civilization has led us to non‐violent non‐ argumentative means to determine the law. But what was wrong with District Judge Currin of Umatilla County in Oregon, who – in his late days – decided inconclusive traffic violations by publicly flipping a coin?110 If we are counting heads at the end of our lengthy argumentative proceedings anyway, why not decide hard cases by gut voting at the outset and spare everybody the cost of developing elaborate arguments on questions, where there is not fact of the matter to be discovered? One reason lies in the mixed nature of our reasons in actual legal disagreements. The different second order reasons can be held apart analytically, but not in real life cases. The hope of coming to terms will often play a role at least for some time relative to some participants in the debate. A second reason is that the objectives listed above could not be achieved by a non‐argumentative procedure. Flipping a coin, throwing dice or taking a gut vote would not help us to explore our communalities or our inferential commitments nor help to scrutinize the positions in play. A third reason is the overall rational aspiration of the law that Dworkin relates to in his integrity account111. In a justificatory sense112 the law aspires to give a coherent account of itself – even if it is not the only right one – required by equal respect under conditions of normative disagreement.113 Combining legal argumentation with the non‐argumentative decision‐ making procedure of counting reasoned opinions serves the coherence aspiration of the law in at least two ways: First, the labor of the negative reduces the chances that constructions of the law that have major flaws or inconsistencies built into the arguments supporting them will prevail. Second, since every position must be a reasoned one within the given framework of the law, it must be one that somehow fits into the overall structure of the law along coherent lines. It thus protects against incoherent “checkerboard” treatments114 of hard cases. It is the combination of reasoned disagreement and the non‐rational decision‐making mechanism of counting reasoned opinions that provides for both in hard cases: a decision and one – of multiple possible – coherent constructions of the law. Pure non‐rational procedures – like flipping a coin – would only provide for the decision part. Pure argumentative procedures – which are not geared towards a decision procedure – would undercut the incentive structure of our agonistic disagreements.115 In the face of unresolvable disagreements endless debates would seem an idle enterprise. That the debates are about winning or losing helps to keep the participants engaged. That the decision depends on counting reasoned opinions guarantees that the engagement focuses on rational argumentation. No plain non‐argumentative procedure would achieve this result. If the judges were to flip a coin at the end of the trial in hard cases, there would be little incentive to engage in an exchange of arguments. It is specifically the count of reasoned opinions which provides for rational scrutiny in our legal disagreements and thus contributes to the rationales discussed above. 2. THE SEMANTICS OF AGONISTIC DISAGREEMENTS The agonistic account does not presuppose a fact of the matter, it is not accompanied by an ontological commitment, and the question of how the fact of the matter could be known to us is not even raised. Thus the agonistic account of legal disagreement is not confronted with the metaphysical or epistemological questions that plague one‐right‐answer theories in particular. However, it must still come up with a semantics that explains in what sense we disagree about the same issue and are not just talking at cross purposes. In a series of articles David Plunkett and Tim Sundell have reconstructed legal disagreements in semantic terms as metalinguistic negotiations on the usage of a term that at the center of a hard case like “cruel and unusual punishment” in a death‐penalty case.116 Even though the different sides in the debate define the term differently, they are not talking past each other, since they are engaged in a metalinguistic negotiation on the use of the same term. The metalinguistic negotiation on the use of the term serves as a semantic anchor for a disagreement on the substantive issues connected with the term because of its functional role in the law. The “cruel and unusual punishment”‐clause thus serves to argue about the permissibility of the death penalty. This account, however only provides a very superficial semantic commonality. But the commonality between the participants of a legal disagreement go deeper than a discussion whether the term “bank” should in future only to be used for financial institutions, which fulfills every criteria for semantic negotiations that Plunkett and Sundell propose. Unlike in mere semantic negotiations, like the on the disambiguation of the term “bank”, there is also some kind of identity of the substantive issues at stake in legal disagreements. A promising route to capture this aspect of legal disagreements might be offered by recent semantic approaches that try to accommodate the externalist challenges of realist semantics,117 which inspire one‐right‐answer theorists like Moore or David Brink. Neo‐ descriptivist and two‐valued semantics provide for the theoretical or interpretive element of realist semantics without having to commit to the ontological positions of traditional externalism. In a sense they offer externalist semantics with no ontological strings attached. The less controversial aspect of the externalist picture of meaning developed in neo‐ descriptivist and two‐valued semantics can be found in the deferential structure that our meaning‐providing intentions often encompass.118 In the case of natural kinds, speakers defer to the expertise of chemists when they employ natural kind terms like gold or water. If a speaker orders someone to buy $ 10,000 worth of gold as a safe investment, he might not know the exact atomic structure of the chemical element 79. In cases of doubt, though, he would insist that he meant to buy only stuff that chemical experts – or the markets for that matter – qualify as gold. The deferential element in the speaker’s intentions provides for the specific externalist element of the semantics. In the case of the law, the meaning‐providing intentions connected to the provisions of the law can be understood to defer in a similar manner to the best overall theory or interpretation of the legal materials. Against the background of such a semantic framework the conceptual unity of a linguistic practice is not ratified by the existence of a single best answer, but by the unity of the interpretive effort that extends to legal materials and legal practices that have sufficient overlap119 – be it only in a historical perspective120. The fulcrum of disagreement that Dworkin sees in the existence of a single right answer121 does not lie in its existence, but in the communality of the effort – if only on the basis of an overlapping common ground of legal materials, accepted practices, experiences and dispositions. As two athletes are engaged in the same contest when they follow the same rules, share the same concept of winning and losing and act in the same context, but follow very different styles of e.g. wrestling, boxing, swimming etc. They are in the same contest, even if there is no single best style in which to wrestle, box or swim. Each, however, is engaged in developing the best style to win against their opponent, just as two lawyers try to develop the best argument to convince a bench of judges.122 Within such a semantic framework even people with radically opposing views about the application of an expression can still share a concept, in that they are engaged in the same process of theorizing over roughly the same legal materials and practices. Semantic frameworks along these lines allow for adamant disagreements without abandoning the idea that people are talking about the same concept. An agonistic account of legal disagreement can build on such a semantic framework, which can explain in what sense lawyers, judges and scholars engaged in agonistic disagreements are not talking past each other. They are engaged in developing the best interpretation of roughly the same legal materials, albeit against the background of diverging beliefs, attitudes and dispositions that lead them to divergent conclusions in hard cases. Despite the divergent conclusions, semantic unity is provided by the largely overlapping legal materials that form the basis for their disagreement. Such a semantic collapses only when we lack a sufficient overlap in the materials. To use an example of Michael Moore’s: If we wanted to debate whether a certain work of art was “just”, we share neither paradigms nor a tradition of applying the concept of justice to art such as to engage in an intelligible controversy.s

#### TVA: The United States federal government should substantially increase prohibitions on anticompetitive private cartel practices in cases where foreign plaintiffs cannot secure adequate relief in alternative fora.

#### Status quo US-centric antitrust creates an exclusive club that bars the Global South from reaping the benefits of international law. Empagran is a form of legal imperialism that restricts necessary protection beneath U.S. antitrust, which privileges the profits of Western, transnational cartels over the genuine interests of developing countries.

Michaels 11, \*Ralf Michaels, Professor of Law at Duke University, Director at the Max Planck Institute for Comparative and International Private Law in Hamburg, Global Law Professor at Queen Mary University of London School of Law, and Professor of Law at Hamburg University, has been a visiting professor at the Universities of Panthéon/Assas (Paris II), Princeton, Pennsylvania, Toronto, and the London School of Economics, and has held senior research fellowships at Harvard and Princeton, (2011, “Empagran’s Empire: International Law and Statutory Interpretation in the U.S. Supreme Court of the Twenty-First Century,” <https://scholarship.law.duke.edu/faculty_scholarship/2319/>)

IV. A HEGEMONIALIST READING:

THE ABSENCE OF THE DEVELOPING WORLD

A problem remains. The idea of decentralized regulation – each regulates its own markets, so all the world is regulated – can succeed only if regulatory authority exists everywhere on the checkerboard. This is a problem in antitrust law. Although the United States is no longer the only country with effective antitrust enforcement, many countries still lack the capacity or political will (or both) to crack down on cartels. None of these considerations, however, can be found in the Empagran decision. The most striking passage in the opinion is one in which Justice Breyer suggests such a checkerboard world of regulation: “Why should American law supplant, for example, Canada's or Great Britain's or Japan's own determination about how best to protect Canadian or British or Japanese customers from anticompetitive conduct…?”60

This is a strange way of putting the problem. In Empagran, the named plaintiffs were not “Canadian, or British or Japanese customers”– they came from Ukraine, Ecuador, and Panama. Yet throughout the opinion, Justice Breyer never addresses the sovereign interests of those countries. When he states that application of U.S. law “would undermine foreign nations' own antitrust enforcement policies,”61 he is not speaking of Ecuador (which may be quite happy if the United States cracks down on cartels impacting that country).62 Instead, he speaks of Germany and Canada. When he fears that “to apply our remedies would unjustifiably permit [foreign nations’] citizens to bypass their own less generous remedial schemes, thereby upsetting a balance of competing considerations that their own domestic antitrust laws embody,”63 the balance of competing considerations he has in mind is that of Germany, Canada, and Japan, not that of Ukraine. In the end, Justice Breyer is not allowing Canada, Great Britain, or Japan to determine how best to protect their consumers as he proclaims. Instead, he is protecting Canadian, British, and Japanese corporations against their overcharged customers abroad.64 All named plaintiffs come from developing countries; all defendants and all amicus briefs come from developed countries. The court will apparently listen to the latter, and ignore the former.

In doing so, the Court adopts not only the nineteenth century idea of neatly distinguished territorial entities; it also adopts the old idea of an international law limited to European and North American countries.65 Developed countries regulate their markets, and the rest of the world remains unregulated – with the consequence that European and American defendants can retrieve the money they lose to American and European plaintiffs and regulators. Justice Breyer’s harmony among countries creates quite an exclusive club. In the name of avoiding U.S. hegemony over other developed countries, the Supreme Court endorses hegemony of developed over undeveloped countries. It avoids the imperialism of imposing U.S. law on others, but it endorses the imperialism of restricting access to U.S. law.

The exclusive focus on the sovereign interests of Western countries is best demonstrated, ironically, by the near absence of non-Western countries in Western discourse, especially in the United States. But it has a long and well-known history in international law. An uneasy relation to developing countries characterized the Court’s first major opinion on international antitrust American Banana.66 There, Justice Holmes suggested that the presumption against extraterritoriality might not apply to “regions subject ... to no law that civilized countries would recognize as adequate,”67 but he did not ultimately apply this exception to Costa Rica, which for the time has aptly been characterized as a “Banana Republic”. 68 One explanation can perhaps be found in a citation to a passage in Dicey’s work on conflict of laws dealing with “law governing acts done in uncivilized countries.”69 Dicey realized that deference to uncivilized countries could hardly be justified by principles of civility . Nonetheless, he suggested applying the rules governing relations with civilized countries by analogy, as far as possible. 70 In other words, the inclusion of non-Western nations in the family of nations does not alter the concept of a state in international law. Instead, that concept, crafted after Western models, is imposed on non- Western countries by analogy.

We can see even more striking similarities in the treatment of Africa in the slave trade cases. In Le Louis, Sir Walter Scott was aware that deference to the interests of France operates to the detriment of Africa – “peace in Europe will be war in Africa.” 71 In the end, however, relations with France were more important than those with Africa. Scott asked: “Why is the British judge to intrude himself in subsidium juris, when everything requisite will be performed in the French Court in a legal and effectual manner?” 72 . The ensuing move from natural law to positivism foreshadowed the U.S. Supreme Court’s similar move, beginning with Marshall’s opinion in The Antelope.73 Less often discussed is how the move leads to a reduction in international law’s reach: if only the interests and positions of states count, then states that are unable to have their positions heard will be ignored.

Justice Breyer does not play out the developing against the developed world in the same way. Rather, he seems to imply that all countries share the same sovereign interest in self- determination, which must be respected, even if most developing countries lack the means to crack down on big international cartels. This equation among sovereigns is reminiscent of Chief Justice Marshall’s argument why a universally shared law of nations against slavery does not exist: “The parties to the modern law of nations do not propagate their principles by force; and Africa has not yet adopted them. Throughout the whole extent of that immense continent, so far as we know its history, it is still the law of nations that prisoners are slaves.” 74 Of course, this curious “gesture towards including Africa within the law of nations” 75 was of little use to Africa, or at least to its inhabitants subject to the slave trade. Moreover, Marshall confined the judge’s standard of international law to “the general assent of that portion of the world of which he considers himself as a part”76 – in other words, the Western world, which has long supported the slave trade. In such a world, which treats slavery as either a sovereign choice by sovereign African states, or as a given fact of African customs that Western nations are free to accept or reject, a genuine African interest in the abolition of slavery is absent from any analysis.

This suggests that the role of sovereignty for developing countries may be more complex than is often argued. Traditionally, the extraterritorial application of developed countries’ laws is criticized for stripping developing countries of their own regulatory independence, 77 with U.S. courts “as agents of U.S. hegemony.” 78 The underlying assumption is that developing countries’ sovereignty is merely formal: they lack the economic and political power to be truly independent. Even if this assumption is correct, the conclusion does not necessarily follow. Cases from The Antelope through Empagran suggest that the refusal to apply law extraterritorially -- especially regarding conduct that is almost universally condemned (slavery, price-fixing) – can also be a problem, because it leaves third world countries unprotected against the power of transnational commercial actors. If developing countries lack the domestic means to regulate those actors themselves, they may depend on developed countries’ willingness to regulate their own actors.

The Court’s real choice in Empagran is not between imperialism and international harmony. Rather, the choice is between two kinds of imperialism: one that comes from imposing U.S. law on the rest of the world, and the other from rejecting access to the courts necessary for protection against Western corporate actors. The Court avoids one kind of imperialism, but Justice Breyer’s pride seems unwarranted, because the Court falls, perhaps unavoidably, for another kind.

#### The plan would resolve that!

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5. A New Approach to the Empagran Problem: Legislative Authorization to the Executive Branch To Limit Jurisdiction Based on the Principles of Foreign Non Conveniens

A better approach would systematize the executive branch's review of other countries' antitrust regimes, apply that executive determination categorically over a class of cases, and remove judicial discretion with respect to complying with that executive determination. Accordingly, I recommend that the DOJ 2 7 6 should annually review other countries' antitrust regimes to determine whether they provide private parties an adequate forum to recover damages from cartel activities. Congress should amend 277 section 12 of the Clayton Act to bar jurisdiction in cases involving international cartels in which (1) neither the plaintiff nor the defendant is a national of the United States, and (2) the plaintiff or defendant is a national of a country that the DOJ currently lists as one that provides plaintiffs with an adequate private remedy in the antitrust claim, except (3) when that country permits United States jurisdiction for reasons of judicial economy. Such a law would promote international judicial economy in a transparent and predictable manner that prevents forum shopping without greatly reducing the deterrent effect of United States law.

The principles underlying this proposed law are those of the doctrine of forum non conveniens as articulated in Piper. Thus, if plaintiffs can secure relief in their domestic courts for antitrust violations that involve foreign harms, they should not be able to sue a foreign defendant in U.S. courts simply because the damages available there may be more favorable. However, when a foreign plaintiff cannot secure relief in her domestic courts--either because the courts do not permit jurisdiction over the claims or because the statutory relief is not actually available-she should first turn to the court system in which the foreign defendant is located. Again, this result would accord with a concern for convenience and judicial economy. Only if the plaintiff cannot receive adequate relief in her home forum or the defendant's home forum should U.S. courts exercise jurisdiction, assuming the requisite showing of a link to domestic effect is made. Such an exercise of jurisdiction would not be an act of charity toward the plaintiff; it would recognize that affording such plaintiffs an opportunity for relief somewhere is necessary to deter the international cartels that harm American consumers and businesses.

### Case---1NC

#### Cosmopolitanism is ethnic cleansing that appeals to a homogenous elite while papering over distinct ethnicities and silencing identity politics.

Calhoun 8, University Professor of Social Sciences at Arizona State University, Former Director of the London School of Economics and Political Science, Former President of the Social Science Research Council, Ph.D. in Sociology from Oxford University, MA in Anthropology and Sociology (Craig Calhoun, 2008, “Cosmopolitanism and Nationalism,” Nations and Nationalism, Volume 14, Issue 3, July, <https://is.muni.cz/el/1423/podzim2012/SAN237/um/Calhoun_cosmopolitan-and-nationalism.pdf>)

Imagining a world without nations, a world in which ethnicity is simply a consumer taste, a world in which each individual simply and directly inhabits the whole, is like imagining the melting pot in which all ethnicities vanish into the formation of a new kind of individual. In each case this produces an ideology especially attractive to some it neglects reasons why many reproduce ethnic or national distinctions. And perhaps most importantly it obscures the issues of inequality that make ethnically unmarked national identities accessible mainly to elites, and make an easy sense of being a citizen of the world contingent on having the right passports, credit cards and cultural credentials. American debates over immigration and assimilation predate independence, often as debates about the peopling of specific colonies, and shape both images of America and practical policies through the history of the United States. The dominant American ideology - common among scholars as well as the broader population - suggested that the first new nation' was precisely not an ethnic nation. Tom Paine famously held that Europe, not England is the parent country of America- though one might suggest that 'European' is itself an ethnic category of sorts, at least by comparison to, say, Asian or Latin American. In any event, British - and indeed, specifically English history loomed large in US school curricula. But both 'consensus historians (e.g. Higham, 1955) and later social scientists (e.g. Greenfield, 1992, Lipset, 1996) have commonly seen nativist movements as aberrations recurrently overcome, and the main pattern idealized that transcends ethnicity. This view perhaps grasps an element of truth in its contrasts to Europe, but it has been very uncritically held. From the beginning it failed to confront both the fundamental challenge of racial domination and the continuing hegemony of an elite constituted in part through ethnicity. Long described as WASP, this has broadened but not entirely disappeared, and continues to be reproduced in com mon experiences of education, religion and culture as well as networks of social relations.5 Recurrently, the notion of the ideal post-ethnic nation has also confronted waves of less elite nativist sentiment political agitation. And finally, the assertion of ethnic identities and the positive valuing of difference also have a long tradition, and one that has long made uncomfortable those who would see the struggle as only between assimilationists or cosmopolitans and nativists or racists. W.E.B. DuBois wrote famously of the double-consciousness of those for whom an ascriptive racial identity must always compete with an inclusive national identity. Yet, in The Souls of Black Folk he advocated no simple choice. 'One ever feels his two-ness,- an American, a Negro; two souls, two thoughts, two unreconciled strivinigs: two warring ideals in one dark body, whose dogged strength alone keeps it from being torn asunder (DuBois, 1994:2). The American Negro may long 'to merge his double-self into a better and truer self. But in this merging he wishes neither of the older selves to be lost. He would not Africanize America, for America has too much to teach the world and Africa. He would not bleach his Negro soul in a flood of white Americanism, for he knows that Negro blood has a message for the world. He simply wishes to make it possible for a man to be both a Negro and an American ...(DuBois, 1994: 3) Various sorts of "both/and identities are pervasive in the modern world. They are brought to the fore by international migration, by European integration, and by the claims of multiple states on common cultural traditions and identities, like China and Taiwan and for that matter Singapore. Islam and Christianity are each religions that produce common identities crossing national divisions. Gender, race and even engagement in social movements can produce 'both/and' identities (see Anzaldúa, 1987; Collins, 1990). Neither universalism nor essentialist nativism or nationalism deals well with these multiplicities and overlaps, and indeed it is common for universalists to imagine all claims to group solidarity on the model of nativist closure- and for nativists and nationalists to imagine all suggestions that multiple identities matter as rootless cosmopolitan' challenges to the integral whole. Celebration of multiple identities has recently come into vogue for example as multiculturalism- and has produced both universalist and particularist responses. I" Salman Rushdie says he writes love songs 'to our mongrel selves'; he refuses to be simply Indian, lives in England, and travels enough to show those who would stop him in the name of religious purity that they have failed (Rushdie, 2000: 394). Indeed, one might think it is hard for anyone to be simply Indian', so deeply plural and cross-cutting are the identities of the subcontinent. Yet there are other Indians living in England whose very sense of being is bound up with being Indian. And as Tariq Modood notes, many immigrants from India in the era of partition became Pakistanis without ever living in that country, and then in the dominant British politics of identity became Asian' and then more commonly Muslim (Modood et al., 2004). Indian' now distinguishes mainly Hindu Britons (ironically echoing the assertions of religious purity of some Hindu fundamentalists back on the subcontinent). There are also angry Englishmen determined to make sure that neither Indians nor Muslims ever feel they belong unequivocally to England's green and pleasant land. Of course there are also Indians in India for whom England is only ancient history and India itself somewhat abstract but for whom village or caste are central loca- tions. There are at least as many for whom a militantly Hindu account of being Indian is fundamentally compelling. And there are still other Indians for whom the Communist Party (or rather, one of them) is still vital and transcends ethnicity and nationality and others who love mathematics partly because it seems a universal language as well as a good source of that other universal, money. In England, when asked their national identity, those of Indian descent face the same puzzle as others: is the right answer English, British or just possibly European?" This sort of field of multiple and heterogeneously structured identities has become increasingly common in the contemporary world but it should not be thought that identities were ever quite so clear or singular in the past as ideology sometimes suggested. Colonialism produced plenty of examples and independence did not neatly straighten them out. Think of Léopold Senghor, first President of Senegal but before that a member of the French National Assembly and all the while a pan- Africanist, one of the founders of the idea and movement of negritude. Earlier empires produced their own such complexities, but even villages were not quite the homogenous communities of myth and nostalgia. From the 1960s to the 1990s multiculturalism was in vogue. The wave seems since to have crested. By 2007 a New York Times art critic could draw a contrast between Manhattan's somewhat more central art world and its Brooklyn cousin by saying Multiculturalist terms like identity hybridity and diversity may sound like words from a dead language in Chelsea, but they are the lingua franca of the Brooklyn show (Carter 2007), It's not only in the Chelsea galleries that 'identity' sounds passé it seems so 1990s to a range of social theoretical hipsters. They want to give identity and especially identity politics a rest and be cosmopolitan. But cosmopolitanism is claimed by multiculturalists as well as those who think multiculturalism has got out of hand and needs to be tamed by emphasis on universal humanity (and those who think multiculturalism is simply no longer trendy). Indeed the very idea of multiculturalism was also something of a theoretical muddle. On the one hand it suggested the essential malleability of identity and on the other the essential priority of identity (though both sides tended to condemn essentialism). The same went for the 'politics of identity. This meant most coherently that identity was always subject to politics - to struggles within groups over what they stood for, to struggles between those with different agendas over which identity would be primary. But to many it also meant sim- ply that different groups struggled politically to get due recognition for their identities or over issues in which the stakes were defined by group identity (see Calhoun, 1994). Cosmopolitanism is most often invoked by those who see identity politics as a sort of mistake - like lingering ethnonationalism, rather than citizenship of the world. But the issues have not gone away. European politics is rife with struggles over whether national identities or the common claim of 'European' should be primary. There are few African countries where claims for religious, or ethnic, or regional or 'tribal' identities are not sometimes as powerful as projects of national integration. Latin American countries find themselves common identity in the struggle against US domination, but internally are split by movements deriving significant force from indigenous resentment against elites defined in part by European ancestry (as well as cosmopolitan property). The economic rise of China both masks identity struggles within the People's Republic and intensifies others around Asia. And from the Middle East through South and South East Asia (and indeed in Europe, Africa and the US) Islamic renewal generates both struggles over identity and struggles defined by religious identities that modernization theorists had pronounced permanently fading.

#### National identity is important for peripheral subjects to form group solidarity and collectively resist asymmetrical globalization.

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It is a mistake to treat nationalism and other forms of group solidarity as a deviation from cosmopolitan neutrality. In the first place, cosmopolitanism is not neutral — though cosmopolitans can try to make both global institutions and global discourse more open and more fair. In the second place, national projects respond to global projects. They are not mere inheritances from the past, but ways — certainly very often problematic ways — of taking hold of current predicaments. The analogy between nations faced with globalization and minorities within nation states — both immigrants and so-called national minorities — is strong. Nations have much the same relationship to pan-national or global governance projects that localities and minorities had to the growth of national states.19 And we can learn from Kymlicka's injunction: 'Fairness therefore requires an ongoing, systematic exploration Of our common institutions to see whether their rules, structures and symbols disadvantage immigrants.'20 Cosmopolitanism at its best is a fight for just such fairness in the continued development Of global institutions. Moreover, the building of nation states has typically involved efforts to rationalize internal diversity — structuring the way it is represented in museums and statistics, establishing symmetrical units of local government, and so forth. And at least many cosmopolitanisms continue rather than breaking with this dimension of nationalism. But the analogy is not perfect. Not least, most immigrants (and national minorities) make only modest claims to sovereignty. Strong Westphalian doctrines of sovereignty may always have been problematic and may now be out of date. But just as it would be hasty to imagine we are embarking on a postnational era — when all the empirical indicators are that nationalism is resurgent precisely because of asymmetrical globalization — so it would be hasty to forget the strong claims to collective autonomy and self-determination of those who have been denied both, and the need for solidarity among those who are least empowered to realize their projects as individuals. Solidarity need not always be national, and need not always develop from traditional roots. But for many of those treated most unfairly in the world, nations and traditions are potentially important resources. Confronted with the exercise of global power by both multi-national corporations and the United States — whether one describes this as empire or an extension Of the US national project — resistance and other responses necessarily start from local, national and regional solidarities.

#### Cosmopolitanism is a utopian pipedream that is as equally exclusionary as nationalism---religious and cultural differences are entrenched.

Edmunds 13, Professor of Sociology at the University of Sussex, (Jane, January 15th, 2013, “Human rights, Islam and the failure of cosmopolitanism”, http://etn.sagepub.com/content/early/2013/01/14/1468796812470796)

It is not, therefore, incomplete cosmopolitanization that explains Europe’s exclusion of Muslims from cosmopolitan justice (in relation to religious freedom), but the core normative basis of its European version, which acts as a counterpoint to Muslim cosmopolitanism (Hanley, 2008; Marsden, 2008). This competing cosmopolitanism, whose globalism is expressed through thick and affective attachments, is incompatible with the cosmopolitan paradigm that is European. Indeed, the cosmopolitanism espoused by Muslims amounts to a challenge to the European project, one that is defined by cool attachments that negate religious identity. Cosmopolitanism’s commitment to supra-national politics does not extend to supra-national entities, such as the global ummah, which is spiritual and linked to thick religious attachments. The cosmopolitanism identified with Muslims – religious pilgrimages to Mecca such as the Haj or Umra – is averse to the western, liberal vision (see Meijer, 1999). This version is based on travel and mobility as an escape from thick solidarities and attachments, whereas Muslim cosmopolitanism is a manifestation of the ties that bind, which seem impenetrable (such as the niqab) to western liberalism. For European cosmopolitanism, the mobility of Muslims is a form of ‘bad’ cosmopolitanism, reminiscent of the wandering, inassimilable Jew (Gold, 2010) and other threatening cosmopolitans such as communists whose internationalist ideology and transnational political connections made them citizens of a world from which the power elite were excluded. The cosmopolitanism of communists was not regarded as liberal, but as a threat to liberal democracy, triggering McCarthyism. Indeed, the end of history famously invoked by Fukuyama (1992) rests on the view that religion is an impediment to modernization. To wear the burqa in the public sphere can be read, therefore, as an affront to the European cosmopolitan project, namely to undermine cultural or religious signs that seem to hark back to tradition rather than reason. This impenetrability acts as a challenge to liberal cosmopolitanism, which is based on openness; and explains the rejection by European human rights institutions to garments considered to be opaque such as the burqa. Wearing the hijab, despite its varying improvisations in new modern contexts, is ambivalently received by Europe’s cosmopolitan elite, which sees religious identity as irrational and archaic and damaging women’s dignity and autonomy. The inscrutability of the burqa contrasts sharply with cosmopolitanism’s openness. The exclusion of Muslims from Europe’s cosmopolitan project and justice is not, therefore, merely a by-product of a former era. It flows from the conception of Muslims as the ‘bad other’ to modernization and provides the narrative that followed the attack on the Twin Towers, portraying it as an attack on cosmopolitanism (Calhoun, 2002b: 869–870). By seeking to manifest their religious identity in public Muslims have, Levy and Sznaider (2006: 172–175) suggest, been cast in the role of enemies of cosmopolitanism through a ‘re-orientalization’ of Enlightenment thought. European cosmopolitan continues to define itself through an idea of ‘otherness’ represented by ethnic, national and religious belonging, in continuity with the original Enlightenment project. European cosmopolitanism, with its origins firmly rooted in this movement, still ‘orientalizes’ the other, hardening rather than softening moral boundaries to the detriment of religious groups (Levy and Sznaider, 2006: 172–175). Thus, even while speaking the language of human rights, Europe’s Muslims have so far failed to penetrate this barrier and have been excluded from the protections offered by supra-national institutions such as the ECtHR. Hannah Arendt’s conception of cosmopolitanism as the ‘right to have rights’, the rights of everyone to belong to humanity through guarantees by humanity (see Fine, 2006: 55–56) seems utopian, as cosmopolitanism, as embodied in European human rights, has failed the region’s most visible religious minority. The cases specifically exposed the limitations of cosmopolitanism because they indicated that one of the ‘most cosmopolitan, and controversial trends in constitutional law: using foreign and international law as an aid to interpreting domestic constitutional law’ failed over the matter of cultural and religious identity, and thus the principle of pluralism (Skach, 2006: 189–195).

#### If they do scale-up, they empower capitalism, which turns their impact

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The feasibility of institutionalizing a mass-based cosmopolitan political consciousness therefore very much remains an open question today. It is not enough to fold the pluralistic ethos of older cosmopolitanisms into the institutionalized tolerance of diversity in multicultural societies. This kind of cosmopolitanism is only efficacious within the necessarily limited frame of the (now multiculturalized) democratic state in the North Atlantic that is sustained by global exploitation of the South. This type of limited cosmopolitanism has a more insidious counterpart in the state-sponsored cosmopolitanism of developed countries in Asia. Here, cosmopolitanism degenerates into a set of strategies for the biopolitical improvement of human capital. It becomes an ideology used by a state to attract high-end expatriate workers in the high-tech, finance, and other high-end service sectors as well as to justify its exploitation of its own citizens and the lower-end migrant workers who bear the burden of the country’s successful adaptation to flexible accumulation. Cosmopolitanism is here merely a symbolic marker of a country’s success at climbing the competitive hierarchy of the international division of labor and maintaining its position there. The inscription of new cosmopolitanisms (and theories about them) within the force field of uneven globalization must be broached at every turn.

#### ‘Methodological nationalism’ is a valuable heuristic for IR.

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* MN = methodological nationalism

This critique has recently been introduced to and argued within higher education research pointedly by Shahjahan and Kezar (2013). Building on Chernilo and Beck, and also drawing from recent literature on higher education globalization (Altbach 2004; King 2009; Marginson and Rhoades 2002), Shahjahan and Kezar argue that social processes involving higher education can no longer be reduced to social forces exclusively within the nation state, but increasingly derive from forces outside the ‘national container’ (Shahjahan and Kezar 2013, 21). They precisely criticize that higher education systems are studied as social processes that occur within the boundaries of the nation state and are based on internalist developments within the nation state. From their point of view, MN naturalizes in theories (e.g. when US-, UK- or Australia-based theories are used to designate and compare higher education systems around the world) and methodologies (e.g. when national categories pre-empt data collection, because empirical information is basically collected on a national level) in higher education research. Moreover, they argue that although researchers may be aware that the nation state is a porous entity, their research questions continue to assume and suggest that it is self-contained and, thus, they continue to overlook the impact of the cross-national influences or transnational processes on their objects of study. National containers historically and currently reinforce unequal power relationships, and they strongly advocate to overcome MN and to ‘think outside the national box’ (Shahjahan and Kezar 2013, 23). Shahjahan and Kezar’s critique is strong but itself somewhat blinded by MN, because it is itself also US centric. In Europe, higher education researchers are much more used to thinking outside the national box, because their studies often encompass research on developments at the European level.5 Nevertheless, Shahjahan and Kezar have strong arguments. By highlighting the erosion of borders, the importance of global forces and imperatives and the porosity of nation states, type 1 research not only overshadows comparative research (type 2) quantitatively, but also rather seems to hollow out its analytical units. In response to their critique, I might object that there are still good reasons to use the nation state as a unit of analysis. There are – at least – the following three arguments for its use as methodological category (see also Kaelble 2003): (1) The first argument is related to research practice: most of the material for empirical research (statistics, discourses, etc.) can be found at the level of nation states. (2) Nation or country is a unit with clearly defined boundaries and a clear self-definition. Nation is therefore a comparative unit that is relatively easy to handle. (3) The nation state is still one of the most important actors in the fullest sense (of governance, legislation and administration), and the reality of higher education is still shaped to a large extent by the configuration of national higher education systems. The last argument seems to be the strongest and decisive one for the nation state as a unit of analysis and comparative dimension. It also finds support in sociological theory. In contrast to the body of literature that asserts a retreat of the nation state, which loses its sovereignty, John Meyer and colleagues have argued that there is an enormous expansion of nation state structures, bureaucracies, regulations. ‘The modern state may have less autonomy than earlier but it clearly has more to do than earlier as well, and most states are capable of doing more now than they ever have been before’ (Meyer et al. 1997, 157). And even Shahjahan and Kezar note that they ‘are not arguing against using the nation state as a unit of analysis’, but for unravelling the assumptions underlying the nation state informed by MN (Shahjahan and Kezar 2013). I agree, and appreciate their critique, because it facilitates the methodological discussion of comparative research. In my opinion, the critique has two important implications for international comparative higher education research:

#### Nation-states are inevitable and essential for global peace and economic prosperity---failure to diversify institutions collapse systems of governance and causes mass suffering.

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3. The most important distinctions in 21st century world politics will be based on scale. By the middle of this century, the greatest powers may eventually be those, such as China, India, and the United States, which combine (or will combine) at least moderately developed industrial economies with populations of half a billion people or more. The US investment bank Goldman Sachs predicts that by 2050 China will have the largest economy in the world, followed by the United States and India. The next tier might be occupied by Russia, Brazil, and Japan, and a third tier would include Germany, Britain, and other once-mighty European economic powers.[4](https://thebreakthrough.org/journal/issue-1/against-cosmopolitanism" \l "foot4) Just as the Italian city-states of the Renaissance were dwarfed and marginalized by the national monarchies north of the Alps in the 16th and 17th centuries, so the large nation-states of the past -- Britain, France, Germany, Russia, and Japan -- will be overshadowed by the titans of the 21st and 22nd centuries. The United States will owe its position in the club of titans to its immigration-fed population growth, which could produce an American population of 400-600 million by 2050. The 2010 medium fertility estimations of the United Nations suggested that in 2050 the most populous nations would be India (1.7 billion) and China (1.3 billion), followed by the United States (400 million), Nigeria (400 million), and Indonesia (300 million).[5](https://thebreakthrough.org/journal/issue-1/against-cosmopolitanism" \l "foot5) It is Europe, not the United States, which faces a significant decline in relative population, wealth, and power. Europe, which accounted for 22 percent of the world's population in 1945 and 12 percent in 2000, may have only 6 percent in 2050. Because GDP is based on working-age population and productivity, even though Europeans will grow richer, the European share of the global economy may decline from 22 percent today -- roughly comparable to that of the United States -- to only 12 percent in 2050.[6](https://thebreakthrough.org/journal/issue-1/against-cosmopolitanism" \l "foot6) In modern industrial societies, technology and politics combine in what Edward Luttwak has called "geoeconomics." Technological economies of scale reward big enterprises in large, unified markets. As champions of the global market ceaselessly point out, technological and commercial economies of scale are best realized at the global level. But psychological and political economies of scale are best realized by nation-states. In theory, both economic and political economies of scale could be realized by multinational blocs, but in practice this outcome is unlikely. As early as the 1840s, British and French observers speculated that the future would be dominated by two giant states, the United States and Russia. The imperialism of the industrial era, from the 1870s to World War II, was (among other things) an attempt by medium-sized nation-states like Britain, France, Germany, Italy, and Japan to create economic areas comparable in scale to those that existed inside the borders of the United States and Tsarist Russia (later the Soviet Union). After World War II, largely at the insistence of the United States, the international system outlawed old-fashioned empire building. But even if 20th century history had taken a different course, it is doubtful that multinational empires, held together by repression and, in the case of maritime empires like the British and Japanese, separated by oceans, could have competed in the long run with giant nation-states. The former Western European imperial powers have sought to achieve the same result by partially pooling their sovereignty in the European Union. But European countries retain their sovereignty in foreign policy, rendering a unified voice impossible in conflicts including the Balkan wars, the Iraq War, and the Libyan War. Meanwhile, the Greek financial crisis has proven that the European Union lacks the overarching central economic institutions, like a central bank with emergency lending capabilities, necessary to function as an efficient monetary and commercial union. Because of popular resistance to further political integration, the European Union is no more likely to be the successful equivalent of a giant nation-state than the former European empires proved to be. Psychological economies of scale favor nation-states with a strong sense of solidarity among their citizens that makes them willing to fight in wars, pay taxes, and tolerate redistribution for the common good. China, with its overwhelming Han majority, has a far greater sense of national identity and solidarity than much smaller multinational states like Canada and Belgium, which are in danger of breaking up along ethno-national lines as Yugoslavia and Czechoslovakia have done. It follows, then, that in the future, as in the past, the economic gains from scale will be reaped chiefly by entities with immense, free, internal markets congruent with political boundaries. Concerns about national security and domestic distribution will always constrain market integration among nation-states. In a post-imperial, post-dynastic world, the most successful great powers will be very big nation-states. 4. Contrary to the claims of the prophets of cosmopolitanism, the world is likely to remain divided among great sovereign powers for ages to come. Sometimes they will compete, at other times they will collaborate, but they are unlikely to sacrifice their sovereignty by merging into a single global government; if one were established, by force or intimidation, it would probably break apart quickly. The ideas of postmodernity and second modernity appeal primarily to thinkers in European nations where it is necessary to transcend and pool sovereignty in order to compete with huge nation-states like the United States and China. Large nation-states, in contrast, are powerful on the basis of their internal populations, resources, and economies, so it is unsurprising that they see no benefit in surrendering their sovereign powers to supranational organizations dominated by smaller countries. In a world of sovereign nation-states, the biggest nation-states are more sovereign than the others. Unilateralism is natural for the great powers. Whales do not consult the barnacles on their sides or the schools of small fish who swim in their wake. The rise of the giants is likely to lead to less, not more, emphasis on international organizations like the United Nations and the World Trade Organization. If the United States, China, and India account for much of the world economy in fifty to a hundred years, then they may prefer setting the rules of world trade and investment by bilateral or trilateral negotiations. Why should giants consult with dozens or hundreds of pygmies before acting? International law has traditionally been championed by small- or moderate-sized, neutral countries (including the United States in the 19th century). Its influence may decline in an age in which a few titanic continental states have hundreds of millions or billions of inhabitants. Unfortunately, cosmopolitanism is not simply a quaint, harmless religious faith held by global elites. Confusing the cosmopolitan "ought" with the cosmopolitan "is" results in all sorts of disastrously wrongheaded policies. If, for example, the world really is on the verge of full economic and political integration, then outsourcing all US manufacturing capacity to China might make sense in the same way that it might be reasonable for a state like California to outsource all of its manufacturing capacity to other US states. They share the same tax, regulatory, and social welfare systems; they make shared national investments in infrastructure and education; and they share the same military and national security interests. But in a world in which nation-states are likely to continue to retain their sovereignty and in which economic nationalism continues to reign, trade and investment policies that presuppose a borderless world make no sense at all. The cosmopolitan error has similarly distorted international efforts to address global challenges. International climate policy has persistently foundered upon the basic realities of an international political economy that continues to be defined by the interests of national economies. International development and antipoverty efforts in recent decades have similarly failed to align themselves with the basic economic interests of donor economies. As such, the cosmopolitan error has had real consequences for both national efforts to build healthy, equitable economies and international efforts to address serious global problems and risks. The frequently-made argument that extensive supranational cooperation is necessary to solve global problems is incorrect. Without question, destructive, zero-sum national rivalries are a threat to a peaceful and prosperous world -- on this point, liberal internationalists and liberal cosmopolitans can agree. Fortunately, most of the world-order goals of cosmopolitanism can be achieved by enlightened liberal internationalism without the need to sacrifice or weaken the democratic nation-state, the organization in which most of the progress toward equality and economic security over the last three centuries has taken place. Contrary to the commonly held views of pundits and science-fiction­­ writers, a world government or a true global market is unlikely to emerge in the foreseeable future. But a successful and enlightened liberal internationalism would permit us to enjoy the benefits of both without the costs of either.

#### The nation-state is good and sustainable---the historical record suggests its gaining, *not losing*, traction.

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But the trends proffered as evidence of a historic shift toward postnational cosmopolitanism are in fact consistent with the persistence of the nation-state as the main actor in world politics. Changes in the global economy, most significantly, are not signs of cosmopolitanism. The popular conception of globalization is overly simple and misleading. As Alan M. Rugman has pointed out, instead of a single global market there is today a somewhat Balkanized world economy organized around the "triad" of Europe, North America, and East Asia.[2](https://thebreakthrough.org/journal/issue-1/against-cosmopolitanism" \l "foot2) The emerging world economy is highly regionalized and remains connected to the nation-state. While some industries, like computer electronics manufacturing, are truly global, others, like the automobile industry, are dominated by corporations with most of their production and sales based in one of the three major blocs. New blocs might join the existing triad -- India-centered South Asia, for example -- but it is naïve to think that all barriers to the free flow of capital, goods, and labor among countries and regions will disappear. Even multinational corporations turn out to be not quite so multinational. The 100 largest multinationals in 2008 held 57 percent of their total assets and 58 percent of their total employment abroad, with foreign sales making up 61 percent of their total.[3](https://thebreakthrough.org/journal/issue-1/against-cosmopolitanism" \l "foot3) But this merely means that most multinationals are half-global, at best. The typical multinational still has a distinct national identity, with around half of its assets, employment, and sales within its home market. In fact, very few multinational corporations conduct an overwhelming majority of their business outside of their home countries. The domination of global commerce by corporations based in the United States, Japan, and Germany -- the three most populous industrial democracies -- shows the importance of a large domestic market as a base for multinational sales and operations. Despite the celebration of global corporations by libertarians and their denunciation by leftists and populists, global companies possess national identities after all. Even financial globalization proved more superficial than advertised: major global banks turned to their national governments for bailouts following the 2008 financial crisis. The temporary influence of the Washington Consensus notwithstanding, the epoch of economic nationalism never ended. Outside of the Anglophone countries, this is the age of mercantilism. Instead of tariffs, post-1945 mercantilist nations have used subsidies (Europe and the United States); non-tariff barriers (Japan); and currency "tariffs," subsidies, and state-directed credit (China) to protect domestic markets and support export-oriented sectors of their economies. Mercantilism cannot work without a "patsy," and the United States agreed during the Cold War and post-Cold War period to play the role of consumer of first resort for mercantilist nations. This decision was based, partly on libertarian ideology, but mainly on national strategy, to encourage first Japan and West Germany and then China to become one-dimensional civilian manufacturing powers instead of rival military powers. In the long run, it is more likely that the United States -- the world's most protectionist nation before 1945 -- will move back toward mercantilism than it is that China, Japan, and Germany will adopt the economics of the late Milton Friedman. Current trends in immigration do not support the cosmopolitan claim that national borders are breaking down. Neither the fact that a country like the United States chooses to admit large numbers of legal immigrants nor the fact that it chooses to tolerate large numbers of illegal immigrants demonstrates that it is powerless to do otherwise. With respect to transnational flows of labor, all advanced industrial countries, including the United States, have undertaken actions -- ranging from issuing national identity cards to building border fences -- to secure their borders and airports against illegal immigrants. The assertion of effective state control over immigration is driven, in part, by fear of international terrorism, but also by a backlash against poor immigrants among native-born citizens of developed countries -- a backlash that is likely to deepen if the Great Recession is prolonged over many years. At the same time that advanced countries are seeking to reduce unwanted immigration, many are competing for skilled immigrants. Britain, Australia, and Canada, for example, have adopted a "points system" in which educated immigrants are favored over the uneducated. When these trends are put together, the result is the opposite of the borderless world with free flows of labor predicted by prophets of globalization a decade ago. Most countries in the 21st century are likely to combine a tough attitude toward illegal immigration with selective legal immigration favoring skilled workers. What about the political trends of the 21st century? The historical pattern is clear. The breakup of the Habsburg and Ottoman empires after World War I produced many new nation-states and some new multinational states, like Yugoslavia. Following World War II, the decolonization of the European empires in Asia and Africa produced dozens of new states, some of them multinational (like Nigeria and Pakistan, which may themselves break apart like Yugoslavia). With the dissolution of the Soviet Union and Yugoslavia, new states were again added to the United Nations General Assembly. It is a safe bet that the maps of the world in 2050 and 2100 will show still more independent countries than exist today. The conventional wisdom of today's cosmopolitans holds that ethnocultural nationalism is a barbaric relic of an earlier stage of civilization and that as enlightenment and prosperity spread, people become more cosmopolitan. But far from being moribund, nationalism -- defined not as aggression or xenophobia, but as a preference for the nation-state as the unit of legitimate government -- remains the most powerful force in global politics for the third century in a row. Thus nationalism is not atavistic; indeed, it is modern -- just as modern as industrialism and urbanism. The trend of reorganizing a world of premodern dynastic empires and city-states into a world of nation-states, in which most (though not all) states are identified with a majority ethnocultural group, has paralleled the conversion, in the economic realm, of an agrarian world into an industrial world. As societies become urban and industrial, village societies give way to anonymous urban societies in which individuals identify with larger "imagined communities." These need not be national -- Islamists, for example, identify with the imagined community of the Muslim ummah. But the community that has proven most effective in attracting the loyalty of individuals in modern, large-scale societies is the nation, which can be defined minimally in terms of shared language and customs, as in most liberal democracies, or maximally, in terms of shared "race" and/or religion, as in illiberal nationalism. It follows that as people become more educated and more prosperous they are more likely to prefer to be members of the majority in a nation-state rather than minorities in someone else's nation-state or one of several squabbling nationalities in a multinational state. As the world grows richer, movements by stateless nations, from the Scots to the Kurds, to obtain nation-states of their own, whether by peaceful or violent means, are likely to increase, not decrease. Arguably, we are still in the early stages of the technological era in economics and the era of the nation-state in politics. In the most likely scenario, the 21st century will witness the completion of two trends that have been underway since the 18th -- the conversion of all humanity from an agrarian lifestyle to an urban-industrial one, and the replacement of premodern forms of political organization almost everywhere by nation-states.

#### Rejoining antitrust is invaluable for bridging scholarship between debate and movements.

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Introduction

In the summer of 2020, the murder of George Floyd by police officers in Minneapolis sparked a new wave of Black Lives Matter protests, escalating into what would become the largest protest movement of modern American history.1 The protests put at the forefront of reform debates long-standing demands to “defund the police” and calls for abolition of the prison industrial complex.2 While many policy commentators recoiled at the demand to defund the police, offering more modest and less disruptive alternatives to mitigate the problem of police violence,3 longtime advocates for abolition responded by asserting that the demand was in fact intended to be taken literally and seriously: that police departments and prisons should be defunded and abolished, and that those resources be reallocated to different institutions committed to securing public safety and well-being. The central insight, for abolitionists, is that the problem of police violence against Black residents is a structural problem, a product of the institutionalized biases, cultures, and profit motives embedded in policing as an institution. Given the structural roots of the problem, many well-intentioned reformist proposals for more transparency, stricter rules of police conduct, or other anti-bias measures would simply not succeed4 in reducing the incidence of violence against Black and brown Americans.5 A similar dynamic played out the same summer in a very different policy domain. In July, Congress convened a historic first: a hearing featuring a tough grilling of the CEOs of the big four tech companies, Apple, Google, Amazon, and Facebook.6 After years of increasing public scrutiny over the business practices of these firms and concerns about their market power, 7 policymakers are now for the first time in decades seriously entertaining questions about amped up antitrust enforcement and policy. But at the same time, some have raised cautionary notes, warning that greater antitrust efforts might be problematic, misleading, or ill-conceived.8 Even as concern over “fake news,” disinformation, and media polarization on online platforms like Facebook and YouTube proliferate,9 and as the COVID-19 pandemic accentuates the market dominance of these platform firms, 10 a similar clash is emerging among policymakers, between those seeking structural constraints on the platform business models of information platforms, and those who see such interventions as too draconian, preferring instead case-by-case management of conduct and content on these platforms.11 Or take one more example of this tension between structural and case-by-case regulation in the ongoing debates over the problem of financial malfeasance, too-big-to-fail financial firms, and the risk of financial crises. After the 2008 financial crisis, one set of policy responses has emphasized largely entity-by-entity and case-by-case responses: macroprudential regulation by federal officials overseeing the risk profiles and approaches of systemically risky financial firms, or greater corporate compliance mechanisms promoting “ethical” financial conduct.12 Another set of policy proposals are more structural, seeking to alter the very business models and market dynamics of finance more broadly, whether by converting financial firms into de facto public utilities13 or by breaking up systemically risky banks to prevent the risk of financial collapse in the first place.14 These debates, most prevalent a decade ago, have started to reemerge as the country enters another historic economic collapse, and commentators raise questions about how to structurally remake the financial sector in response. 15 This paper is not about abolition or antitrust or financial reform per se. But it is about an underlying conceptual and analytical debate that lies beneath each of these policy fights—and a wide range of other similar battles playing out in legal and policy circles. Whether it is in context of policing, tech, finance, or in other areas, we can see a similar pattern to the policy debate. Structuralist solutions are proposed in each of these debates, each time provoking a similar set of counterclaims and anxieties. Often, structuralist claims—like defunding the police, breaking up tech platforms, or the sharp restriction of too-big-to-fail banks—are seen as overly costly, dangerous, or simply naïve and ill-informed. Alternatives are proposed that seek to manage or mitigate the problematic conduct of firms or state actors; but these counter proposals are in turn critiqued for being too minimalist or incremental. The problem, however, is that for many policymakers the unease with structural solutions can be habitual and under-explained. When structuralist policies are offered, they are read in terms of a simple spectrum of “more” versus “less” regulation, with more regulation facing a higher burden of justification against default market and private orderings. The problem with this response is that, while structuralist proposals do have their limitations and risks, they are also often apt and well-tailored to the problems they seek to address. That value, however, is easily overlooked insofar as structuralist proposals are too-readily caricatured as naïve or overly costly. This paper attempts to fill this gap, providing a first cut at articulating and theorizing structuralist regulation as a distinct regulatory strategy.16 This paper is an attempt to theorize the concept of structuralist regulation, what makes it unique, what assumptions and under what conditions it should be preferred to more conventional solutions. While structuralist proposals like “breaking up the banks” are often criticized in the frame of being “too much” regulation in contrast to minimalist alternatives, as I will suggest in this paper, structuralist regulation is not necessarily “more”; but it is different, and those differences are sometimes warranted. The idea of structuralist regulation is related to but distinct from other familiar regulatory strategy distinctions: rules versus standards;17 adjudication versus rulemaking;18 command-and-control regulation versus decentralized and “new governance” models of regulation.19 In this paper, I define structuralist regulation as a regulatory approach that attempts to mitigate problematic conduct not through direct enforcement on individual actors, but rather by altering the background social, economic, political structures to prophylactically prevent or reduce the incentives for and likelihood of those incidents. Readers should note that I use the term “regulation” in this paper loosely to refer to various kinds of policymaking; as we shall see, structuralist policies can be effectuated through legislative or administrative means, often both. Structuralist regulation contrasts with more individualized, entity- or conduct-based regulations that depend on case-by-case enforcement, and instead focuses on limiting or altering the capacities and powers of those actors in the first place. Another way to understand structuralist policy is that it operates “upstream” of conventional policy debates: rather than attempting to manage particular instances of problematic conduct by firms or state actors, structuralist solutions preemptively seek to shape the powers and capacities of those actors as a way to prophylactically limit the likelihood of problematic conduct in the first place. Structuralist policy is not a sharp binary contrast with non-structural approaches. But it is a different, distinctive way of thinking about public policy and regulation, resting on different assumptions about the likelihood of harms, about administrative capacities, and also on different causal understandings of the problems it seeks to solve. Structuralist regulations may in some sense be costly: it is likely that some relatively benign conduct will also be swept up or eliminated in a structuralist regime. But these costs come with accompanying benefits: reduced costs of detection and enforcement for regulators; a better economizing of scarce regulatory capacity and autonomy; a precautionary limiting of potentially devastating outcomes; and a more direct addressing of problematic patterns that might otherwise defy remedial efforts. This conceptual clarification generates a number of useful payoffs. First, it offers a language and framework to understand structuralist regulation as a distinct way of thinking about public policy. This is critical to disentangle some of the fuzziness around policy debates in areas like finance, tech, and racial justice. It is also a necessary precondition to having more productive policy debates and opening up more room for research. As I will argue below, often there are good reasons to prefer some kind of structuralist regulation, but plenty of disagreement or lack of clarity on what specific structuralist tool to deploy. Should we break up Facebook via antitrust, or impose public utility / common carriage regulations on the platform, or both? These are arguably both structuralist tools, and there is a debate to be had between them. But that debate can be obscured by unease with structuralist approaches to begin with, making it harder to have an apples-to-apples comparison and analysis of what policy lever to deploy. Second, this concept of structuralist regulation helps provide a policy framework for understanding and engaging some of the structuralist claims made by grassroots reform movements especially in this moment. We are in a unique moment of resurgent grassroots activism, and as scholars of social movements have argued, many of these movements are advancing structural, transformative visions of public policy and legal-institutional change.20 But these claims are often seen as outside the scope of more traditional modes of policy debate and analysis. Building a conceptual framework of what we mean by ‘structural’ reform can help bridge the reform ideas being generated by grassroots movements on the one hand, and those arising from policymakers and academics on the other. More broadly, we might even say we are on the cusp of a revival of interest in structuralist policy solutions in response to the deeper problems of economic inequality,21 racial subordination,22 power in public law,23 and political economy approaches to law and public policy.24 A clearer understanding of structuralist policy design will be important to inform the kind of inclusionary policy agenda needed to remedy these inequities. The rest of the paper proceeds as follows. Part I provides a conceptualization of ‘structuralist’ policymaking, identifying the underlying assumptions that animate structuralism as a regulatory strategy. This Part also notes that this concept of regulatory strategy (or what I call “regulatory logic”, as defined below) should be understood as a distinct way of unpacking and analyzing the patterns of policymaking judgment distinct from other modes of analysis like cost-benefit analysis or the rules-versus-standards debate. Part II then looks at examples of structuralist policy proposals in recent economic policy debates: the debate over tech platforms, the debate over too-big-to-fail financial firms and systemic risk, and the renewed interest in anti-trust and anti-monopoly law. These examples help illustrate structuralist regulatory logics in action, and their distinctive assumptions and potential benefits over more conventional regulatory approaches. The purpose of this Part is not to offer a full-throated defense of structuralist policies in each of these sectors (although I am perhaps unsurprisingly sympathetic to the arguments on the merits); rather the purpose here is simply to illustrate structuralism as a distinct mode of thinking about policymaking. Part III articulates some broader implications for how to implement and institutionalize structuralist policies. Part IV concludes with some closing thoughts on how structuralism as a way of thinking about regulation connects to this broader moment of intense political and scholarly interest in inequality and racial (in)justice.

#### Nationalism is redeemable and good.

Forlenza, 20—fellow at the Remarque Institute, New York University and at Potsdam University’s Center for Citizenship, Social Pluralism, and Religious Diversity (Rosario, “Nation as Home: Anthropological Foundations and Human Needs,” *Bringing the Nation Back In: Cosmopolitanism, Nationalism, and the Struggle to Define a New Politics*, Chapter 9, pg 176-177, dml)

This paper has argued that dominant political theory and social science analysis of nations and nationalism are blind to the crucial question of background experiences, or the latent and hidden experiential and anthropological practices that take for granted the reference point of human life, the experience of home. To have a home or share an experience of home is the solid and basic necessary basis for human life (for any human life) to have a meaning.

Nations and nationalism must be understood as the translation of the need to have a home—or to share the experience of home—into a larger political entity, a participation in a broader cosmic entity, and the creation of political allegiance under conditions of existential uncertainty. Intellectuals and observers do not usually understand that nationalism has been such a powerful phenomenon precisely because it is based on the endless revaluation and symbolization of the nation-state as home, which cannot be simply overcome with the cosmopolitan paradigm of taking the world as home.

Historical experiences show that the anthropological need to share a home can crystallize in political revolution and war and become the master narrative of nationalism that blossoms into a fully developed, violent, and exclusionary doctrine. However, this process of abstraction is by no means unidirectional, and highly elaborated nationalism can open to a healthier sense of the nation as home. After all, although nationalism has not often proved to be great at creating multiethnic coalitions, specific egalitarian redistributive politics have historically been correlated with national projects. In short, the nation can be based on recognition and familiarity—an important term for all its banality. The nation in this sense can exclude abstraction, alienation, and violence aggressively pitched against the other/ the enemies. Boundaries and borders between “homes” can re-unify common things between individuals and communities. Or, to put differently, there are not common things to share without boundaries and borders.

Membership in a cosmopolitan world produces a weak form of identity and an ideological-legalistic construct, which cannot serve as the basis of commonalities, shared identities, and meaningful political communities—all of which are necessary to address the tearing of the world. A meaningful, stable political allegiance must engage peoples’ energies and values by drawing forth the existential dimension of human beings and their experience of home as expressed in cultural and anthropological practices rooted in localizing processes.

#### The bedrock assumption of nationalism as exclusionary is false---the nation-state can and should be retooled for the common good and it’s our only alternative.

Wimmer 19, Lieber Professor of Sociology and Political Philosophy at Columbia University and the author of Nation Building: Why Some Countries Come Together While Others Fall Apart, (Andreas, “Why Nationalism Works”, <https://www.foreignaffairs.com/articles/world/2019-02-12/why-nationalism-works>)

THE BENEFITS OF NATIONALISM In countries where the nationalist compact between the rulers and the ruled was realized, the population came to identify with the idea of the nation as an extended family whose members owed one another loyalty and support. Where rulers held up their end of the bargain, that is, citizens embraced a nationalist vision of the world. This laid the foundation for a host of other positive developments. One of these was democracy, which flourished where national identity was able to supersede other identities, such as those centered on religious, ethnic, or tribal communities. Nationalism provided the answer to the classic boundary question of democracy: Who are the people in whose name the government should rule? By limiting the franchise to members of the nation and excluding foreigners from voting, democracy and nationalism entered an enduring marriage. At the same time as nationalism established a new hierarchy of rights between members (citizens) and nonmembers (foreigners), it tended to promote equality within the nation itself. Because nationalist ideology holds that the people represent a united body without differences of status, it reinforced the Enlightenment ideal that all citizens should be equal in the eyes of the law. Nationalism, in other words, entered into a symbiotic relationship with the principle of equality. In Europe, in particular, the shift from dynastic rule to the nation-state often went hand in hand with a transition to a representative form of government and the rule of law. These early democracies initially restricted full legal and voting rights to male property owners, but over time, those rights were extended to all citizens of the nation—in the United States, first to poor white men, then to white women and people of color. Nationalism also helped establish [modern welfare states](https://www.foreignaffairs.com/articles/united-states/2013-12-06/americas-social-democratic-future). A sense of mutual obligation and shared political destiny popularized the idea that members of the nation—even perfect strangers—should support one another in times of hardship. The first modern welfare state was created in Germany during the late nineteenth century at the behest of the conservative chancellor Otto von Bismarck, who saw it as a way to ensure the working class’ loyalty to the German nation rather than the international proletariat. The majority of Europe’s welfare states, however, were established after periods of nationalist fervor, mostly after World War II in response to calls for national solidarity in the wake of shared suffering and sacrifice. BLOODY BANNERS Yet as any student of history knows, nationalism also has a dark side. Loyalty to the nation can lead to the demonization of others, whether foreigners or allegedly disloyal domestic minorities. Globally, the rise of nationalism has increased the frequency of war: over the last two centuries, the foundation of the first nationalist organization in a country has been associated with an increase in the yearly probability of that country experiencing a full-scale war, from an average of 1.1 percent to an average of 2.5 percent. About one-third of all contemporary states were born in a nationalist war of independence against imperial armies. The birth of new nation-states has also been accompanied by some of history’s most violent episodes of ethnic cleansing, generally of minorities that were considered disloyal to the nation or suspected of collaborating with its enemies. During the two Balkan wars preceding World War I, newly independent Bulgaria, Greece, and Serbia divided up the European parts of the Ottoman Empire among themselves, expelling millions of Muslims across the new border into the rest of the empire. Then, during World War I, the Ottoman government engaged in massive killings of Armenian civilians. During World War II, Hitler’s vilification of the Jews—whom he blamed for the rise of Bolshevism, which he saw as a threat to his plans for a German empire in eastern Europe—eventually led to the Holocaust. After the end of that war, millions of German civilians were expelled from the newly re-created Czechoslovakian and Polish states. And in 1947, massive numbers of Hindus and Muslims were killed in communal violence when India and Pakistan became independent states. Ethnic cleansing is perhaps the most egregious form of nationalist violence, but it is relatively rare. More frequent are civil wars, fought either by nationalist minorities who wish to break away from an existing state or between ethnic groups competing to dominate a newly independent state. Since 1945, 31 countries have experienced secessionist violence and 28 have seen armed struggles over the ethnic composition of the national government. INCLUSIVE AND EXCLUSIVE Although nationalism has a propensity for violence, that violence is unevenly distributed. Many countries have remained peaceful after their transition to a nation-state. Understanding why requires focusing on how governing coalitions emerge and how the boundaries of the nation are drawn. In some countries, majorities and minorities are represented in the highest levels of the national government from the outset. Switzerland, for instance, integrated French-, German-, and Italian-speaking groups into an enduring power-sharing arrangement that no one has ever questioned since the modern state was founded, in 1848. Correspondingly, Swiss nationalist discourse portrays all three linguistic groups as equally worthy members of the national family. There has never been a movement by the French- or the Italian-speaking Swiss minority to secede from the state. In other countries, however, the state was captured by the elites of a particular ethnic group, who then proceeded to shut other groups out of political power. This raises the specter not just of ethnic cleansing pursued by paranoid state elites but also of secessionism or civil war launched by the excluded groups themselves, who feel that the state lacks legitimacy because it violates the nationalist principle of self-rule. [Contemporary Syria](https://www.foreignaffairs.com/interviews/2012-04-16/former-syrian-general-akil-hashem-uprising-syria) offers an extreme example of this scenario: the presidency, the cabinet, the army, the secret service, and the higher levels of the bureaucracy are all dominated by Alawites, who make up just 12 percent of the country’s population. It should come as no surprise that many members of Syria’s Sunni Arab majority have been willing to fight a long and bloody civil war against what they regard as alien rule. Whether the configuration of power in a specific country developed in a more inclusive or exclusive direction is a matter of history, stretching back before the rise of the modern nation-state. Inclusive ruling coalitions—and a correspondingly encompassing nationalism—have tended to arise in countries with a long history of centralized, bureaucratic statehood. Today, such states are better able to provide their citizens with public goods. This makes them more attractive as alliance partners for ordinary citizens, who shift their political loyalty away from ethnic, religious, and tribal leaders and toward the state, allowing for the emergence of more diverse political alliances. A long history of centralized statehood also fosters the adoption of a common language, which again makes it easier to build political alliances across ethnic divides. Finally, in countries where civil society developed relatively early (as it did in Switzerland), multiethnic alliances for promoting shared interests have been more likely to emerge, eventually leading to multiethnic ruling elites and more encompassing national identities. BUILDING A BETTER NATIONALISM Unfortunately, these deep historical roots mean that it is difficult, especially for outsiders, to promote inclusive ruling coalitions in countries that lack the conditions for their emergence, as is the case in many parts of the developing world. Western governments and international institutions, such as the World Bank, can help establish these conditions by pursuing long-term policies that increase governments’ capacity to provide public goods, encourage the flourishing of civil society organizations, and promote linguistic integration. But such policies should strengthen states, not undermine them or seek to perform their functions. Direct foreign help can reduce, rather than foster, the legitimacy of national governments. Analysis of surveys conducted by the Asia Foundation in Afghanistan from 2006 to 2015 shows that Afghans had a more positive view of Taliban violence after foreigners sponsored public goods projects in their districts. In the United States and many other old democracies, the problem of fostering inclusive ruling coalitions and national identities is different. Sections of the white working classes in these countries abandoned center-left parties after those parties began to embrace immigration and free trade. The white working classes also resent their cultural marginalization by liberal elites, who champion diversity while presenting whites, heterosexuals, and men as the enemies of progress. The white working classes find populist nationalism attractive because it promises to prioritize their interests, shield them from competition from immigrants or lower-paid workers abroad, and restore their central and dignified place in the national culture. Populists didn’t have to invent the idea that the state should care primarily for core members of the nation; it has always been deeply embedded in the institutional fabric of the nation-state, ready to be activated once its potential audience grew large enough. Overcoming these citizens’ alienation and resentment will require both cultural and economic solutions. Western governments should develop public goods projects that benefit people of all colors, regions, and class backgrounds, thereby avoiding the toxic perception of ethnic or political favoritism. Reassuring working-class, economically marginalized populations that they, too, can count on the solidarity of their more affluent and competitive fellow citizens might go a long way toward reducing the appeal of resentment-driven, anti-immigrant populism. This should go hand in hand with a new form of inclusive nationalism. In the United States, liberals such as the intellectual historian Mark Lilla and moderate conservatives such as the political scientist Francis Fukuyama have recently suggested how such a national narrative might be constructed: by embracing both majorities and minorities, emphasizing their shared interests rather than pitting white men against a coalition of minorities, as is done today by progressives and populist nationalists alike. In both the developed and the developing world, nationalism is here to stay. There is currently no other principle on which to base the international state system. (Universalistic cosmopolitanism, for instance, has little purchase outside the philosophy departments of Western universities.) And it is unclear if transnational institutions such as the European Union will ever be able to assume the core functions of national governments, including welfare and defense, which would allow them to gain popular legitimacy.

#### Treating nations as unitary is necessary for solid theorizations of IR ⁠— geopolitical motivations and authoritative nature means states are unique

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All theories are based on simplifying assumptions intended to render a complex reality explicable. Theories are typically grouped into families or paradigms by their shared assumptions. 1 In making simplifying assumptions, analysts place a methodological “bet” on the most useful way to capture the essence of the phenomenon they wish to explain. These are bets because the assumptions must be made before the implications of the theory are fully worked out and tested.2 Scholars can work for years or possibly generations building from a set of assumptions before they know whether their bet will pay off by providing a powerful explanation of the desired phenomenon. State-centric theories of international relations assume that states are the primary actors in world politics. Theorists working in this tradition do not deny the existence of other political actors. As Kenneth Waltz (1979, 93-94) writes, “states are not and never have been the only international actors….The importance of nonstate actors and the extent of transnational activities are obvious.” Rather, the claim is that states, and especially great powers, are sufficiently important actors that any positive theory of international relation must place them at its core. Scholars making this assumption are betting that a focus on states will yield parsimonious yet empirically powerful explanations of world politics. Central to this bet is a hunch that the parsimony or theoretical elegance derived from an emphasis on states will outweigh the loss in empirical richness that comes from including a broader range of actors. One’s evaluation of state-centric theory rests, in part, on how one assesses the inevitable tradeoff between empirical power and theoretical elegance. This is a subjective choice over which reasonable scholars can disagree. In addition to parsimony, there are at least two additional reasons why some scholars expect state-centric theory to be a good bet. States may possess, or be plausibly understood to possess, a national interest in which society has relatively homogenous policy preferences. If so, analysts can safely abstract from the pushing and hauling of domestic politics and assume the state is a unitary entity interacting with other similarly unity entities. In realist theories, the national interest is assumed to be state power (Morgenthau 1978) and in neorealist theories it is assumed to be state survival, at a minimum, or power, at a maximum (Waltz 1979). Survival is understood as a primordial goal that is necessary for the pursuit of all others political ends. The drive for power stems from human nature (Morgenthau 1978, 36-38) or the state of nature that characterizes the international system (Mearsheimer 2001, 32-36), but in either case it is instrumental for achieving other ends within the political arena. Since survival or power occurs at the level of the nation or society, these assumptions about the goals of politics lead to the further assumption that states are the appropriate unit of analysis in theories of world politics. Other theories posit more context-specific national interests. Nuclear deterrence theory, not implausibly, presumes that everyone wants to avoid nuclear annihilation. Likewise, we can posit that nearly everyone benefits from freedom of the seas or stopping terrorism. When it seems reasonable to posit that citizens possess relatively homogenous interests, it can then be a convenient analytic shortcut to treat the state as a unitary actor. As sovereign entities, states possess ultimate or final authority over delimited territories and their inhabitants. Once a policy is enacted, the decision is binding on all citizens. If a state raises a tariff, all of its citizens are affected by the higher price for imports whether they support the tax or not. Just as states pass laws that bind their citizens at home, they also act authoritatively in ways that bind their own citizens in relations with other states. This is the analytic foundation of adage that “politics stops at the water’s edge.” Given their internal hierarchy, it is again reasonable to treat states as unitary actors when interacting with other similarly hierarchical states. A key assumption of Westphalian sovereignty is that authority is indivisible and culminates in a single apex (Hinsley 1986, 26Krasner 1999, 11). Whether sovereignty is vested in a hereditary monarch or the people, there is an ultimate or final authority within each state. This is not to assert that states possess the ability to regulate all the possible behaviors of all citizens (see below), only that there is a single point where, in President Harry Truman’s classic phrase, “the buck stops.” States may, of course, differ in how they aggregate the interests of their citizens. In autocratic regimes, a small group of elites may set policy for all. In more democratic states, representative institutions incorporate the interests of voters into policy. But regardless of what type of regime exists, citizens are bound by the policies enacted by their governments. It is this ability to act on behalf of their societies that make[s] states virtually unique in international relations. However active a[n] non-governmental organization may be, it can only claim to speak for its members and, perhaps, for universal principles such as justice or human rights: it cannot bind others through its actions, including its own members who join only in voluntary association. Because of their unique status as authoritative actors, and their ability to act on behalf of their citizens, it follows that states are central, 5 more important actors than others, and thus sometimes appropriate units of analysis in international politics.