# Wiki Doc---Harvard R6

# 1NC

### 1NC – Section 5

#### The FTC should issue clear enforcement guidance that the presently-existent phrase “unfair methods of competition in or affecting commerce” in Section 5 of the FTCA includes platforms engaging in commerce in the private sector. The FTC should release a policy statement and data sets that reflects this and enforce accordingly.

#### The counterplan PICs out of rulemaking and uses agency guidance.

* Explains “notice-and-comment” distinction;
* It does not expressly “bind” in a legalese manner that risks Court reversal – but it functionally binds;

Seidenfeld ‘11

Mark Seidenfeld – Patricia A. Dore Professor of Administrative Law, Florida State University College of Law. “Substituting Substantive for Procedural Review of Guidance Documents” - 90 TEX. L. REV. 331 (2011) -#E&F - https://ir.law.fsu.edu/cgi/viewcontent.cgi?article=1004&context=articles

A. Legal Effect and the Distinction Between Legislative Rules and Guidance Documents

The first school to emerge, led by Robert Anthony, was motivated by a concern for agency abuse of guidance documents.75 When agencies adopt rules with the force of law, they are supposed to use notice-and-comment rulemaking. Often, however, agencies will adopt policy statements or interpretive rules that in practice bind regulated entities without following notice-and-comment procedures.76 Professor Anthony devoted a good part of his scholarship to advocating that courts should police such abuse by determining which purported guidance documents actually do create new, practically binding law and reversing them on grounds that they are really "spurious rules"—legislative rules issued improperly without notice-and-comment procedures.77

Anthony advocated different tests to determine whether purported policy statements, as opposed to interpretive rules, were spurious rules.78 On the one hand, a policy statement is an indication of how an agency intends to exercise discretion that it is given to implement the statutes and regulations it administers. Policies do not follow from the language of these statutes and regulations, but to qualify as a policy statement, the document must not definitively identify the manner in which the agency will apply these sources of law.79 An interpretive rule, on the other hand, is meant to explain preexisting legal obligations and relations that are embodied in the agency’s authorizing statutes and regulations.80 Hence, a document is a valid interpretive rule and needs not go through notice and comment if it follows from the language it is interpreting.

1. Statements of Policy.—For a policy statement, the “ex ante legal effect” school looks at whether the document was issued with intent to bind or otherwise had binding effect.81 Indicia of such bindingness include, most importantly, definitive language indicating the course of action the agency would take when applying relevant statutes and regulations to particular situations.82 Other factors that might indicate sufficient bindingness are whether the agency indicated a clear intent to follow the document when addressing particular cases, whether the agency published the document in the Code of Federal Regulations, and whether the agency expressly indicated that the document was meant to be a nonlegislative rule.83

A major problem for this ex ante approach is that binding legal force comes in many flavors and intensities, and it is not self-evident from the face of a policy statement how the agency will apply it in subsequent particular situations. As already noted, virtually everyone accepts that only legislative rules can have independent legal force.84 This means that a person who is alleged to have violated an agency’s regulatory law must be shown to have violated the underlying statute or legislative rule that an agency is implementing; it is not sufficient for the agency to demonstrate that the person violated a policy statement.85 But Anthony advocates that documents that are practically binding should be deemed to be legislative rules as well.86 This raises the question of what makes a rule practically binding.

Courts have ruled that a policy statement specifying precisely what a regulated entity can do to comply with agency legislative rules is binding.87 Such a statement poses a dilemma for an entity about whether to comply with the announced policy or risk prosecution and potential penalties. To the extent it induces changes in the entity’s conduct, the statement may appear sufficiently forceful to be a legislative rule that cannot be promulgated without notice and comment.

#### The FTC can utilize current authority without creating new prohibitions.

Khan ‘21

et al; This is a recent joint statement released by the five Federal Trade Commissioners. The Chair of the Federal Trade Commission is Lina Khan - an Associate Professor of Law at Columbia Law School. Also on the Commission is Rohit Chopra – who was previously The Assistant Director of the Consumer Financial Protection Bureau, as well as Rebecca Slaughter - an American attorney who was previously the acting chair of the Federal Trade Commission. Two others also sit on the Commission. “STATEMENT OF THE COMMISSION On the Withdrawal of the Statement of Enforcement Principles Regarding “Unfair Methods of Competition” Under Section 5 of the FTC Act” - July 9, 2021 - #E&F – modified for language that may offend - https://www.ftc.gov/system/files/documents/public\_statements/1591706/p210100commnstmtwithdrawalsec5enforcement.pdf

Section 5 of the Federal Trade Commission Act prohibits “unfair methods of competition in or affecting commerce.”1 In 2015, the Federal Trade Commission under Chairwoman Edith Ramirez published the Statement of Enforcement Principles Regarding “Unfair Methods of Competition” Under Section 5 of the FTC Act (hereinafter “2015 Statement”), which established principles to guide the agency’s exercise of its “standalone” Section 5 authority.2 Although presented as a way to reaffirm the Commission’s preexisting approach to Section 5 and preserve doctrinal flexibility,3 the 2015 Statement contravenes the text, structure, and history of Section 5 and largely writes the FTC’s standalone authority out of existence. In our ~~view~~ (perspective), the 2015 Statement abrogates the Commission’s congressionally mandated duty to use its expertise to identify and combat unfair methods of competition even if they do not violate a separate antitrust statute. Accordingly, because the Commission intends to restore the agency to this critical mission, the agency withdraws the 2015 Statement.

I. Background

On August 13, 2015, the Federal Trade Commission issued the 2015 Statement, which announced that the Commission would apply Section 5 using “a framework similar to the rule of reason,” by only challenging actions that “cause, or [are] likely to cause, harm to competition or the competitive process, taking into account any associated cognizable efficiencies and business justifications[.]”4 The 2015 Statement advised that the Commission is “less likely” to raise a standalone Section 5 claim “if enforcement of the Sherman or Clayton Act is sufficient to address the competitive harm.”5

In a statement accompanying the issuance of these principles, the Commission explained that its enforcement of Section 5 would be “aligned with” the Sherman and Clayton Acts and thus subject to “the ‘rule of reason’ framework developed under the antitrust laws[.]”6 In a speech announcing the statement, Chairwoman Ramirez noted that she favored a “common-law approach” to Section 5 rather than “a prescriptive codification of precisely what conduct is prohibited.”7 She also acknowledged that the Commission’s policy statement was codifying an interpretation of Section 5 that is more restrictive than the Commission’s historic approach and more constraining than the prevailing case law.8 She added, “[W]e now exercise our standalone Section 5 authority in a far narrower class of cases than we did throughout most of the twentieth century.”9

With the exception of certain administrative complaints involving invitations to collude, the agency has pled a standalone Section 5 violation just once in the more than five years since it published the statement. 10

II. The Text, Structure, and History of Section 5 Reflect a Clear Legislative Mandate Broader than the Sherman and Clayton Acts

By tethering Section 5 to the Sherman and Clayton Acts, the 2015 Statement negates the Commission’s core legislative mandate, as reflected in the statutory text, the structure of the law, and the legislative history, and undermines the Commission’s institutional strengths.

In 1914, Congress enacted the Federal Trade Commission Act to reach beyond the Sherman Act and to provide an alternative institutional framework for enforcing the antitrust laws. 11 After the Supreme Court announced in Standard Oil that it would subject restraints of trade to an open-ended “standard of reason” under the Sherman Act, lawmakers were concerned that this approach to antitrust delayed resolution of cases, delivered inconsistent and unpredictable results, and yielded outsized and unchecked interpretive authority to the courts.12 For instance, Senator Newlands complained that Standard Oil left antitrust regulation “to the varying judgments of different courts upon the facts and the law”; he thus sought to create an “administrative tribunal … with powers of recommendation, with powers of condemnation, [and] with powers of correction.”13 Likewise, a 1913 Senate committee report lamented that the rule of reason had made it “impossible to predict” whether courts would condemn many “practices that seriously interfere with competition, and are plainly opposed to the public welfare,” and thus called for legislation “establishing a commission for the better administration of the law and to aid in its enforcement.”14 These concerns spurred the passage of the FTC Act, which created an administrative body that could police unlawful business practices with greater expertise and democratic accountability than courts provided.15

At the heart of the statute was Section 5, which declares “unfair methods of competition” unlawful.16 By proscribing conduct using this new term, rather than codifying either the text or judicial interpretations of the Sherman Act, the plain language of the statute makes clear that Congress intended for Section 5 to reach beyond existing antitrust law. The structure of Section 5 also supports a reading that is not limited to an extension of the Sherman Act. Notably, the FTC Act’s remedial scheme differs significantly from the remedial structure of the other antitrust statutes. The Commission cannot pursue criminal penalties for violations of “unfair methods of competition,” and Section 5 provides no private right of action, shielding violators from private lawsuits and treble damages. In this way, the institutional design laid out in the FTC Act reflects a basic tradeoff: Section 5 grants the Commission extensive authority to shape doctrine and reach conduct not otherwise prohibited by the Sherman Act, but provides a more limited set of remedies.17

The legislative debate around the FTC Act makes clear that the text and structure of the statute were intentional. Lawmakers chose to leave it to the Commission to determine which practices fell into the category of “unfair methods of competition” rather than attempt to define through statute the various unlawful practices, given that “there were too many unfair practices to define, and after writing 20 of them into the law it would be quite possible to invent others.”18 Lawmakers were clear that Section 5 was designed to extend beyond the reach of the antitrust laws. 19 For example, Senator Cummins, one of the main sponsors of the FTC Act, stated that the purpose of Section 5 was “to make some things punishable, to prevent some things, that cannot be punished or prevented under the antitrust law.”20

The Supreme Court has repeatedly affirmed this view of the agency’s Section 5 authority, holding that the statute, by its plain text, does not limit unfair methods of competition to practices that violate other antitrust laws. 21 The Court, recognizing the Commission’s expertise in competition matters, has given “deference”22 and “great weight”23 to the Commission’s determination that a practice is unfair and should be condemned.

**Exclusive FTC means *they investigate* AND address t*hrough non-judicial Administrative proceedings*. Avoids risks from *private causes of action*.**

**Rosch ‘10**

Remarks of J. Thomas Rosch - Commissioner, Federal Trade Commission before the USC Gould School of Law 2010 Intellectual Property Institute Los Angeles, CA - March 23, 2010 - #E&F – modified for language that may offend - https://www.ftc.gov/sites/default/files/documents/public\_statements/promoting-innovation-just-how-dynamic-should-antitrust-law-be/100323uscremarks.pdf

More broadly, however, I want to suggest that Section 5 may supply **an optimal vehicle** for challenging conduct that weakens innovation. The common law that has grown up around Section 2 over the last several decades is deeply ingrained in price theory; that static framework, however good it may be for evaluating short-run harm and quantifiable conduct such as price and output restraints, does not easily lend itself to looking at (considering) whether a party’s conduct has or will dampen innovation or prevent product improvement. Compounding matters is the fact that the difficult line drawing and weighing involved in comparing the likelihood of innovation against the likelihood of quantifiable **anticompetitive harm** is not something that generalist **judges and** **lay juries** are well suited for. Indeed, even the metric for measuring innovation itself remains elusive.

If the Commission proceeds under Section 5, these concerns **largely fall away**. Judging harm to competition against a consumer choice standard not only follows from Section 5’s text and the FTC’s unique institutional architecture, but provides a ready**made** vehicle for evaluating anticompetitive harm from a dynamic perspective. Moreover, by proceeding under Section 5 and suing **in our** Part 3 **administrative process**, the FTC (**and only the FTC)** can have the **first crack** at the hard line drawing and balancing that must occur when one weighs price competition against other forms of more dynamic competition. Arguably by leaving this critical task **to the FTC** and its prosecutorial discretion **in the first instance**, Section 5 allows the Commission **to minimize the threat of false positives** and **shake down lawsuits** that have animated many of the Supreme Court’s more recent decisions. For all of these reasons, **I would not be surprised** if the Commission decided to pursue claims based on dynamic concerns under Section 5 in the coming years, provided we can provide clear guidance to parties about when their conduct will trigger Section 5 review.

**Error rates are *the worst of both worlds* – ffalse positives and false negatives crush econ AND kill compliance with the Aff**

* Resolves all Aff offense vs. the CP related to “underdeterrence” bc…
* …under-deterring doesn’t map onto a world with error rates in the investigation and enforcement stages. Those errors can invite “false positive” non-compliance for the Aff.

**Baker 15** Jonathan B. Baker - Professor of Law, American University Washington College of Law. “TAKING THE ERROR OUT OF “ERROR COST” ANALYSIS: WHAT’S WRONG WITH ANTITRUST’S RIGHT” - 80 Antitrust Law Journal No. 1 (2015) - #E&F – continues to footnotes #18 and #19 – no text removed. https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2333736

The error cost perspective evaluates antitrust rules—whether considered **individually** or as **a whole**—based on whether they minimize total social costs. The relevant costs include costs of “false positives” (**finding violations when the conduct did not harm competition),** costs of “false negatives” (**not finding violations when the conduct harmed competition**), and **transaction costs** associated with use of legal process.17 **False positives** and **false negatives** are harmful **to the economy as a whole** for reasons that **go beyond** the conduct **in the case under review**:18 **False positives** and **false negatives** may **chill** beneficial conduct by other economic actors (potentially in other industries) that must comply with the rule; these errors may also fail to deter harmful conduct by other economic actors to which the same rule would apply. **False positives** and **false negatives** do not neatly map to overdeterrence and underdeterrence, respectively, however, because the deterrence consequences of **legal errors** depend in part on the way that those errors affect the marginal costs and benefits of conduct undertaken in the shadow of the law19.

**FN18** - From an economic perspective, antitrust rules benefit society primarily by deterring harmful conduct. See generally Jonathan B. Baker, The Case for Antitrust Enforcement, J. ECON. PERSP., Autumn 2003, at 27; cf. Louis Kaplow, Burden of Proof, 121 YALE L.J. 738 (2012) (highlighting a tradeoff between the benefits of deterrence and costs of chilling beneficial conduct that arises when the burden of proof in adjudication is set to maximize social welfare). Accordingly, the evaluation of **error costs** must ~~look to~~ (consider) the consequences of the decision or legal rule for conduct **by other firms**, **not simply to the incidence** of the decision on the parties to the case. For example, restricting analysis to the parties before the court would yield the misimpression that draconian punishments for parking in front of a fire hydrant will eliminate error costs. The prospect of such punishments would lead to 100% compliance with the no-parking rule, so there would be no court cases, no possibility for a court erroneously to convict or acquit a defendant, and no litigation expenditures. Yet such punishments would also chill parking in front of a hydrant when its social benefits (**e.g., allowing a doctor to arrive in time to save a life**) would outweigh its social costs. Such punishments would also discourage socially beneficial parking near hydrants (by drivers who fear that an aggressive parking enforcer would wrongly conclude that the hydrant is blocked and that a court would uphold the ticket). Restricting analysis to the parties before the court would yield the same misimpression with respect to an enforcement policy taken to the opposite extreme: A complete absence of enforcement of the rule prohibiting parking in front of hydrants would also lead to no court cases, and so would generate no judicial errors and no transaction costs of litigation. Yet such a rule would not deter parking in front of hydrants when the social cost (**the cost of impeding fire department access in the event of a fire discounted by the probability that a need for access would arise**) would exceed the social benefit.

**FN19** See generally Warren F. Schwartz, Legal Error, in 1 ENCYCLOPEDIA OF LAW AND ECONOMICS 1029 (Boudewijn Bouckaert & Gerrit De Geest eds., 2000). For example, a rule change that increases the frequency or cost (penalty) of **false positives** may increase deterrence, but it **could also do the reverse**. The latter may occur if more false positives mean that firms no longer obtain enough benefit from staying within the line separating legal and illegal behavior to justify being careful. **For this reason**, uncertainty about a **rule** or its **application** can **reduce compliance**. See generally Hendrik Lando, Does Wrongful Conviction Lower Deterrence?, 35 J. LEGAL STUD. 327, 329–30 (2006) (providing a simple technical example); Richard A. Posner, An Economic Approach to the Law of Evidence, 51 STAN. L. REV. 1477, 1483–84 (1999) (greater accuracy in judicial determinations increases the returns to compliance with legal rules); Steven C. Salop, Merger Settlements and Enforcement Policy for Optimal Deterrence and Maximum Welfare, 81 FORDHAM L. REV. 2647, 2668–69 & 2669 n.60 (2013) (a firm’s incentive to comply with a rule may fall **identically** when the probability of either type of error increases).

### 1NC – PTX

#### Biden’s PC is likely to pass climate spending – BUT sustaining focus and continuing to avoid tough votes for Manchin and Sinema is key

Cadelago et al 10-19 (Christopher Cadelago, White House Correspondent at POLITICO; Marianne LeVine, reporter at POLITICO, and Nicholas Wu, reporter at POLITICO; **internally citing White House aides, Sen. Jon Tester (D-Mont.), Rep. Pramila Jayapal, chair of the Congressional Progressive Caucus, John Podesta, top aide to former Presidents Barack Obama and Bill Clinton, and Louisa Terrell, director of the White House Office of Legislative Affairs**; “Biden bets his agenda on the inside game,” POLITICO, 10-19-2021, <https://www.politico.com/news/2021/10/19/biden-agenda-inside-game-516239>)

Before Joe Biden can fully pitch the public on his solutions to a lingering pandemic and economic rockiness, he’s got to finish the sale to his own party’s lawmakers.

As Democrats on Capitol Hill brace in anticipation of a brutal midterm, Biden is spending an extraordinary amount of time and political capital behind the scenes to convince them to rally around a common framework for social and climate spending. His congressional huddles have accelerated, from phone calls on the White House veranda to one-on-one and group meetings — including two high-stakes Tuesday sit downs with moderates and progressives. He’s dialing up old friends to take their temperature about how his presidency is really fairing far beyond the Beltway. White House aides, in their own recent conversations with nervous allies, have repeatedly cited the flurry of presidential calls as a sign itself of Biden's commitment to getting the bills over the finish line, at times bristling at claims that he hasn't been involved enough. But Biden’s hours and hours of meetings don’t just reflect the precarious moment in which his presidency finds itself. They underscore the heavy reliance his White House has placed on an inside game, rather than the bully pulpit, to dislodge recalcitrant holdouts and move their agenda. "The president is a longtime policy guy and relationship guy. So he brings both kinds of skills to his work" to corral his party behind a trillion-dollar-plus package of progressive priorities, said Biden's former primary rival Sen. Elizabeth Warren (D-Mass.). Warren acknowledged, however, that Biden's level of influence over Sens. Joe Manchin (D-W.Va.) and Kyrsten Sinema (D-Ariz.) — both of whom met with Biden on Tuesday — remains to be seen: "We'll know the answer to that when we make it across the finish line and assess what we’ve got." Biden met Tuesday afternoon with Sens. Jon Tester (D-Mont.), Catherine Cortez Masto (D-Nev.) and Mark Warner (D-Va.), along with House progressives and moderates. "We just need to get to a number," Tester said after returning from the White House. "I think that he likes all the programs but I think everybody's negotiable at this point." Biden told progressives that tuition-free community college would likely be cut from the final package and the child tax credit may only be extended for a single year, according to a source familiar with the meeting. Rep. Pramila Jayapal, chair of the Congressional Progressive Caucus, said after the meeting that tuition-free college is "probably going to be out," and certain climate priorities were "challenging." "At this point we don't have a certainty on the final thing, but what we're hearing is good," Jayapal said. "We feel like the vast majority, if not all, of our priorities are in there, in some way, shape or form.” As Biden has worked on lawmakers in private — sometimes not putting a hard stop on his schedule so as not to stifle progress — he’s largely, though not entirely, resisted riskier public pressure campaigns that could backfire and are viewed as against his nature. Often, Biden has had just a single public event each day. Occasionally, there’s been no public interfacing at all. Eight times since Labor Day, the daily guidance issued by the White House has included only private meetings with Biden. A planned barnstorming of the country to sell the Build Back Better platform this summer was overshadowed by the chaotic U.S. withdrawal from Afghanistan. And congressional uncertainty amid infighting among Democrats on opposite poles of the party has overshadowed continuing trips by Cabinet officials and commandeered the media narrative in Washington. While Biden has held public events around the agenda, he has not done a formal press interview on it since Labor Day. On Wednesday, he will take a trip to his hometown of Scranton, Pa., to discuss the benefits of the legislative proposals, and on Thursday he will participate in a town hall broadcast on CNN. “The President won the most votes in history running on his Build Back Better agenda, unveiled the formal proposal in his first address to a joint session of Congress, and has made his case across the country ever since – along with his cabinet – which is deeply resonating with the American middle class," White House spokesman Andrew Bates said. Over the weekend, Biden called Sen. Bob Casey (D-Pa.) to discuss the upcoming trip, according to the senator, who is working on expanding care for older people and people with disabilities. “He wanted to get some suggestions about issues we should focus on, while we’re there,” Casey said. Still, inside the White House, the lower-key strategy has been seen as a necessity: Democrats have such slim congressional majorities that Biden, Senate Majority Leader Chuck Schumer and Speaker Nancy Pelosi have essentially no margin for error. That has put far more of the president’s focus on convincing a relatively small number of lawmakers to agree to details of the package, rather than using his time to sell policies that the general public supports. Chief among that small number of lawmakers are Manchin and Sinema, who remain resistant to the range of $1.9 trillion to $2.2 trillion that Biden and progressive lawmakers have discussed as a compromise top line for the social spending bill. "I'm told that they've given signs on the parking spaces for these two senators at the White House, that they're there so often,” Senate Majority Whip Dick Durbin (D-Ill.) said of Manchin and Sinema. “This president has been engaged from the start, in working with all the leaders, and particularly with those two senators." As he does that, Biden has labored to project a sense of optimism about his progress. White House officials say they’re encouraged by what they described as the accelerated pace of the talks, even as the Oct. 31 timetable appears exceedingly ambitious. Another explanation for the approach was baked in long ago. Biden is a 36-year veteran of the Senate with a heightened sense of his own negotiating instincts and abilities to move major legislation through the chamber. A self-admitted schmoozer, he has avoided doing much to shame Manchin and Sinema, preventing many details from their conversations and about his own preferences from spilling into public view. “There’s a lot of complaining about what the message has been on this package, but when you’re trying to fight for every vote, the coverage inevitably becomes about the process and numbers,” said John Podesta, a top aide to former Presidents Barack Obama and Bill Clinton and a major climate activist. “When you are inside talking one-on-one to members trying to convince people to stay with you or come on board it’s very hard to create a press environment which is different from what they’ve got.” Biden has resumed his in-person meetings with Congress’ return to Washington, including Tuesday sit-downs that involved Vice President Kamala Harris and Treasury Secretary Janet Yellen. There's a deepening acknowledgment that he has to hurry. “They really are now in a circumstance where they will take on more and more water unless they can close the framework,” Podesta added. “I think they’ll do it. But it’s not like they have forever. We’re talking about this week or next week.” In his meetings, Biden has spent a considerable amount of time on the party’s collective sense of urgency, aides and allies said, telling members of his party that they simply have to deliver. The conversations have at times been crisp, with Biden telling some Democratic skeptics that in order to be part of the negotiating process, they need to articulate policies that they are for and not just what they oppose — a message similar to the one Sen. Bernie Sanders (I-Vt.) has delivered to Manchin and Sinema. Biden’s goal has been to help establish broad areas of agreement before filling in the specifics. At the same time, Biden has repeatedly cautioned his senior aides and officials not to rely on generalizations, and to prepare recommendations based on data and input from the lawmakers about their states and districts. He has stolen bits of face time with lawmakers wherever he can, keeping members back after bill signings, for example, to sound them out, and gathering with them in their districts when he’s been on the road. Moving beyond sticking points has been a challenge, and Biden is known to implore lawmakers to step back and ignore a particular area and to temporarily focus on others where they might be able to make progress. “When you see him artfully and deftly manage these hard conversations with members and guide them into a productive place, it helps remind you there is room for optimism and there is a pathway here,” said Louisa Terrell, director of the White House Office of Legislative Affairs.

#### Plan necessarily drains PC – trading off with unrelated agenda items.

Carstensen ‘21

Peter C. Carstensen - Fred W. & Vi Miller Chair in Law Emeritus, University of Wisconsin Law School, M.A., Yale University; LL.B., Yale Law School; former attorney at the Antitrust Division of the United States Department of Justice, where one of his primary areas of work was on questions of relating competition policy and law to regulated industries. He is a Senior Fellow of the American Antitrust Institute – “THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST” – Concurrences – #1 - Feb 15, 2021 - #E&F - https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#carstensen

14. Similarly, despite bipartisan murmurs about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would have to trade off other goals, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to give up stricter competition rules in order to achieve other legislative priorities.

15. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorney general and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate!

16. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest significant political capital in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamically competitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### PC’s key to Glasgow success

Glasser 10-28 (Susan B. Glasser, staff writer at The New Yorker, founder and former editor of Politico Magazine, former editor-in-chief of Foreign Policy, graduated from Harvard University, “Biden Can’t Quite Close the Deal—with His Own Party,” The New Yorker, 10-28-2021, https://www.newyorker.com/news/letter-from-bidens-washington/biden-cant-quite-close-the-deal-with-his-own-party)

On Thursday afternoon, Pelosi spoke to reporters after the House Rules Committee released the 2,465-page text of the budget bill that progressives had been demanding to see. The Speaker was no longer mentioning a vote before Biden’s plane landed in Rome. “We’re on a path to get this done,” Pelosi said. “We’ll see what consensus emerges from that, but we’re really very much on a path. . . . We’re on a path to get this all done.” Pelosi was then asked whether she trusted the word of Manchin and Sinema enough to move ahead with both bills. “I trust the President of the United States,” Pelosi replied. As she left the press conference, Pelosi was asked one more time: Are you holding an infrastructure vote today? She did not answer. By next week, this could be just another forgotten congressional dumpster fire. The agonizingly slow negotiations on Biden’s agenda over the last few months are not the first time and will not be the last that the legislative sausage-making process has left legislators feeling, as Representative Debbie Dingell put it, “sick to your stomach.” Biden and Pelosi are betting on some basic principles of politics to help smooth it all over. They are betting that the memories of the enervating process, like a painful childbirth, will fade with time. They are betting that delivering something is better than delivering nothing. And they are betting that the mechanics of passing the legislation are much less significant than the politically popular proposals, such as raising taxes on wealthy corporations and child-care tax credits, contained within the bills. The House progressives quickly put out a statement saying that, while they were balking at having an infrastructure vote on Thursday, they were, in fact, committed to supporting both that bill and the bigger social-spending bill—whenever they do come to the floor. Winning tends to erase the pain of getting there. But what I keep coming back to is that Biden has struggled so much—and had to put so much of his personal prestige and political capital on the line—for a deal he can’t quite close with his own party. These are Democrats he is negotiating with. No Republicans—or Russians or Chinese, for that matter—were involved in the making of the deal, to the extent that there is a deal. And why, exactly, was it such a heavy lift that it took so long to get to the pretty inevitable top-line number? A month ago, the big breakthrough was the revelation that Manchin was for a $1.5-trillion bill and that Biden and the Democratic leadership wanted to get to approximately two trillion dollars. It did not take a negotiating genius to figure out that they were going to end up at $1.75 trillion. This is what practically broke Washington? You can’t blame that one on Donald Trump. In 2020, Biden campaigned as a dealmaker—not a Trump, I-could-sell-you-the-Brooklyn-Bridge-type dealmaker, but an actual Washington-insider-who-can-make-this-town-work-again-type dealmaker. This is why the stakes for him now are so high. It’s become a basic test of his ability to deliver. In a speech from the White House before he left for Europe, Biden made a final appeal that was more or less a plea to his party to pivot—at last—to governing. “No one got everything they wanted, including me,” he said, of the framework, “but that’s what compromise is. That’s consensus, and that’s what I ran on.” It is also, he added, “the only way to get big things done in a democracy.” Biden, as I write this, is flying on Air Force One to Europe, on only his second trip abroad as President. He faces skeptical Europeans, who are still peeved about the messy American withdrawal from Afghanistan, and skeptical Chinese, with whom he must try to negotiate so that the cop26 climate-change gathering in Glasgow does not result in the abject failure many are predicting. But there is little doubt that Biden’s ability to lead in the world is directly tied to his ability to lead at home. Failure on one front is failure on both. So the question remains: “Are we going to vote and demonstrate that we can govern,” as Representative Elissa Slotkin put it, “or not?”

#### Glasgow’s the only way to avoid existential climate change

--NDC = “nationally determined contributions” (to net zero global emissions by 2050) = the “ratchet mechanism” where NDCs should increase each conference

--broadly, yes political will among developed countries, esp. China, already on board net zero

--political will in developing countries is explicitly conditional on Biden’s ability to pass climate finance provisions in the social infrastructure bill

--Biden’s ability to showcase credible policies to achieve an ambitious NDC + financing drives up everyone else’s NDCs sufficient to achieve 1.5 deg track

--1.5 deg key – each incremental increase above that exponentially increases existential risk – IPCC report

--not too late, Glasgow specifically is the last chance – IPCC report

Åberg et al 10-5 (Anna Åberg, research analyst in the Environment and Society Programme of Chatham House, formerly served as desk officer at the Swedish Ministry for Foreign Affairs, MSc Development Studies, London School of Economics and Political Science, BSc Business and Economics, and Politics and Economics, Lund University; Antony Froggatt, deputy director and senior research fellow in the Environment and Society Programme of Chatham House; and Rebecca Peters, Queen Elizabeth II Academy Fellow in the Environment and Society Programme of Chatham House, doctoral candidate at the University of Oxford with the UK Foreign, Commonwealth and Development Office REACH Water Security programme, MSc Development Economics, MSc Water Science and Policy, Marshall Scholar; “Raising climate ambition at COP26,” Chatham House (the Royal Institute of International Affairs, London) Research Paper, October 2021, https://www.chathamhouse.org/sites/default/files/2021-10/2021-10-05-raising-climate-ambition-at-cop26-aberg-et-al-pdf.pdf)

01

Introduction COP26 is the most important climate summit since COP21 in Paris in 2015. Over the past year, the global politics of climate change have shifted, with the election of President Joe Biden and the announcement of China’s carbon neutrality target. Addressing climate change is the defining challenge of our time. Around the globe – and across the suite of UN organizations – there is widespread recognition of the urgency to reduce greenhouse gas (GHG) emissions and to prepare for a world that is, and will continue to be, severely impacted by climate change. The foundational treaty of the international climate change regime – the United Nations Framework Convention on Climate Change (UNFCCC) – was adopted at the Rio Earth Summit in 1992.1 Its signatories agreed to ‘achieve… stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system’.2 The states that have ratified the UNFCCC meet annually at the ‘Conference of the Parties’ (COP) to assess and review the implementation of the convention.3 The COP has negotiated two separate treaties since the formation of the UNFCCC: the Kyoto Protocol in 1997, and the Paris Agreement in 2015.4 The Paris Agreement was adopted by 196 parties at COP21 in 2015 and entered into force less than a year later.5 The goals of the treaty are to keep the rise in the global average temperature to ‘well below 2°C above pre-industrial levels’, ideally 1.5°C; enhance the ability to adapt to climate change and build resilience; and make ‘finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development’.6 The agreement adopts a ‘bottom-up’ and non-standardized approach, where parties themselves set their national emission reduction targets and communicate these to the UNFCCC in the form of nationally determined contributions (NDCs).7 As things stand, the targets8 that were submitted in the run-up to COP21 are not sufficient, even if fully implemented, to limit global warming to 2°C, much less 1.5°C.9 The Paris Agreement was designed, however, to generate increased ambition over time via two components: a collective ‘global stocktake’ during which progress towards Paris Agreement goals is assessed based on country reporting,10 and the ‘ratchet mechanism’, which encourages countries to communicate new or updated NDCs every five years, with the expectation that ambition will increase over time.11 The results of the stocktake are scheduled to be released two years before NDC revisions are made.12 This sequencing is designed to allow national plans to account for the global context of the climate assessment. The first global stocktake is to be conducted between 2021 and 2023, and will be repeated every five years thereafter.13 The results of the first stocktake are due to be published around COP28. We really are out of time. We must act now to prevent further irreversible damage. COP26 this November must mark that turning point.14 UN Secretary-General António Guterres, 16 September 2021 The 26th Session of the Conference of the Parties (COP26) to the UNFCCC is to be hosted by the UK, in partnership with Italy. After a year-long delay, the conference is now scheduled to take place in Glasgow, Scotland, between 31 October and 12 November 2021.15 Organizing an in-person event during a pandemic presents a substantial challenge. The UK government is providing vaccines to accredited delegations, but doses only started to be delivered at the beginning of September 2021 and restrictions, such as quarantine requirements,16 pose further obstacles to participation.17 An alliance of 1,500 civil society organizations are among those calling for a second postponement of the COP, citing concerns about a lack of plans to enable safe and inclusive participation of delegates from, not least, the Global South.18 The UK government is, however, adamant that it will proceed with the conference as planned.19 The pandemic has changed understandings of global risks, the interconnected nature of economies and the role of governments in preparing for and responding to existential threats. This may provide impetus for accelerated climate action. The postponement of COP26 itself has been of considerable significance. Over the past year, the global politics of climate change have shifted, with the election of President Joe Biden and the announcement of China’s climate neutrality target being particularly important. Moreover, the economic recovery packages that are being rolled out to counter the economic consequences of the pandemic present an opportunity to accelerate the green transition.20 To date, however, the members of the G20 have prioritized investments in fossil fuels above those in clean energy,21 and only 10 per cent of the global expenditure is estimated to have been allocated to projects with a net positive effect on the environment.22 COP26 is the most important climate summit since COP21 in Paris, and it differs from earlier COPs in several ways: it is the first test of the ambition-raising ratchet mechanism and marks a shift from negotiation to implementation. An ambitious outcome at COP26 requires substantial action to be taken before the summit – and outside the remits of the UNFCCC process – as well as at the actual conference. Human activity has already caused the global average temperature to rise by around 1.1°C above pre-industrial levels, and every additional increase in warming raises the risks for people, communities and ecosystems. To avoid the most catastrophic climate change impacts, it is essential world leaders make every effort to limit warming to 1.5°C. Working group I of the Sixth Assessment Report of the IPCC shows it is still possible to keep warming to this critical threshold, but that unprecedented action must be taken now.23 As John Kerry, special presidential envoy for climate, stated, ‘[t]his test is now as acute and as existential as any previous one’.24 COP26 has a critical role in getting the world on track for a 1.5°C pathway, and in supporting those most affected by climate change impacts. It also constitutes a key test for the credibility of the Paris Agreement and the UNFCCC process overall. But what can and should the Glasgow summit achieve more specifically? The objective of this paper is to discuss what a positive outcome at COP26 would entail, with the dual aims of encouraging increased ambition and contributing to an informed public debate. The main argument put forth is that substantial progress must be made in three main areas, namely on increasing the ambition of NDCs; enhancing support to and addressing concerns of climate-vulnerable developing countries; and advancing the Paris Rulebook to help operationalize the Paris Agreement. COP26 is undoubtedly hugely significant and national government pledges in the run-up to Glasgow will contribute to shaping the level of future GHG emissions. However, the event is not only critical in terms of reaching an ambitious outcome on climate, it is also an important opportunity to judge the level of confidence in the international process and the UNFCCC. 02 Increasing the ambition of the NDCs A key element of COP26 will be the level of ambition of the revised NDCs put forward by governments to the UNFCCC and the extent to which these keep the 1.5°C global warming target agreed in Paris within reach. According to the United Nations Environment Programme (UNEP), greenhouse gases (GHGs) in 2019 totalled 52.4 gigatonnes of CO₂ equivalent (GtCO₂e)25 of which the majority was CO₂ (38 Gt), then methane (9.8 Gt), nitrous oxide (2.8 Gt) and F-gases (1.7 Gt).26 The same year, GHG emissions were approximately 59 per cent higher than in 1990 and 44 per cent higher than in 2000.The six largest emitters – together accounting for 62 per cent of the global total – were China (26.7 per cent), the US (13 per cent), the EU (8 per cent), India (7 per cent), Russia (5 per cent) and Japan (3 per cent) (see Figure 1).27 **[FIGURE 1 OMITTED]** According to UNEP, the implementation of the first round of NDCs would result in an average global temperature increase of 3°C above pre-industrial levels by the end of the century, with further warming taking place thereafter. If these NDC’s were fully implemented, emission levels are expected to be in the range of 56 GtCO2e (with unconditional NDCs) to 53 GtCO₂e (with conditional NDCs) by 2030.28 To align with a 2°C pathway, the ambition of the second round of NDCs would need to triple relative to the original targets, leading to emissions levels of around 41 GtCO₂e in 2030. Alignment with the 1.5°C target would require a fivefold increase in ambition, leading to emission levels around 25 CO₂e in 2030 (see Figure 2).29 **[FIGURE 2 OMITTED]** The Paris Agreement states that parties shall communicate an NDC every five years,30 and that each submission shall constitute a progression in terms of ambition.31 Parties conveyed their first round of targets prior to COP21, and were due to submit new or updated plans in 2020.32 COP26, originally scheduled for November 2020, would then take stock of the collective level of ambition of these plans vis-à-vis the temperature targets of the Paris Agreement. The postponement of the COP by one year has in practice (albeit not formally) extended the deadline for submitting NDCs to ‘ahead of COP26’. Where do we stand? The delay of COP26 has given countries more time to put forward NDCs and longer-term decarbonization targets. This effort gained significant traction when China pledged to achieve carbon neutrality by 2060 and peak its emissions before 2030, during the general debate of the 75th Session of the UN General Assembly (UNGA) in September 2020.33 Then, in November 2020, the UK submitted its NDC, pledging a 68 per cent reduction in emissions by 2030 (based on 1990 levels)34 and later added a 2035 target of 78 per cent.35 The EU has, moreover, put forward a 55 per cent reduction target relative to 1990 levels,36 with some countries within the bloc going even further, including Germany, which agreed on a 65 per cent reduction target.37 The election of President Biden has fundamentally changed the US’s position on climate change, leading to, among other things, the country re-joining the Paris Agreement.38 At a specially convened Leaders Summit on Climate – hosted by the US – the Biden administration presented an NDC with an emission reduction target of 50–52 per cent39 (based on 2005 levels, which is equivalent to 40–43 per cent below 1990 levels40). During the summit, countries including Canada, Japan and others pledged more ambitious NDC targets.41 While there is more pressure on governments to act on climate change, due to its increasingly devastating impacts, there are also more opportunities for carbon mitigation through available alternative technologies and systems, as well as falling renewable energy costs (see Box 2). Table 1 details the NDC targets put forward by G20 countries prior to COP21 in Paris and the extent to which these have since been revised. The updated NDCs have been assessed by the independent body, Climate Action Tracker, which has analysed to what extent the NDCs align with the 1.5°C pathway. The analysis also looks at domestic policies and actions, which are important as they provide an indication of whether governments are following through on their promises. **[TABLE 1 OMITTED]** As of September 2021, 85 countries and the EU27 had submitted new or updated NDCs, covering around half of global GHG emissions. Some parties, like China and Japan, have proposed new targets but not yet submitted them formally while around 70 parties – including G20 countries like India, Saudi Arabia and Turkey – have neither proposed nor communicated a revised NDC target. Several parties have, moreover, submitted new NDCs without increasing ambition. These include Australia, Brazil, Indonesia, Mexico, New Zealand, Russia, Singapore, Switzerland and Vietnam.42 In some of these cases, adjustments in baselines mean that ambition has de facto decreased (Brazil and Mexico).43 Analysis published by Climate Action Tracker in September 2021 shows that the NDC updates only narrow the gap to 1.5°C by, at best, 15 per cent (4 GtCO₂e). This leaves a large gap of 20–23 GtCO₂e.44 Similar analysis from the UN underscores the need for further NDC enhancements.45 If all current NDCs are implemented, total GHG emissions (not including emissions associated with land use) in 2030 are projected to be 16.3 per cent higher than in 2010, and 5 per cent higher than in 2019. The emissions of the parties that have submitted new or updated NDCs are, however, expected to fall by around 12 per cent by the end of the decade, compared to 2010 levels. The UN report also highlights the importance of providing support to developing countries, as many of these have submitted NDCs that are – at least in part – conditional on the receipt of additional financial resources, capacity-building support, and technology transfer, among other things. If such support is forthcoming, global emissions could peak before 2030, with emission levels at the end of this decade being 1.4 per cent lower than in 2019. However, even the full implementation of both the unconditional and conditional elements of the NDCs would lead to an overshoot of the targets of the Paris Agreement – as alignment with 1.5°C and 2°C require cuts of 45 per cent and 25 per cent, respectively, by 2030 (relative to 2010 levels).46 A large number of countries are also making more long-term net zero emissions or carbon neutrality pledges. As of September 2021, just over 130 countries had made such commitments, but not all of them have formally presented them to the UNFCCC.47 Examples include large economies like China, Japan, Brazil, the US, South Africa, South Korea, and the EU, as well as climate-vulnerable developing countries like the Marshall Islands, Barbados, Kiribati and Bangladesh.48 Climate Action Tracker estimates that if these long-term targets – and the NDCs – are fully implemented, global warming could be limited to 2°C.49 Most of the net zero pledges are, however, formulated in vague terms that are not consistent with good practice. The long-term targets are, moreover, only credible if they are backed up by ambitious and robust 2030 NDCs,50 given that substantial cuts in emissions must occur this decade. An additional concern that has been raised when it comes to net zero pledges is that they may encourage reliance on negative emissions technologies, such as bioenergy with carbon capture and storage (BECCS), which have still to be tested at scale to assess land requirement, efficiency and economic viability.51 **[BOX 1 OMITTED]** The challenge of closing the gap Bridging the gap between current NDCs and targets that would keep warming to 1.5°C is a defining challenge for governments ahead of COP26. As mentioned, UNEP estimates that the ambition of 2030 targets would need to be enhanced fivefold vis-à-vis pledges made in 2015 to align with a 1.5°C pathway.53 Several large emitters – including the US and the EU – have now submitted their new or updated NDCs. According to Climate Action Tracker, the UK’s target is considered to be compatible with a 1.5°C pathway, while those of the US, EU, Japan and Canada are classified as ‘almost sufficient’.54 It is critical that all countries that have not yet submitted a new or updated NDC do so, and that these pledges are aligned with 1.5°C. It is equally important that countries that have submitted unambitious NDCs revisit their targets. The Paris Agreement states that parties may revise existing NDCs at any time, if the purpose is to enhance ambition.55 The G20 countries have a particularly important role to play. In July 2021, the Italian G20 presidency hosted the first ever G20 Climate and Energy Ministerial meeting. In the final communique the countries in the G20 stated that they ‘intend to update or communicate ambitious NDCs by COP26’.56 The importance of action from all members of the G20 is clear, as they collectively account for 80 per cent of global emissions and as UN Secretary-General António Guterres said, ‘there is no pathway to this [1.5°C] goal without the leadership of the G20’.57 With only a few weeks to go it is, however, unlikely that the 20–23 GtCO₂e gap in targets will be closed by COP26. At the UK-hosted COP26 ministerial in July, a number of ministers stressed that parties would need to respond to any gap remaining by the Glasgow conference. Some suggested that such a response could include a ‘clear political commitment’ to keep 1.5°C within reach, a recognition of the gap, and a plan to bridge it. More specific proposals of actions that could be taken, as part of the response, to keep the 1.5°C pathway alive were also discussed. Suggestions included, but were not limited to, encouraging countries whose NDCs are not consistent with 1.5°C to bring their 2030 targets in line before 2025 (when the third round of NDCs are due); calling for parties to submit concrete long-term strategies for reaching net zero; and/or sending clear signals to markets through actions like phasing out unabated coal, carbon pricing, fossil fuel subsidy reform, nature-based solutions, and decarbonizing transport.58 Achieving a positive COP26 outcome The ultimate benchmark for a high ambition outcome at COP26 is whether the new or updated NDCs are ambitious enough to align with a 1.5°C pathway. For many communities and ecosystems, the threat of different climate impacts between 1.5°C and 2°C – not to mention 3°C, 4°C or 5°C – is existential. Each increment of warming is anticipated to drive increasingly devastating and costly impacts, including extreme heatwaves, rising sea levels, biodiversity loss, reductions in crop yields, and widespread ecosystems damage including to coral reefs and fisheries.59 Keeping the goal of 1.5°C within reach will require substantial action this decade. Long-term targets to achieve net zero emissions or carbon neutrality have the potential to be powerful drivers of decarbonization but need to be supported by ambitious NDCs as well as concrete policies and sufficient investment. Should we reach COP26 without sufficient ambition on NDCs, parties would need to present a plan for how ambition will be raised in the early 2020s. This could include a COP decision or a political statement underscoring the need to keep warming to 1.5°C and inviting parties to revisit their NDCs earlier than the Paris timetable dictates (for instance in 2023 instead of 2025).60 To support more ambitious action, countries should look to expand international collaboration and accelerate decarbonization in key sectors. At COP26, parties can help boost the credibility of their pledges by showcasing policies, measures and sector initiatives that will accelerate decarbonization, including on the phase out of unabated coal and the increased use of electric vehicles (see Box 3). **[BOX 2 OMITTED] [FIGURE 3 OMITTED]** In the run-up to COP26, the UK government is mobilizing its counterparts and non-state actors to drive accelerated action on phasing out the use of unabated coal,65 accelerating the deployment of electric vehicles,66 protecting and restoring nature (nature-based solutions67), and aligning financial flows with the goals of the Paris Agreement.68 The role of the private sector is crucial in the transition to net zero economies and is recognized within the framework of the UNFCCC, as they can deliver funding, innovation and technology deployment at a pace and scale beyond that of most governments (see Box 1). It is hoped that some of these initiatives will lead to plurilateral agreements at or ahead of COP26, which could enhance the credibility of mitigation pledges and help keep the 1.5°C target within reach. Being able to showcase a package consisting of ambitious NDCs, plurilateral deals, and national policies at COP26 could generate positive momentum and create a sense of inevitability around the transition to net zero societies. **[BOX 3 OMITTED]** 03 Support to climate-vulnerable developing countries Increased action on climate finance, adaptation, and loss and damage is critical for supporting climate-vulnerable developing countries, strengthening trust and raising ambition on mitigation. The year 2020 was one of the warmest on record.80 As COVID-19 ravaged the world, extreme weather events continued to cause severe devastation. In Bangladesh, torrential rains submerged a quarter of the country,81 resulting in hundreds of deaths, mass displacement and damage to more than a million homes.82 Record-breaking floods in Sudan83 and Uganda84 also displaced hundreds of thousands, while super cyclone Amphan raged across South Asia.85 Extreme weather events were also a defining feature of the summer of 2021. An unprecedented heatwave may have killed almost 500 people in British Columbia,86 as well as a billion marine animals along the Canadian coastline.87 In the Chinese province of Henan people drowned in the subway after a year’s worth of rain fell in just three days.88 Germany and Belgium also experienced death and destruction as a result of severe flooding,89 while villages in Greece burned.90 The impacts of climate change are striking even harder than many anticipated,91 and as temperatures continue to rise extreme weather events are increasing in both frequency and intensity. Limiting global warming to 1.5°C is key to avoiding the most catastrophic events, but substantial measures must also be undertaken to adapt to climate change impacts and build resilience. As the summer of 2021 shows, no country is spared. It is, however, those who have emitted the least that are most at risk,92 and in many countries that are disproportionately affected by climate change – such as the least developed countries (LDCs)93 – financial constraints impede their ability to invest in adaptation, build resilience and deal with loss and damage.94 COVID-19 has aggravated this challenge: while industrialized countries have implemented unprecedented stimulus measures to support their economies – and vaccinated large parts of their populations – many developing countries remain in the midst of a health and economic catastrophe. Scaled up action on climate finance, adaptation and loss and damage are – in addition to increased ambition on mitigation – key priorities for climate-vulnerable nations ahead of COP26. Raised ambition and concrete delivery in these areas are critical for supporting those at the frontline of climate change, key to building trust, and could encourage some parties to raise the ambition of their NDC pledges. The implementation of many NDCs is, in addition, at least partly conditional upon receiving increased levels of finance, as well as other types of support.95 Honouring the $100 billion goal In 2009, developed countries committed to mobilizing $100 billion per year by 2020 for climate mitigation and adaptation in developing countries.96 This pledge was subsequently formalized in the Cancun Agreements in 201097 and reaffirmed in the Paris Agreement in 2015. The resources provided were to be ‘new and additional’98 and come from a variety of public and private sources.99 The $100 billion goal is a core element of the bargain underpinning the Paris Agreement.100 While achieving the mitigation and adaptation goals of the agreement will require trillions of dollars in investment – of which most will need to come from the private sector – the delivery of the $100 billion is critical to building trust between developed and developing countries,101 and is important for raising ambition on mitigation.102 The OECD estimates that $79.6 billion was mobilized in 2019, which is the most recent year for which official figures are available.103 In 2018, the figure was $78.9 billion, and in 2017 it was $71.2 billion.104 Though the verified figures for 2020 will not be available until 2022, it is clear the target was missed.105 Developed countries have, moreover, not yet been able to show that the pledge will be honoured in 2021, nor demonstrate conclusively how it will be met in the 2022–24 period.106 The pledge by developed nations to mobilize $100 billion to developing nations by 2020 is a commitment made in the UNFCCC process more than a decade ago. It’s time to deliver. How can we expect nations to make more ambitious climate commitments for tomorrow if today’s have not yet been met?107 Patricia Espinosa, 23 July 2021 How the goal is achieved matters. Only around one-fifth of bilateral climate finance is allocated to the LDCs,108 and locally led projects receive low priority.109 There are also concerns related to overreporting and lack of additionality. Oxfam estimates, for instance, that 80 per cent of public climate finance provided over the 2017–18 period took the form of loans or other non-grant instruments, and that the actual grant equivalent only accounted for around half of the total amount of finance reported.110 Furthermore, the Center for Global Development has found that almost half of the climate finance reported between 2009 and 2019 cannot be considered ‘new and additional’.111 There is, finally, an urgent need to close the adaptation finance gap (see next section),112 and facilitate access to finance.113 It is widely recognized that honouring the $100 billion goal is a prerequisite for success at COP26.114 The hitherto failure of developed countries to provide clarity on the issue is creating mistrust between countries,115 with the director of the International Centre for Climate Change and Development (who is also an adviser to the climate-vulnerable countries) conveying that, ‘if the money is not delivered before November, then there is little point in climate-vulnerable nations showing up in Glasgow to do business with governments that break their promises’.116 The chair of the LDC Group has also made it clear that, ‘[t]here will be no COP26 deal without a finance deal’. 117 The G7 countries play a critical role in mobilizing the $100 billion,118 and there was a hope that G7 leaders would increase their bilateral commitments substantially – and provide clarity on the $100 billion119 – when they convened in Cornwall in June 2021. Some new pledges were made. Canada, for instance, committed to doubling its climate finance through to 2025 (to CAD $5.3 billion), and Germany pledged to increase its annual commitments from €4 billion to €6 billion by 2025 at the latest.120 The G7 members collectively also committed to ‘each increase and improve’ their public climate finance contributions, and announced they would develop a new international initiative – ‘Build Back Better for the World’121 – the details of which have yet to be fleshed out. However, many developing country officials – and many observers worldwide – expressed disappointment with the summit outcome, with the climate minister of Pakistan describing the G7 commitments as ‘peanuts’.122 Several announcements on climate finance were also made during the 76th Session of the UNGA in September 2021. Most importantly, President Joe Biden pledged to double US climate finance (again) from the previously committed $5.7 billion to $11.4 billion per year by 2024. Actual delivery is, however, contingent on congressional approval.123 The EU – which already contributes around $25 billion in climate finance per year – also stepped up, announcing an additional €4 billion until 2027,124 while Italian Prime Minister Mario Draghi conveyed that Italy would shortly be announcing a new climate finance commitment.125 Though the US pledge in particular has been described as a critical step forward that ‘puts the $100 billion within reach’,126 more will need to be done.127 $100 billion is a bare minimum. But the agreement has not been kept. A clear plan to fulfil this pledge is not just about the economics of climate change; it is about establishing trust in the multilateral system.128 António Guterres, 9 July 2021

### 1NC – UN CP

#### The United Nations should:

#### ---establish a body on Digital Issues,

#### ---mandate principles of global digital constitutionalism with universal civil jurisdiction including:

#### ---the preservation of the global and open nature of the Internet,

#### ---international digital cooperation to support ICT infrastructure-building in all countries,

#### ---and the adoption of a democratic and human rights-based approach to the governance of digital technologies, including separating platforms from commerce.

#### The counterplan solves both advantages without reforming US antitrust law.

Gurumurthy 21 (Anita Gurumurthy, Executive Director @ IT for Change, Bengaluru, India, advisor and expert on various bodies including the United Nations Secretary-General’s 10-Member Group in support of the Technology Facilitation Mechanism, the Paris Peace Forum’s working group on algorithmic governance, Save the Children’s ICT4D Brain Trust, and Minderoo Tech & Policy Lab‘s Board; Nandini Chami, Deputy Director at IT for Change; “Towards a Global Digital Constitutionalism: A Radical New Agenda for UN75,” 05-03-21, *Development (2021)*, Springer Link, <https://doi.org/10.1057/s41301-021-00287-z>, TM)

Twenty years after the WSIS, even as multi-stakeholder governance models in the domain have been stripped of any claim to their democratic potential, global digital governance is in shambles. Norm-building for the digital paradigm is increasingly shifting to plurilateral spaces and private sector-led rule-making in the guise of technical standards development. The UN Secretary-General’s Roadmap for Digital Cooperation (2020) has failed to address this crisis. The paper argues for how in its 75th year, the UN needs to make a clean break from its historical soft-pedalling of corporatized rule-making for the digital by embracing the radical agenda of a transformative global constitutionalism, and proceeds to outline its constituent elements.

The Digital Epoch

Seventy-five years ago, like the phoenix rising from the ashes, the United Nations emerged as a beacon of hope in a world reeling from the aftermath of a horrific world war—nuclear weapons deployed against civilians, state-sponsored crimes against humanity, and deep impoverishment of colonized countries and peoples in the Global South. The Charter of the United Nations (UN) adopted in 1945 provided the constitutional basis for ushering in a new international order grounded in the three-point agenda of peace and security, human rights and development.

Today, the world stands at the edge of another precipice. In the past two decades, very little progress has been made on reducing inter- and intra-country inequality. There is extreme centralization of economic power (Esteve 2016), increase in inter-firm inequality (Qureshi 2020), and a global decline in the labour share of national income (Guellec and Paunov 2017). The pandemic is but a grim foreboding of the many ominous consequences that are bound to follow from a growth project gone awry, with a cavalier disregard for planetary boundaries. Digital capitalism has only furthered this unjust and unsustainable paradigm.

The trans-border space of flows opened up by the Internet and digital technologies is characterized by platformization, a brand-new mode of capital accumulation (Poell et al. 2019). Based on the capture of networked flows of goods, services, and social interactions, and harnessing of data-based intelligence from these flows, digital corporations at the top of the pecking order control emerging global value chains (Gurumurthy et al. 2020). The digital revolution has ushered in a new phase of neoliberal economic globalization, where market power is synonymous with network-data power. Digital intelligence has become the constitutive core of the digital society, and intelligent corporations—known variously as GAFAA, GAFAM, FAANGFootnote2 and so on—the centrifugal force of economic systems.

The business model of the intelligent corporation, predicated on the enclosure of networked flows and data resources, has led to an economy-wide intensification of ‘winner-take-all’ markets and an immense concentration of wealth in the hands of a few (Gurumurthy and Chami 2020). Five digital companies—Apple, Microsoft, Alphabet, Amazon and Facebook—make up 18% of the total market capitalization as per Standard & Poor’s 500 index, the highest such percentage in history (Levy and Konish 2020). As the United Nations Conference on Trade and Development (UNCTAD) Digital Economy Report 2019 observes, the United States of America (USA) and China account for:

75 per cent of all patents related to blockchain technologies, 50 per cent of global spending on IoT (Internet of Things), and more than 75 per cent of the world market for public cloud computing. And, perhaps most strikingly, they account for 90 per cent of the market capitalization value of the world’s 70 largest digital platforms (UNCTAD 2019).

Even as the global economy went into a tailspin after the pandemic, the personal wealth of the owners of Big Tech companies increased manifold. Jeff Bezos, Amazon’s Chief Executive Officer, saw his personal fortune increase by over US$ 40 billion during this period,Footnote3 while warehouse workers of his company went without health and safety guarantees.

As intelligent corporations use data-based optimization to selectively mobilize and demobilize labour in the value chains they control, permanent jobs are replaced with ‘gig work’ arrangements unprotected by labour guarantees (Kenney and Zysman 2019). Algorithmic gaming of the digital public sphere by social media giants has led to a viral outrage that systematically circulates hate and misinformation, intensifying political polarization and the degradation of deliberative democracy (Pasquale 2017). As intelligent corporations extend their operations into the real world, subsuming activities across sectors into the apparatus of data, digital capitalism has ushered in a new-age imperialism wherein countries from the Global South are the source of data.

The might of the digital giants, or Big Tech, is sustained not only because of material, network-data power. The centralization and enclosure of digital technological resources, and ascendance of corporate controlled platform infrastructures in the society and economy rest on a compelling myth of how the future of humanity is predicated on unencumbered digital innovation. The parameters of ‘development’, it is assumed, are best understood by elite corporate actors who are to be left untouched by the stifling tyranny of regulation. This myth rests on a number of discursive planks of corporate hegemony: ‘Internet exceptionalism’, which holds that the distributed, decentralized and democratic character of the global Internet will be thwarted by any conventional multilateral approach to its governance (Chenou 2014); ‘free global data flows’, which considers any effort to regulate cross-border flows of data as a potentially fatal blow to informational freedoms on the Internet-mediated global public sphere (Gurumurthy et al. 2017); ‘the global community of users’, which reframes market interests as freedom, flexibility, convenience and even collaboration, sharing and solidarity for the Internet users of the world (Ritzer and Jurgenson 2010); and ‘data for development’, which views data extractivist strategies as the magic bullet for development pathways in the digital economy (Gurumurthy and Chami 2019).

The material-discursive ammunition of Big Tech has served its owners well in building a post-democratic world order that, as the rest of this article will demonstrate, has legitimized and perpetrated a dangerously inimical regime of not only extreme concentration of economic power, but also a usurpation by digital corporations of the very space of governance.

The Multilateral System and Digital Governance

As a techno-social paradigm, the Internet encompasses a propensity for building and nurturing participatory and decentralized communities. Its unique infrastructural property of ‘many-to-many’ has inspired new communicative cultures (Castells 2018) and alternative knowledge economies (Benkler 2006) that are historically unprecedented.

At the UN World Summit on the Information Society (WSIS) in 2003, the contributions of innumerable creators of what essentially translates into the social experience of the Internet, anchored a new point of departure in imagining its governance. It was acknowledged that ‘building a people-centred information society is a joint effort which requires cooperation and partnership among all stakeholders’.Footnote4 A multi-stakeholder approach was seen as the appropriate method for a democratic internationalism of Internet governance, accounting for the differentiated roles and responsibilities of governments, the private sector and civil society in addressing the unique technical and public policy dimensions of the issue. To operationalize this vision, a multi-stakeholder Working Group on Internet Governance (WGIG 2005) was set up.

The WGIG tabled its future roadmap for Internet governance at the WSIS Phase-2 Summit in 2005, proposing four institutional models, three of which called for US control over the administration of the Domain Name System to be withdrawn through either supplanting Internet Corporation for Assigned Names and Numbers (ICANN)Footnote5 or making it accountable to a higher intergovernmental body. The WGIG took the view that Internet-related public policy ‘was clearly to be a governmental responsibility with other stakeholders contributing to it’ (WGIG 2005; Kruger 2016). The ICANN internationalization agenda was, however, scuttled by the USA, with the European Union (EU) in tow.Footnote6 The emerging economies—Brazil, Russia, China and India—pushing for greater influence in Internet governance, were still able to score a partial victory, with the insertion of the idea of ‘enhanced cooperation in the outcome document’, known as the ‘Tunis Agenda’ (Trinkunas and Wallace 2015).

Para 69 of the Tunis Agenda acknowledges ‘the need for enhanced cooperation in the future, to enable governments, on an equal footing, to carry out their roles and responsibilities, in international public policy issues pertaining to the Internet’.

In addition to enhanced cooperation, the Tunis Agenda also provided for the establishment of a multi-stakeholder deliberative forum for the ongoing discussion and debate of Internet-related public policy issues, the Internet Governance Forum (IGF).

Since 2005, the USA and its digital corporations have been able to manufacture and perpetuate a status-quoist Internet governance discourse, arguing for the IGF as the sole route for enhanced cooperation. This, despite the fact that the forum—often referred to as a talk-shop—was never meant to be a space for public policy decision-making. At the World Conference on International Telecommunications (2012) that examined the possibility of extending the new sets of International Telecommunication Regulations (ITRs) to the Internet, the USA walked out of the discussions, unwilling to allow mention of the ‘right of access of Member States to international telecommunication services’ in the text. The phrase was intended to restrict arbitrary disconnection of the Internet by the US government for any geopolitical reasons (Singh 2012). A couple of years down the line, at the Net Mundial global multi-stakeholder meeting on the Future of Internet Governance, the US government—despite being under a lot of pressure following the revelations about the National Security Agency’s clandestine web of global mass surveillance by Edward Snowden managed to evade the global civil society demand that the outcome document include a reference to the need to govern the Internet as a ‘global public good’.Footnote7

During these important moments in the history of Internet governance contestations, various countries, especially, members of the IBSA group (India, Brazil, South Africa) and China, have emphasized the need to treat multi-stakeholder consultations as a complement to and not substitute for a democratic multilateral framework for the Internet. They have underlined multilateralism as vital for the preservation of digital sovereignty of developing countries. Yet, the US camp has positioned any attempt to change the status quo as a route to an inevitable capture of the Internet by authoritarian, anti-democratic states. Any discussion of intergovernmental cooperation for Internet-related public policy has consequently been mis-framed as an ideological conflict between an Internet that is ‘free, open and human rights-based’ versus one that is ‘balkanized, closed, anti-user and repressive’ (Musiani and Pohle 2014). Such mis-framing turns attention away from the realpolitik of geo-political and geo-economic interests of the status-quoists, burying the legitimate concerns of nation-states about preserving their equal stake in Internet governance.

Fragmented Digital Governance and Ineffectual Norm-Making

Twenty years after the WSIS, even as multi-stakeholder governance models in the domain have been stripped of any claim to their democratic potential, global digital governance is in shambles.

The USA continues to retain considerable control over the Domain Name System, the heart of the Internet, by rejecting all calls for internationalization and jurisdictional immunity for ICANN.Footnote8

Cyber security policies have followed two pathways, intergovernmental and multi-stakeholder. The former has been fraught because of a face-off, mainly between the USA and Russia. As a result, two different institutional mechanisms (the Open-ended Working Group on International Cybersecurity mooted by Russia, and the Group of Governmental Experts backed by the USA) have been approved by the UN General Assembly (Ruhl et al. 2020). The Paris Call for Trust and Security in Cyberspace, launched in 2018 by the French government with support from Microsoft, has been endorsed by over 70 countries, 600 companies and private sector entities and 350 civil society organizations, but did not get support from the USA, India, Russia and China.Footnote9

In the absence of a clear global mechanism for binding multilateral consensus on digital governance, norm-building for the digital paradigm is increasingly shifting to plurilateral spaces (such as the Organisation for Economic Co-operation and Development (OECD) Committee on Digital Economy), and private sector-led rule-making, through bodies such as the World Economic Forum (WEF). The NetMundial Initiative, a joint initiative that the ICANN and the WEF launched in November 2014, was the flagbearer of privatized norm-setting in the global digital governance space (Pohle 2015). The door it opened for legitimizing the private sector’s right to claim an equal seat with governments in digital policymaking remains wide open.

For instance, in 2018 the WEF launched the Earth Bank of Codes that will serve as a blockchain-based register of global biological and biomimetic intellectual property assets.Footnote10 The intent is to create a global mechanism that enables commercial appropriation of these resources through a transparent trading system that, ostensibly, prevents bio-piracy by corporations. However, historical evidence suggests that the commercial use of biodiversity commons has seldom brought benefits to local communities. It therefore seems likely that a new wave of marketization of biological resources through an ‘open access’ digital and data framework may easily end up upending the prior right of indigenous communities to their natural habitat and knowledge traditions. Lacking a democratic governance framework, the initiative effectively corporatizes the data wealth pertaining to the world’s natural resources.

In June 2019, the WEF and the UN inked a Strategic Partnership Framework to accelerate the implementation of the sustainable development goals through cross-organizational engagement in six core areas, including digital cooperation.Footnote11 One of the key objectives of this collaboration is ‘to meet the needs of the Fourth Industrial Revolution through global analysis, dialogue and standards for digital governance and digital inclusiveness’. The rhetoric of inclusion notwithstanding, the stage seems to be all set for private capture of global digital governance (Gleckman 2019).

As the digital becomes the driver of economic globalization, trade policy arenas have emerged as key among the proliferating sites of digital public policy and governance contestations. To sustain and expand global market access for its digital corporations, the USA has used multilateral and plurilateral trade negotiations to push for free cross-border data flows, an agenda that developing countries have held has no place in trade policy (James 2020). At the same time, the USA has consistently blocked international and national efforts to tax transnational digital corporations, even threatening retaliatory trade sanctions.Footnote12 Also, in its domestic technology market, the USA regulates market access of foreign corporations (particularly Chinese) through strict investment scrutiny mechanisms—an act of clear hypocrisy, as it is this very policy space that it denies other governments who are party to its free trade agreements. Similarly, the Clean Network initiative announced by the US Secretary of State in August 2020 to block Chinese telecommunications carriers, app providers and cloud services from the US market is reminiscent of the digital balkanization that it has decried on many occasions.Footnote13

The exponential growth of technical and regulatory issues in Internet governance in the last decade, thanks to the rapid advances in data, artificial intelligence (AI), blockchain and Internet of Things (IoT) technologies, has widened and deepened this governance crisis. Big Tech has usurped crucial public interest functions through de facto control over platform infrastructures and standards setting, like digital identification (Burt 2020) and payment systems (Browne 2020). Privately controlled virtual currency initiatives have displaced the public function of money, hitherto regulated by central banks accountable to citizens (European Parliament 2019). The inscrutability of corporatized AI as de facto law presents a worrisome prognosis. Digital gene sequencing, for instance, is a veritable blackbox that Big Pharma holds secret. Given the dual-use natureFootnote14 of both digital and gene technologies, the lack of a democratically debated global benchmark in the bioinformatics domain presents a real threat to the security and well-being of planet and people alike (Pauwels 2019).

Viral misinformation and hate in recent history, including the Rohingya crisis in Myanmar, Christchurch shootings in New Zealand and the US presidential elections, have accelerated the anxieties about the unprecedented power of social media giants in determining public sphere protocols. This has galvanized various initiatives for voluntary and private rule-making such as the Santa Clara principles on transparency and accountability in content moderation,Footnote15 and Facebook’s content oversight board. The protocol power of social media companies is also evidenced in various techno-design tweaks, including Instagram’s ‘restrict’ mode to counter cyberbullying, and Facebook’s ‘lock-your-profile’ safety feature for women in India. American social media companies, however, continue a policy of expediency, adopting an inconsistent-by-choice approach in different jurisdictions, selectively defining the limits to free speech according to their business interests (Marantz 2020).

With Big Tech corporations extending their monopoly control through integration of multi-sector vertical markets (e.g., Amazon has branched out from e-commerce into health and pharma, digital streaming, and robotics) and data-based horizontal markets (that is, Amazon is not only a data collector, but also cloud and analytics provider), norm- and rule-making in the digital arena is in the throes of a major shift. This is represented in the hollowing out of public infrastructures, not simply through privatization, but a systemic socialization of privately controlled platforms. The platformization epoch in the digital society hence represents a de-democratization and de-publicization of governance. The private platform and its constituent functionalities are the public protocols, and the data-based intelligence that powers it is the law.

This shifting terrain of power has ushered in what has been referred to as a new bipolar world, with China’s rise as a new AI superpower. China has historically pursued a different route to digital capability—digital and data sovereignty to expand domestic digital industry, and export of surplus industrial output through e-commerce (UNECA 2019). In the post-COVID-19 context, through its ‘Digital Silk Road’ initiative, the country has sought to export advanced technologies such as 5G and facial recognition (Triolo and Greene 2020). Chinese Big Tech companies are also establishing supply chains in agriculture, dairy, and retail commerce, extending their markets, in the South East Asian region.Footnote16 The fourth industrial revolution thus presents a Hobson’s choice in which countries may be forced to choose between US and Chinese corporations for access to advanced digital prowess.

It remains to be seen how the EU’s recent policy initiatives on data and AI infrastructure sovereignty can shift the vectors of geo-economic power. The prospects for developing countries, however, seem enormously challenging, if not bleak.

Towards a New Global Digital Constitutionalism

As the UN Secretary-General acknowledged in 2019, the multilateral system is ‘unprepared and needs to catch up’ to face the challenges of the age of digital interdependence.Footnote17 Democratic mechanisms for furthering enhanced cooperation’ between nation states, private sector and civil society envisaged by the WSIS have failed to materialize. Technical governance of the ‘embedded infosphere’ (Taylor 2017) is marketized, with powerful US and Chinese companies leading the way for the infrastructuralization of Internet, data and platform technologies. The socialization of the digital has meant the default socialization of corporate rule-setting, reminiscent of Karl Polanyi’s ‘market society’, whereby social relations are embedded in the market economy. A rapidly growing laissez faire digital economy is a prime site of US hegemonic power, consolidated through the ideology of ‘free data flows’ in trade deals. Fragmented, inchoate and even missing in most parts, global digital governance represents a complex equilibrium managed by Big Tech as arbitrator and adjudicator of societal interaction, economic activity and political processes. The resultant institutional crisis of democracy and rule of law has grave repercussions for people and planet, as discussed earlier. An urgency like never before stares us at the UN75 moment to rescue the ‘respect for the principle of equal rights and self-determination of peoples’, and cherished value of ‘peace’, exhorted by Article 2 of the UN Charter.

The evolving domain of digital rights demands deeper scrutiny in this context. The Human Rights Council has urged the preservation of the global and open nature of the Internet, international digital cooperation to support information and communication technology (ICT) infrastructure-building in all countries, and the adoption of a democratic and human rights-based approach to the governance of digital technologies (UNGA HRC 1 2018a). The Special Rapporteur on the Right to Freedom of Opinion and Expression has called attention to how corporate-led content governance is ineffectual in addressing misinformation, hate speech, and the erosion of democracy in the digital public sphere (UNGA HRC 2 2018b), and ‘how the private sector’s focus on, and the public sector’s push for, ethics’ is an escape route for evading human rights-based, binding regulation of emerging AI technologies (UNGA 2018c).

The Special Rapporteur on the Right to Privacy has pointed to how personal data processing sans ‘safeguards without borders’ and ‘remedies across borders’ poses unprecedented challenges to the right to privacy in the age of ubiquitous personal data processing (Cannataci 2016). The former Special Rapporteur on Extreme Poverty and Human Rights has warned that in order to address the erosion of the right to social protection and the impunity of technology corporations in the emerging digital welfare state, a new approach to data and AI governance that privileges human autonomy over market considerations is urgently needed (UNGA 2019).

A critical discourse pointing to wide-ranging normative deficits, specifically in the regulation of digital technologies, and generally in rights-based governance for the digital age, is emerging in the human rights system. It suggests that the absence of a universal political constitutionalism adequate to the human condition in the current techno-social epoch is untenable. Unfortunately, the multilateral system, in its current form, is unable to meaningfully translate such emerging recommendations into effective on-the-ground action. The digital cooperation agenda, as actionized through multi-stakeholder alliances, has become yet another instance of ‘neoliberal lock-in’, where the trope of ‘technology for development’ often masks the workings of the global political economy (Schwöbel-Patel 2017). ‘Partnerships’ in this regard are but a neocolonial route for opening up market access to data resources of the Global South (WEF and PwC 2020).

Nominalist constitutionalism ignores global distributive justice (WEF and PwC 2020), even as it paves the way for neoliberal ‘constitutionalization of the economy’ (rules to accelerate financialization and capitalist globalization) at the expense of ‘constitutionalization of politics’ (rules through which the global community of nations and peoples can aspire to equality and justice) (Guimarães 2019). The EU makes for an interesting analysis in this regard. The rise of US Big Tech has seen EU digital economy policies increasingly focus on anti-competitive behaviour by digital companies. Its data strategy aims at restoring a level playing field for innovation in the European data market. While the EU’s General Data Protection Regulation offers its citizens protections from privacy violations and discriminatory data processing, it may be argued that this protection itself is contingent on keeping data separate from human bodies, in order to balance the rights of human beings and digitalized flows for the purposes of digital capitalism (Käll 2017). Also, the adequacy determination rulesFootnote18 that the EU deploys in its trade deals instrumentalizes the political right to privacy and data protection for the purposes of economic efficiency. In global trade discussions, the EU has gone with the US position of unrestricted data flows, impervious to the autonomy that developing countries need to steer the digital economy towards their own socio-economic development.

Global constitutionalism has also been rightly critiqued for a preoccupation with anthropocentricism, ignoring alternative visions and values through which communities in the Global South relate to their environment. Indigenous people’s movements fighting extractive capitalism have time and again underlined this ecological blind spot, arguing that universal justice can be achieved only if attention is paid to the connections between the market, power and rule-making. The ‘carbon credit’ model of greening the digital economy helps Big Tech companies such as Microsoft score points for commitments to carbon negativity while deepening its links with destructive oil and gas mining operations. As Greenpeace observes in a 2020 report,

Microsoft seems to have the most contracts with oil and gas companies and offers AI solutions for all phases of oil production. A contract between Microsoft and ExxonMobil alone could result in additional annual emissions of 3.4 million metric tons CO2e, the equivalent of more than 20 percent of Microsoft’s total annual carbon footprint. Amazon primarily has contracts for pipelines, shipping and storage for oil and gas companies. And the Amazon Web Services (AWS) cloud is the largest in the world and is used by oil and gas companies to bring oil to market more efficiently (Greenpeace 2020).

The empirical reality of multilateral constitutionalization calls into question the depoliticization of the economy and the questionable legitimacy of current global institutions. However, the constitutionalist vocabulary still remains a powerful hermeneutic device, with a much-needed critical and accountability potential that can compensate for globalization-induced constitutionalist deficits at the national level (Peters 2009). People’s movements calling for a UN Binding Treaty on Transnational Corporations and Other Business Enterprises with respect to Human Rights have demonstrated the necessity and plausibility of both thinking global and thinking constitutional.

The digital domain is also marked by certain specificities that point to the imperative for a global constitutionalist framework. First, Big Tech platforms, as argued, have consolidated their position in the economy as monopoly players in control of critical technical infrastructures and valuable data resources. The exponential growth in the shares of GAFAM in undersea cable building points to a real threat of fragmentation in the architecture of the Internet (Huston 2016).

Second, the digital paradigm binds together the global Internet and everything that it mediates with Big Data analytics, cloud computing, the Internet of Things and AI systems. Governance in the digital age then is not merely about technical governance of the parts, but normative and institutional governance of the many systemic wholes constituted by the parts that disrupt social, economic and political systems on a planetary scale. The traditional regulatory powers of nation states are already under strain, with developing countries in particular facing many challenges in digital governance. The need for a ‘meta-legal system’ (De Gregorio and Radu 2020) through which norms with global implications may be produced and shaped cannot be over-emphasized.

Third, the rise in authoritarianism and increased state control of the Internet within national borders is of particular concern. The case of Internet shutdowns is an extreme example of states relying on network architecture to assert their control over the digital environment (De Gregorio and Stremlau 2020). While this may be truer for authoritarian regimes than for others, the global spread of political polarization and right-wing nationalism underscores an urgent need for digital norming that can thwart the vitiation of the public sphere and persecution of the already vulnerable, including by state institutions.

The need of the hour is a global digital constitutionalism, one that is adequate to the emancipatory potential of the digital paradigm and demonstrating continuities with reinvigorated national constitutions. The dominant rhetoric has technicalized digital governance. The World Bank for instance has called for ‘international regulatory cooperation’ as a method to strengthen the digital economy through the development of principles in areas such as taxation, cybercrime and cybersecurity; privacy and data protection; market competition; Intellectual Property; and data sharing and interoperability (World Bank 2020). While these are indeed significant areas for digital norm development, an exclusive focus on market shaping and regulation before laying out the socio-political constitutional essence of a digitalized world order amounts to a cart-before-the-horse faux pas. It also detracts from a more fundamental, critical assessment of humanity’s shared present and future.

A vision for a global digital constitution needs to be embedded in at least three basic norms, or ‘grundnorms’.Footnote19 First, the digital marks an epochal turn, and hence, values and norms need an openness that without sliding into infinite relativism can embrace a constitution-in-the-making approach. The varied implications of frontier technologies in their entanglements with everyday life are only just about becoming clear. The institutional ethics of AI applications in different domains, for instance, will need continuous assessment. The constitutional basis of limitation of powers, rule of law, fundamental rights and democracy may therefore be envisioned as an evolving process, something that must be seen as always ‘perfectable’ (Rosenfeld 2014).

Second, the digital paradigm must be grounded in a right to participatory and discursive democracy of all peoples. In 2013, the African Union proposed the creation of an International Constitutional Court for the protection of ‘the right to democracy’ (Carducci and Amaya 2016). Centring people’s power for a decentralized world order, this proposal is noteworthy for its departure from state-centric rule-making, advancing ‘both the justiciability and accountability of governments and national justice systems and the protection of democratic practices of deliberative participation and social inclusion’ (Carducci and Amaya 2016). The right to democracy as the basis of the digital paradigm shifts the debate from narrow, state-centric territorial sovereignty to a broader, people’s sovereignty. The architecture of the Internet also provides the material possibilities to harness participation through ‘global public reason’ (Cohen 2004)—that is, a shared set of values and norms that binds a global community of peoples.

Third, cyberspace is neither a part of the global commons (like the high seas, outer space or international air space) nor a completely domestic domain, but a mixed common pool of resources (Shackelford 2013). Understood this way, global digital constitutionalism can pave the way for polycentric governance, and by extension, nested citizenship possibilities in the long run.

Developing a global constitution to dismantle the network-data complex and enable the flourishing of people and planet will need an extended timeline. However, the digital juggernaut demands that this process go hand-in-hand with the articulation of governance frameworks at the multitudinous intersections of technology and global public policy. These two processes—one, constitutional and the other, administrative—need not be seen as conflicting; rather, they can catalyze healthy deliberative spaces to reimagine humanity’s collective futures. There is a need to ensure that multilateralism is able to keep pace with digital technological advancement, providing normative frameworks across sectors—furthering equality, promoting distributive justice and safeguarding individual and collective rights.

In this regard, the suggestion in the UN Secretary-General’s Roadmap for Digital Cooperation (2020) that the Office of the United Nations High Commissioner for Human Rights (UNHCHR) develop system-wide guidance on human rights, due diligence and impact assessments pertaining to the adoption of emerging technologiesFootnote20 is a useful step towards the articulation, coordination and integration of digital governance principles across multilateral UN bodies. Other recommendations in the Roadmap to overhaul the IGF and to create a multi-stakeholder process for Artificial Intelligence cooperation,Footnote21 however, do not make the cut. Offering no concrete solution to the gaping constitutional crisis in global digital governance, they seem to offer a cure that is worse than the disease—legitimizing corporate rule-making through the slippery slope of advice, guidance and capacity building.

A shared, peaceful future for a thriving people and planet requires that the idea of ‘prosperity’ and meaning of ‘partnership’ be redefined in what inherently is an unjust global system of neoliberal digital capitalism that has led our societies to the brink of collapse. The unprecedented potential of the digital exhorts that our quest for digital governance mechanisms is nothing short of transformative. In its 75th year, the UN must step up and dream big. A radical point of departure would be for the UN to set up a body on Digital Issues that can reclaim the unfinished business of enhanced cooperation mandated by the WSIS.

In the WSIS Plus 10 review in 2015, developing countries focused on this mandate, following which the Working Group on Enhanced Cooperation earlier set up by the UN Commission on Science and Technology for Development was given a second term. The Group disbanded in 2018 without consensus. Paradoxically, the OECD countries that dismissed the need for any such multilateral cooperation platform during the Working Group deliberations have been more than willing to discuss and frame public policies for Internet and emerging data and AI technologies at the OECD Committee on Digital Economy Policies.

The new UN body on Digital Issues should kickstart the process of democratic deliberations towards building a global digital constitution. The WSIS Plus 20 milestone in 2025 can present the world community of peoples and nations with a transformative constitutionalism for the digital human condition, carrying the promise of multi-scalar citizenship, and a right of people to claim it as a living document that they can shape and reshape.

Will the phoenix rise again?

### 1NC – Adv

#### The United States federal government should:

#### ---ban separating platforms from commerce in the private sector,

#### ---increase scrutiny of Chinese investments and tech firms collaborating with China,

#### ---increase negotiations with China over common standards for emerging technology usage,

#### ---establish a National Emerging Technology Council,

#### ---significantly increase investments in science and technology, education, infrastructure, and reduce restrictions on global talent and companies,

#### ---require digital conglomerations make their data available in interoperable formats with other U.S. companies,

#### ---increase regulations on data sharing for U.S. companies operating in the Global South,

#### ---increase investment in data infrastructure capabilities in the Global South.

#### ---establish a cyber risk management strategy including risk-based prioritization, security enhancements, vulnerability detection, and resilience measures over all public and private critical infrastructure in the U.S.,

#### Plank 10 Solves systemic risk.

Jensen 19 (Chris Jensen, Tenable's Federal Business Development and Capture Manager, senior program director at an IT services company; “What is Critical Infrastructure and How Should We Protect It?;” 06-26-19, Tenable, <https://www.tenable.com/blog/what-is-critical-infrastructure-and-how-should-we-protect-it>, TM)

How do we protect critical infrastructure?

With that definition and understanding of what critical infrastructure is, and what types of threats endanger it, let’s examine how we should protect it.

The Cybersecurity and Infrastructure Security Agency (CISA), created by Congress in November 2018, is the DHS agency charged with primary critical infrastructure protection responsibility.

CISA, according to its website, “leads the coordinated national effort to manage risks to the nation's critical infrastructure and enhance the security and resilience of America's physical and cyber infrastructure.” Breaking down this summary statement, CISA identifies three key elements of critical infrastructure protection:

managing risk to that infrastructure;

enhancing security of that infrastructure; and

enhancing resilience of that infrastructure.

Let’s look at these three elements in the context of the growing virtual threats to physical and virtual infrastructure.

Managing risk to critical infrastructure

The National Risk Management Center (NRMC), an entity within CISA that also came into existence in 2018, leads the charge when it comes to the agency’s risk management guidance. NRMC identifies itself as “a planning, analysis, and collaboration center working to identify and address the most significant risks to our nation’s critical infrastructure.”

We point to the words “most significant” as the central theme of risk management. No defense plan will provide absolute protection against all risks; the cornerstone of effective risk management is prioritization — identifying the most significant risks and taking actions to mitigate those risks.

Risk-based prioritization is one of the primary components of effective cyber risk management. It is also a key component of the discipline of Cyber Exposure. Cyber Exposure recognizes that the modern attack surface reflects the increasing convergence of the virtual and the physical, and that as connectivity increases, so does the risk of cyber attack. Managing that risk is essential to the protection of critical infrastructure today, and will become even more essential in the future.

Enhancing security for critical infrastructure

Enhancing security is, perhaps, the most fundamental component of critical infrastructure protection.

In the physical world, doing so involves basic actions such as locking doors, putting up fences and similar steps to address physical vulnerabilities. Similarly, in the cyber realm, security means identifying virtual vulnerabilities and addressing those vulnerabilities.

Practicing good cyber hygiene is Step 1 in enhancing cybersecurity. Lapses in basic cyber hygiene are the primary cause of security breaches. Bad actors are able to get through cyber “doors” when device owners do the following: use poor locks (think weak passwords); leave doors open (think unpatched vulnerabilities); or unwittingly give them the keys (think phishing scam).

Protecting critical infrastructure presents some unique challenges. For instance, Industrial Control Systems (ICS), which govern the operation of large industrial plants, cannot be actively scanned for vulnerabilities the way a virtual-only Information Technology (IT) environment can be scanned because such scans can knock the industrial systems offline, grinding operation of a major plant to a halt.

The overarching category for these types of systems is Operational Technology (OT). OT systems, many of which pre-date the internet, have historically been standalone, “air gapped” systems, which minimized their vulnerability to cyber threats. In today’s connected world, however, that is quickly becoming the exception rather than the rule.

Adapting cyber defenses to protect these systems requires a different approach. Tenable is addressing these challenges by leveraging its passive monitoring capabilities to deliver a solution that enables safe monitoring of OT assets in a converged IT-OT environment.

Enhancing resilience of critical infrastructure

To be resilient, in the parlance of the iconic Timex watch ads, is “to take a licking and keep on ticking.”

As more formally defined in Presidential Policy Directive 21, the governing federal critical infrastructure protection authority, resilience is “the ability to prepare for and adapt to changing conditions and withstand and recover rapidly from disruptions.” In cyber-centric environments, resilience builds on security to round out a comprehensive cyber defense program that addresses all phases of preparation and implements steps to prepare for, and respond to, any cyber threats.

To guide organizations in developing and implementing effective, comprehensive critical infrastructure protection programs, the National Institute of Standards and Technology (NIST) has published the Cybersecurity Framework. According to NIST, a “prioritized, flexible and cost-effective approach helps to promote the protection and resilience of critical infrastructure and other sectors important to the economy and national security.”

DHS offers an additional resilience-focused resource, the Cyber Resilience Review (CRR). This free resource can provide insight into an organization’s cyber resilience status and recommend areas for improvement. It includes a “NIST Framework crosswalk” feature to guide alignment and ensure comprehensive program implementation. A fact sheet is available with instructions for conducting a CRR and requesting DHS CRR support.

#### Planks 2-6 solves China tech supremacy.

Gewirtz 19 (Julian Baird Gewirtz, Academy Scholar @ Harvard’s Weatherhead Center for International Affairs, author of Unlikely Partners: Chinese Reformers, Western Economists, and the Making of Global China; “China’s Long March to Technological Supremacy;” 08-27-19, Foreign Affairs, <https://www.foreignaffairs.com/articles/china/2019-08-27/chinas-long-march-technological-supremacy>, TM)

A RACE AGAINST TIME

The goal of surpassing other countries technologically does not mean that China’s rulers seek global military supremacy. But even in best-case scenarios, China’s transition from catching up to surpassing will be destabilizing, as other countries confront Chinese ambitions for greater prosperity and security and feel their relative power decrease. And for China, building 5G networks for other countries and making AI breakthroughs clearly advance CCP aims far beyond narrowly construed self-reliance. Even if firms such as Huawei and ZTE are not incontrovertibly compromised by the state, their work clearly serves CCP interests.

Technology will remain at the heart of U.S.-Chinese tensions well beyond the end of the current trade war. Technology, to the CCP, is power in practice—it is historical change in material form. The roots of “catch up and surpass” demonstrates that the CCP’s approach to technology is far more deeply entrenched than many analysts realize. If China’s rulers feel their technological rise is under threat, they are likely to react more forcefully and uncompromisingly than policymakers may expect—as the Chinese response to Washington’s effort to block Huawei’s global 5G dominance has demonstrated.

An all-out rivalry between the world’s two technology leaders would be immensely costly, disruptive, and destructive. Instead, policymakers should focus on establishing and enforcing new rules for the race already underway, so that competition can occur fairly and be at least somewhat bounded. Within the United States, that will require scrutinizing Chinese investments and acquisitions of U.S. firms, well beyond the traditional purview of the Committee on Foreign Investment in the United States, as well as the footprint of both Chinese firms in the United States (such as Baidu’s AI lab in Silicon Valley) and U.S. firms in China (such as Google’s AI lab in Beijing). In addition, Washington should seek to begin negotiations with China as soon as possible to explore common rules for emerging technologies. Such agreements were possible with the Soviet Union during the Cold War. Today, they can be effective again if they are based on deep understanding of the technologies under discussion and the importance of tech to both countries’ conceptions of national power. For the U.S. government, that may require creating or improve policymaking institutions, such as upgrading the Office of Science and Technology Policy (which currently runs the National Science and Technology Council) into a new National Emerging Technology Council. The National Emerging Technology Council would serve as a consistent, high-level body, overlapping the National Security Council and the National Economic Council, to coordinate more effectively across the whole of government and bring empowered expertise to bear on both domestic policymaking and international negotiations.

The U.S. government’s response should not be premised on the notion, evidently in vogue in both Washington and Beijing, that all scientific and technological activity is a zero-sum competition between states. The history of ganchao suggests that so-called technological decoupling between China and the United States will continue in areas where it is most difficult to distinguish between commercial and military applications. But unwinding interdependence carries significant costs, and so U.S. policymakers should attempt to draw distinctions between sectors in China that feature strong private-sector leadership and those dominated by the state—not all “Chinese” technology is the same. Research institutions and private companies will also need much more help evaluating potential research cooperation with Chinese counterparts, to guard against problematic partnerships while preserving the great value of international exchange to the progress of scientific research.

Above all, Washington must not view countering China’s technological advancement as a substitute for investing in a major effort at home. The Trump administration’s repeated attempts to cut budgets for the National Science Foundation and other government S & T funding are profoundly self-defeating at a time of intensified U.S.-Chinese tech competition. China’s technological advancement will challenge not only U.S. power but also the United States’ sense of itself as a global leader and innovator. This demands significant U.S. domestic investment in S & T—in government research labs and private research institutions for certain, and perhaps in private companies directly. It will also require mobilizing the American people behind making significant improvements to the education, infrastructure, and immigration systems, which are sources of the country’s enduring strength. If there is one thing that U.S. policymakers can learn from the history of ganchao, it is that the world still wants what the United States has.

#### **Plank 7 solves competition.**

1AC Sitaraman ’20 [Ganesh; Co-founder and Director of Policy @ Great Democracy Initiative; Professor of Law @ Vanderbilt University; “The National Security Case for Breaking Up Big Tech,” *Knight First Amendment Institute at Columbia*; AS]

Artificial intelligence, of course, requires considerable data in order to improve precision and accuracy. One of the arguments for big tech is that such companies alone are able to collect this data and use it. But there is no reason why this has to be the case either. Consider two alternate possibilities. First, the United States could create a public data commons that would be highly regulated to protect privacy. The public data commons would include publicly available data from a variety of government sources, and qualifying businesses, local governments, or nonprofits could train their machines using this data. Any new data they collect from users could then be fed back into the data commons (de-identified), so that the data commons improves in quality and quantity of data over time. Second, we could imagine requiring big tech companies to make their data available in interoperable formats. If these companies effectively have a monopoly power over data, then they could be regulated as monopolies—and one condition of their continued protection as monopolies could be enabling access to the datasets. Again, there is no legal or regulatory reason why these kinds of policy options are impossible. And in either case, they would enable a larger number of players to innovate than does the status-quo, stand-pat approach to protecting big tech from competition.

#### Advocates for planks 8-9 are on the case page.

### 1NC – K

#### Attempts to achieve optimal competition subscribe to the notion of *Homo Economicus*---a desire for economic rationality that necessitates dividing society into governable entities---the impact is violent dispossession---vote NEG to forefront an analysis of institutional power relations.

Vicencio 14 (Dr. Eduardo Rivera Vicencio, Professor of the Department of Business and Economics at the Autonomous University of Barcelona; “The Firm and Corporative Governmentality: From the Perspective of Foucault;” International Journal of Economics and Accounting, DOI: 10.1504/IJEA.2014.067421, TM) [language modified]

Foucault explains the change of liberal governmentality to neoliberal governmentality in the 20th century in a detailed description of German neo-liberalism and, in less detail, the North American anarchic capitalism and French neoliberalism. In the case of Germany, the implementation of neoliberalism in the post-war period occurs in 1948, in a non-existent state and within a framework of state reconstruction requirements imposed by the USA and England. However, the theoretical origins lie in the Freiburg School in the late 1930s.

What happens at this stage with the onset of neoliberalism, is the reversal of the analysis performed by ordoliberals, with a state which provides economic freedom, a free market as the organising principle of the state, “ … a state under the supervision of a market rather than a market under the supervision of the state”. Moreover, “For liberals, the exchange is not the essence ... the essence of the market is competition”. This takes on again the classical conception that competition can ensure economic rationality. For this reason, neoliberalism becomes the creator of public law, based on the support and legitimacy of the state governments [Foucault, (2007), p.149 and 151].

Using three examples, Foucault shows the style of a neoliberal government; the first of which is a monopoly. It is referred to as a result of competition of the capitalist system, the product of capital concentration but with the objective of ensuring free competition. The state should intervene but the market itself should also respond to monopoly prices and, facing this possibility, the firm itself should opt for competitive market prices. The second example conforms to economic action which represents ongoing monitoring and activity through regulatory actions and ordering actions. In regulatory actions, price stability (inflation control), tax burden (as a way to influence savings and/or investments) and ordinary actions within the economic political framework are found and referred to as population techniques, learning and education, legal system resource availability, etc. Foucault’s third and final example is social policy which means that the economy ensures that each individual has a sufficient income to live alone or in a group and can be insured against the risks of life, old age and death and, called by the Germans, individual social policy or ‘social market economy’. He comes to the conclusion that the true and essential social politics according to neoliberalism is economic growth [Foucault, (2007), p.163 and 178].

However, the application of this scheme of social policy is not possible in Germany due to the Bismarck Socialist State, the influence of Keynesian economics or security systems that are applied in Europe. From this rejection of the application of neoliberal social policy in Germany, the Chicago School developed the ‘American anarchic capitalism’ along with the privatisation of insurance systems, where each individual, either personally or as a group, could insure against risks. This practice of neoliberal politics, says Foucault (2007, p.179) is what we see today in France (February 14th 1979 class).

Governmentality in the field of economic neoliberal thinking is a company subject to the mechanisms of competition and competitive dynamics; a partnership firm building a social network where the basic units are the way of business, where the objective of neoliberal policies is to spread, multiply and differentiate between firms. “The homo economicus who attempts to reconstruct is not the man of the exchange or the consumer, rather he is the [person] ~~man~~ of the firm and the production man” [Foucault, (2007), pp.182–187].

This subjection of society is not only economic it is vital for competitive play between companies, “... an institutional legal framework guaranteed by the state ...”; in this context, the firm becomes the key operator [Foucault, (2007), pp.209–213].

In the American neoliberalism study, as called by Foucault, anarchic capitalism is a business form based on human capital theory, where income is a capital return and, therefore, a wage is a capital income, inseparable from its holder, where the worker is a business in itself. Homo economicus is an entrepreneur, an economic subject and a legal subject; an interface between the government and the individual, a governable entity, which possesses innate elements and acquired elements. The first is genetic and the latter is the product of investing. In this way, “… the life of the individual – including the relationship, for example, with his private property, his family, his partner, his relationship with his insurance, his retirement – making it a sort of permanent and multipurpose business” [Foucault, (2007), pp.262–277].

Finally, a key element of this analysis is the civil society and its origins in the way to judge this economic subject, which is also the legal subject. “Civil society is the particular set in which it is necessary to relocate these ideal points constituted by homo economicus to manage them conveniently”. This is where the civil society and homo economicus form part of the same set of liberal governmentality technology, bound by the legal and political link [Foucault, (2007), p.336].

What unites individuals in civil society are ‘disinterested interests’ not a whole set of selfish interests and not the maximum profit in the exchange. This civil society groups sets of individuals in a number of nuclei; civil society is communal. Being the link between individuals is itself the principle of decoupling, when the economic loop is installed in society. It also works in reverse, “… the more progress towards economic status ... the more the constitutive bond of civil society and the more [hu]man is isolated is because of the economic loop with one and with everyone” [Foucault, (2007), pp..342–345]. Civil society is the engine of history [Foucault, (2007), p.347].

This paper is developed with the firm as the centre of neoliberal governmentality through the study of power relations of the firm and its discursive developments in this ideology, with reference to Foucault’s (1994, p.238) own recommendation, when he says, “… it should analyse institutions from power relations and not vice versa”

## Dynamism

### Dynamism

#### Internal link is inevitable:

#### 1. No warrant why small firms wouldn’t collaborate with China

#### 2. Plan only stops platforms---means companies like Apple, Microsoft, etc. still collaborate with China post-plan.

#### Consensus agrees Sitaraman's wrong---concentration doesn't determine innovation, but the plan does decrease activity in global markets which decks influence.

Jamison '20 [Mark; 8/19/20; nonresident senior fellow at the American Enterprise Institute, director and Gunter Professor of the Public Utility Research Center at the University of Florida’s Warrington College of Business, Ph.D. in economics from the Warrington College of Business at the University of Florida; "Breaking up Big Tech will not help the US innovate or compete with China," <https://www.aei.org/technology-and-innovation/breaking-up-big-tech-will-not-help-the-us-innovate-or-compete-with-china/>]

Sitaraman assumes that less concentrated markets are more innovative. Decades of scholarly research have shown that this isn’t the case.

In the mid-20th century, some economists believed that monopoly markets would produce more innovations than competitive markets. The argument was that a monopoly could capture more profits from innovation than a firm in a competitive market could, so monopoly markets gave more innovation.

But in the 1960s, economists began testing the hypothesis. Studies examined whether an individual firm’s size or the relative sizes of firms in an industry affected research and development or innovation. The Organisation for Economic Co-operation and Development recently released a paper summarizing the research. The summary finds that the relationships vary over time and across industries, so the best conclusion is that firm size and market structure cannot be used to affect innovation.

Ideas and data

Wheeler believes that innovation comes from companies analyzing data and selling products. Actually, in the tech space, more and more innovations are coming from decentralized, small-scale innovators. This pattern was discovered in academic research about 20 years ago and still holds.

What is happening is that innovators develop ideas for products and demonstrate their potential value. In a few instances, such as in the case of Facebook, the innovator forms a business and succeeds. But more often than not, the innovators sell their company or at least their product to an enterprise that has a proven business model. This was probably the situation with Instagram, which had a great idea and a weak business model at best before selling to Facebook, which then turned the idea into a profitable business.

Wheeler also appears to believe that if a company is unable to uniquely profit from the data it captures, the company will capture extensive data anyway. I have heard many times the argument that profits don’t matter, such as in the net neutrality debates. But the arguments are always made by people who care very much about the profitability of their retirement savings. So I think they know they are wrong.

Market structure and geopolitical competitiveness

Sitaraman also believes that smaller firms would be less likely to want to enter the Chinese market and would thus avoid being compromised by China’s influence. This might be true, but if it is, then it is also true that the US firms would be less active in all global markets, which would decrease US influence. Since part of the rivalry between the US and China is likely to include global influence, retracting US companies from the global economy would certainly decrease US competitiveness.

#### Separating platforms wrecks innovation---post-plan neither small firms nor big firms have access to crucial data.

Mayer-Schönberger 18 (Viktor Mayer-Schönberger, Professor of Internet Governance and Regulation at the University of Oxford; and Thomas Ramge, Technology Correspondent for *brand eins* and writes for The Economist; “A Big Choice for Big Tech;” September/October 2018, Foreign Affairs, TM)

That is changing. Innovation is shifting to data-driven machine learning. Insights are no longer the product solely of human ingenuity. They are now the result of the automated analysis of huge amounts of data. More and more, the success of a firm rests on its ability to use the information it possesses. Because only the largest firms have access to enough data to compete, innovation is losing its power to make markets fairer.

To solve this problem, some experts have suggested breaking up digital superstars, so that they no longer control the marketplace, the information that flows among market participants, and the decision assistants. The model would be the robust antitrust enforcement that led to the breakup of Standard Oil, in 1911, and AT&T, in 1984. A less drastic alternative might draw inspiration from the steps taken by regulators in the 1990s to force Microsoft to stop bundling a Web browser with its operating system and, more recently, to prevent Google from favoring its own services in its search results.

But by reducing firms’ ability to use large amounts of data, such measures would reduce market efficiency and leave consumers worse off. If, for instance, Amazon were broken up into a marketplace and a separate tool to provide recommendations, the latter would no longer have access to the huge streams of data generated by the former. Nor would a breakup improve competition. Alternative recommendation engines would not see the market data either, so their suggestions would be no better. It would not really matter how regulators broke a firm up—whether they created many little Googles, for instance, or split YouTube from Google Search—because after the breakup, all the new entities would have less information to learn from, leading to inferior products and services overall.

Similarly, although restricting the ways digital superstars can collect or use data—through tougher privacy laws, for instance—might fragment markets and thus improve their resilience, the quality of recommendations would deteriorate absent sufficient data, leading to inefficient transactions and reduced consumer welfare.

#### **Post-pandemic growth high now –** most recent ev, q3 was a blip

Siegel 10/28 (Rachel Siegel is an economics reporter covering the Federal Reserve, yale alum, Andrew Van Dam covers data and economics, October 28th 2021, “U.S. economic growth lagged in the third quarter, but hopeful signs abound for the rest of 2021” Washington Post, <https://www.washingtonpost.com/business/2021/10/28/gdp-q3-economy-delta/>) MULCH

The U.S. economy grew at a disappointing 2.0 percent annual rate in the third quarter as the delta variant peaked, but promising signs suggest 2021 is on track to notch the fastest full-year growth in almost four decades.

The coronavirus tore through unvaccinated communities during much of the July-through-September period measured in Thursday’s gross domestic product report, eviscerating economists’ expectations from earlier in the year of continued rapid growth near the 6.3 and 6.7 percent seen in the first two quarters of 2021.

The White House, top lawmakers and economists are debating whether the weak GDP report reflects a blip on the way to a boom, or something more, especially as Democrats close in on a deal on President Biden’s $1.75 trillion budget plan overhauling health care, education, and climate and tax laws.

Much will depend on the path of the virus, and whether higher prices, persistent supply-chain issues and a wobbly job market dampen consumer spending going into the holiday season.

Thursday’s report from the Bureau of Economic Analysis is a backward-looking glimpse at the economy’s worst quarter since the recovery began. But looking ahead, economists say the numbers hid myriad reasons for optimism in the fourth quarter and beyond.

New coronavirus infections in the United States have dropped nearly 60 percent since the September spike brought on by the delta variant. Some of the biggest coronavirus-era distortions in Americans’ buying habits — like the car-buying boom that goosed inflation and ravaged supply chains — also started to normalize. And indicators from consumer confidence to unemployment claims have improved in October.

As positive trends pile up — and assuming no major stumbles in the final three months of the year — the economy should grow more than 5 percent overall of 2021. That would be its strongest year since 1984, when GDP grew more than 7 percent in a rebound from a double-dip recession.

#### Econ’s resilient and no war

Palha 17 – Sol Palha, Head Financial Analyst at Tactical Investor, Writer at The Street, Contributor at Huffington Post, Master’s Degree in Psychology from Columbia University, Lecturer at Pasiad International, “Is A Spectacular Stock Market Crash Just Around the Corner?”, 2017, http://www.huffingtonpost.com/entry/is-a-spectacular-stock-market-crash-just-around-the\_us\_599dbd8fe4b056057bddd035

The stock market crash story is getting boring and annoying to a large degree. Since 2009, there has been a constant drumbeat of the market is going to crash stories. In 2009, many experts felt that the market had rallied too strongly and that it needed to pull back sharply before moving higher up. They were calling for 15%-20% correction. Ten years later and most of them are still waiting for this so-called crash. A stock market crash is a possibility but the possibility is not the same thing as certainty, and this is what seems to elude most of the naysayers. One day they will get it right as even a broken clock is correct twice a day. In the interim waiting for this stock market crash has cost these experts a fortune, both in lost capital gains and actual booked losses if they shorted this market.

It’s 2017, and the markets are overbought, and we agree that they need to let out some steam, but as for a crash that will only occur when sentiment turns bullish. The crowd has not embraced this market and until they do corrections but not crashes is what we should expect. In fact, we penned an article titled “Dow Could Trade to 30K But not before This Happens”, where we discussed the possibility of the Dow trading to 30k before it crashes. The one factor that could alter this outlook would be for the masses to turn bullish suddenly.

This market will experience a spectacular crash one day; nothing can trend upwards forever and eventually the market has to revert to the mean. Markets never crash on a sour note; the crowd is chanting in joy when the markets suddenly change direction. A simple look at previous bubbles will prove this; the housing bubble, for example, did not end on a note of fear; the crowd was ecstatic. Even the Tulip bubble that lasted from 1634-1637 ended on a note of extreme joy.

Jim Rogers states that the next crash will be the worst one we have seen in our lifetimes.

We’ve had financial problems in America — let’s use America — every four to seven years, since the beginning of the republic. Well, it’s been over eight since the last one. This is the longest or second-longest in recorded history, so it’s coming. And the next time it comes — you know, in 2008, we had a problem because of debt. Henry, the debt now, that debt is nothing compared to what’s happening now.

In 2008, the Chinese had a lot of money saved for a rainy day. It started raining. They started spending the money. Now even the Chinese have debt, and the debt is much higher. The federal reserves, the central bank in America, the balance sheet is up over five times since 2008. It’s going to be the worst in your lifetime — my lifetime too. Be worried Business Insider

In a broad manner of speaking, he is right, but the proverbial question as always is “when”; so far the naysayers have missed the mark by 1000 miles. This entire rally has been based on the fact that the Fed artificially propped the markets by keeping rates low for an insanely long period and infusing billions of dollars into the markets. One day the pied piper is going to collect but as we have stated over and over again over the years, that until the masses embrace this market, a crash is unlikely. A strong correction is, however, a certainty; it’s just a matter of time.

The market has defied every call, and even some of the most ardent of bulls are now nervous; we stated this would occur over two years ago. The Market has put in over 36 new highs this year and is living up to the new name we gave it late in 2016. Up to that point, we referred to this market as the most hated bull market of all time; after that, we started to refer to this market as the most Insane Stock Market Bull of all time. Insanity by definition has no pattern so expect this market to do things no other market has ever done before.

The markets will crash one day but these so-called experts have no idea of this event will occur

#### No China rise and no war if it happens – economic interdependence and MAD because of innovations

Heath 17 ---- Timothy, senior international defense researcher (RAND Corporation), former senior analyst for the USPACOM China Strategic Focus Group, M.A. in Asian studies (George Washington University), B.A. in philosophy (College of William and Mary), Ph.D. candidate in Political Science (George Mason University), written with William R. Thompson who is a Professor of Political Science (Indiana University), “U.S.-China Tensions Are Unlikely to Lead to War,” National Interest, 4/30, <http://nationalinterest.org/feature/us-china-tensions-are-unlikely-lead-war-20411?page=2>

The most important driver, as Allison recognizes, would be a growing parity between China and the United States as economic, technological and geostrategic leaders of the international system. The United States and China feature an increasing parity in the size of their economies, but the United States retains a considerable lead in virtually every other dimension of national power. The current U.S.-China rivalry is a regional one centered on the Asia-Pacific region, but it retains the considerable potential of escalating into a global, systemic competition down the road. A second important driver would be the mobilization of public opinion behind the view that the other country is a primary source of threat, thereby providing a stronger constituency for escalatory policies. A related development would be the formal designation by leaders in both capitals of the other country as a primary hostile threat and likely foe. These developments would most likely be fueled by a growing array of intractable disputes, and further accelerated by a serious militarized crisis. The cumulative effect would be the exacerbation of an antagonistic competitive rivalry, repeated and volatile militarized crisis, and heightened risk that any flashpoint could escalate rapidly to war—a relationship that would resemble the U.S.-Soviet relationship in the early 1960s.

Yet even if the relationship evolved towards a more hostile form of rivalry, unique features of the contemporary world suggest lessons drawn from the past may have limited applicability. Economic interdependence in the twenty-first century is much different and far more complex than in it was in the past. So is the lethality of weaponry available to the major powers. In the sixteenth century, armies fought with pikes, swords and primitive guns. In the twenty-first century, it is possible to eliminate all life on the planet in a full-bore nuclear exchange. These features likely affect the willingness of leaders to escalate in a crisis in a manner far differently than in past rivalries

## Risk

### 1NC – Systemic Risk

#### Breakups solve absolutely no part of this advantage:

#### 1 – obviously everyone still uses AWS post-plan, even if they lease it from a different company

#### 2 – there’s an entire cottage industry of interconnectivity tech like IFTTT – dubbed the “IoS” – specifically purposed to re-establish IoT interconnections

Krishnakumar 18 (Arunkumar Krishnakumar, Fintech thought leader and an investor, “IFTTT is addictive, but will it help new-age banks?” Daily FinTech, 6-15-2018, https://dailyfintech.com/2018/06/15/ifttt-is-addictive-but-will-it-help-banking/)

IFTTT stands for If This Then That, and as an application has been around for eight years. It is a free app that allows users to create chains of simple conditional statements called applets. I can set up an applet that shares the Medium posts I have clapped on to LinkedIn. This requires me to authenticate myself on both services and provide explicit permissions to talk to each, with a few simple button clicks.

We know the IoT, and IFTTT can be termed the Internet of Services (IoS). @jellerm posted an article that touched upon IFTTT in personal finance management, describing the usefulness of such a customized user experience.

Last week Monzo bank had announced integration of their banking app to IFTTT. This got me experimenting with the cool possibilities of IFTTT and realised it was a such a time saver for Social Media. But the interesting possibilities of making these services talk to each other was not just exciting, but also addictive.

I started with some basic social media applets, but went on to create alerts for so many, including pollen levels in my area. There are quite a few smart home applications of this functionality and I am only surprised that, I hadn’t been using this app all these years.

But is this useful enough in the context of Financial Services? What was Monzo thinking when they came up with the idea to open up their services to IFTTT applets? They claim that they had only customer experience in mind when they launched this integration. I think there is a lot more to it.

Enabling IFTTT on a service would be like creating a sandbox environment, or in technology terms, a parallel production environment. As customers create these rules/applets, it would give Monzo the spectrum of use cases it could build onto their banking app.

Its like making customers tell you what they want – without you asking for it. The cool aspect is that, Monzo have just enabled the use case and not built it themselves, but the customers are already benefiting through the applet. The number of times these applets are used would tell Monzo the real demand for a particular functionality.

Many use cases with direct debits, payments categorisation, invoice payments or generation can be automated using IFTTT. Many PFM use cases, as described by Jessica in her article on Tink can be achieved using IFTTT. These are possible use cases, but only time will tell if they are actually going to be popular and practical.

While I prefer to open up my banking app to check my balance, the next generation would most likely ask Alexa. And they can also get Alexa to transfer £100 pounds from their current to savings account if they said “Alexa, I feel responsible” and get the reverse transaction to happen if they said “Alexa, surprise me”. The good thing is, they won’t be interacting with the bank at both times.

If IFTTT integration becomes a common theme across digital banks, Financial Services will most likely be integrated into various other life style services and transactions. And when we use banking services, we mostly wouldn’t realize or know that a bank existed behind these interactions.

#### 3 – Dean Curran’s a card-carrying member of the Ulrich Beck risk society critical school – he advocates far broader, radical anticapitalist changes to society than the plan

#### Their ev never says collapse is inevitable, merely that stuff’s interconnected and everyone uses AWS

#### AND, never gets to a terminal impact – government interventions check that part

Konings 18 (Martijn Konings, Associate Professor of Political Economy at the University of Sydney, author of *The Emotional Logic of Capitalism* and *Capital and Time: For a New Critique of Neoliberal Reason*, series editor for the Stanford University Press book series, Currencies, “A Critique of the Critique of Finance,” Stanford University Press Blog, 2-7-2018, https://stanfordpress.typepad.com/blog/2018/02/a-critique-of-the-critique-of-finance.html)

Critics of neoliberal capitalism rarely recognize the productive power of speculation. If there is one theme that unites the various critiques of contemporary finance, it is the emphasis on its speculative character. Financial growth is said to be driven not by the logic of efficient markets, but rather by irrational sentiment, “animal spirits” that do not respect fundamental values. Emphasizing the role of volatility in contemporary capitalism (evident at the time of writing, as the stock market is experiencing a downturn) is important as an antidote to notions of market efficiency and equilibrium. But it is a mistake to think that it provides a sufficient basis for effective critique. Predictions regarding the limits or collapse of neoliberal finance have simply not enjoyed a good track record. Over and over, the contemporary financial system has proven capable of sustaining higher levels of speculative activity than anticipated. This has certainly been true of the past decade. Capital and Time: For a New Critique of Neoliberal Reason is my attempt to make sense of this—that is, to understand what might be wrong or missing in the existing heterodox critique of speculation, and to advance a more accurate understanding of the role of uncertainty, risk, and speculation in contemporary capitalism. At the heart of the critique of speculation we find a distinction between real and fictitious forms of value. Although “essentialist” (or “foundationalist”) modes of explanation have been under fire across the social sciences for several decades now, when it comes to the critique of finance they have had considerable staying-power: without a notion of real value, it often seems, we lose any objective standard against which to assess the speculative gyrations of capitalist markets. Capital and Time asks what kind of critical theory we might develop if we bracket the anxious attachment to a notion of fundamental value. To that end, it turns to the work of economist Hyman Minsky. Although Minsky has been popularized precisely as a critic of speculation, he in fact insisted that almost all value judgments and investments were to some degree speculative—their success or failure would be determined in an unknown future. For him, the key economic question is how order emerges in a world that offers no guarantees, how more or less stable standards and norms arise amidst uncertainty. Of course, the “endogenous” origin of financial standards is a well-rehearsed theme in heterodox economics—indeed, it is a staple of the “post-Keynesian” literature that claims Minsky’s legacy. But such perspectives have never been able to break with the idea that financial stability is at its core dependent on external interventions that suppress speculative impulses. For Minsky, however, this is to miss the point about endogeneity. To his mind, there was no clear dividing line between financial practices and their governance: central banks and other public authorities are no more able to see into the future and to transcend uncertainty than private investors are. Minsky was therefore highly skeptical about official claims of discretionary precision management: financial governance is always embroiled in the very risk logic that it is charged with managing. That also means that financial policy can appear quite ordinary, even banal: at the heart of capitalist financial management is a logic of backstopping and bailout that responds to the possibility that the failure of an institution may take down wider financial structures. The stability of the post-New Deal financial system is often attributed to the Glass-Steagall separation of the stock market and commercial banking. But Minsky tended to view Glass-Steagall as one of several measures to direct bank credit away from the stock market towards other, no less speculative ends, notably consumer and mortgage financing. To his mind, the stability of the post-war period derived rather from the creation of an extensive financial safety net (which included, for instance, deposit insurance, which removed the rationale behind bank runs) that served to socialize risk. This institutional arrangement turned out to have a significant drawback: a pattern of chronic inflation emerged that, by the late 1970s, was widely perceived as a major problem. Minsky’s lack of faith in the possibility of cleanly staged external interventions led him to feel that that there was no real way out of this predicament. Monetarist doctrines, ascendant during the 1970s under the influence of Milton Friedman, relied on exactly the belief in an arbitrarily defined monetary standard that Minsky rejected as naïve. Muddling through, it seemed, was the price of avoiding another financial crash and depression. The Volcker shock of 1979 changed this dynamic in a way that Minsky had not foreseen but that is comprehensible when seen through the lens he provided us with. Paul Volcker looked to monetarism not as a means to enforce an external limit or standard on the financial system, but as a politically expedient way to break with accommodating policies and to proactively engage the endogenous dynamics of finance. The consequences of the Volcker shock were predictable (which is exactly why the Federal Reserve had been reluctant to pursue similar policies in previous years): inflation gave way to instability and crisis. Inflation was conquered as jobs were lost and wages stagnated. And, far from money being returned to its neutral exchange function, opportunities for speculation multiplied. The American state was never going to sit idly by as the financial system returned to dynamics of boom and bust: when instability took the form of systemic threats, authorities would bail out the institutions that had overextended themselves. Of course, Volcker would not have been able to predict the specific features of the too-big-to-fail regime as it emerged during the 1980s and evolved subsequently; but the very point of the neoliberal turn in financial management that he had overseen was to create a context where risk could be socialized in ways that were more selective and therefore did not entail generalized inflation. The inflation of asset values that has been such a marked feature of the past four decades has always been premised centrally on the willingness of authorities to view the “moral hazard” of the too-big-to-fail logic as a policy instrument—even if they may have decried it officially as a regrettable corruption of market principles. Spectacular bailouts, mundane policies to protect the key nodes of the payment systems, the “Greenspan put”, the different iterations of quantitative easing—these are all variations on that basic too-important-to-fail logic. Existing critical perspectives tend to view crisis and the need for bank bailouts as manifesting the essential incoherence of neoliberal finance, its lack of solid foundations and the irrationality of speculation. Capital and Time breaks with such moralistic assessments. The way deepening inequality and the speculative growth of asset values continue to feed off each other is troubling for any number of reasons, but there is nothing inherently “unsustainable” about it—the process does not have a natural or objective limit. At this point in time, the critique of speculation does little more than lend credibility to official discourses that present crises as preventable and bailouts as one-off, never-to-be-repeated interventions. In that way, it prevents us from critically relating to a neoliberal reality that has been shaped to its core by the speculative exploitation of risk and uncertainty, and in which regressive risk socialization serves as the everyday logic of financial governance.

### 1NC---AT: I/L

#### Systemic risk from cyber is wrong---infrastructure isn’t interconnected

Jeremy **Rabkin &** John **Yoo 17**. Rabkin is a Professor of Law at the Antonin Scalia Law School, George Mason University; Yoo is currently the Emanuel S. Heller Professor of Law at the University of California, Berkeley. 09/12/2017. “CHAPTER 6 Cyber Weapons.” Striking Power: How Cyber, Robots, and Space Weapons Change the Rules for War, Encounter Books.

Some writers, however, dwell on the fear that cyber attacks and retaliation could spark a spiral of uncontrolled escalation that unleashes mass destruction. The underlying thought seems to be that cyber attacks always risk harm to unintended targets because of their unforeseen consequences.40 The Stuxnet virus, for example, did not just cause Iranian nuclear centrifuges to crash, it also found its way into thousands of computers around the world. Hence, cyber weapons are likely to generate more harm than originally intended. The concern is exaggerated. The rhetoric used to describe cyber attacks may heighten the sense of the risk, such as when analysts speak of computers as “infected” with a “virus.” The biological metaphor is misleading. Humans have similar physical structures, which is not generally true of electronic control programs. A virus that interferes with respiration in one person is likely to restrict lung function for a great many others. But all computer systems do not possess the same “physiology” with slight variations. Systems are custom designed to do different things in different settings. A virus that successfully disrupts or redirects one network will not likely have the same effects against others. Researchers in Europe, analyzing software oddities circulating there, discovered the Stuxnet virus used to “infect” the Iranian nuclear program.41 But the virus seems to have done no serious harm to anything other than the Iranian nuclear program. Its engineers specifically designed Stuxnet to disrupt specific machines controlled by German computer software. Stuxnet’s sharp focus on the Iranian centrifuges rendered it harmless to other computer networks.

### 1NC---AT: Cyber !

#### NC3 impacts are nonsense.

Dr. Andrew Futter 16, Associate Professor of International Politics and Director of Research for Politics and International Relations at the University of Leicester, “War Games Redux? Cyberthreats, US–Russian Strategic Stability, and New Challenges for Nuclear Security and Arms Control”, European Security, Volume 25, Issue 2, p. 171-172

It is of course highly unlikely that either the USA or Russia has plans – or perhaps more importantly, the desire – to fully undermine the other’s nuclear command and control systems as a precursor to some type of disarming first strike, but the perception that nuclear forces and associated systems could be vulnerable or compromised is persuasive. Or as Hayes (2015) puts it, “The risks of cyber disablement entering into our nuclear forces are real”. While the growing possibility of “cyber disablement” should not be overstated (notions of a “cyber-Pearl Harbor” (Panetta 2012) or “cyber 9–11” (Charles 2013) have done little to help understand the nature of the challenge), cyberthreats are nevertheless an increasingly important component of the contemporary US–Russia strategic context. This is particularly the case when they are combined with other emerging military-technical developments and programmes. The net result, especially given the current downturn in US–Russian strategic relations, and the way cyber is exacerbating the impact of other problematic strategic dynamics, is that is seems highly unlikely that either the USA or Russia will make the requisite moves to de-alert nuclear forces that the new cyber challenges appear to necessitate, or for that matter to (re)embrace the “deep nuclear cuts” agenda any time soon.

Assessing the options for arms control and enhancing mutual security

Given the new challenges presented by cyber to both US and Russian nuclear forces and to US–Russia strategic stability, it is important to consider what might be done to help mitigate and guard against these threats, and thereby help minimise the risks of unintentional launches, miscalculation, and accidents, and perhaps create the conditions for greater stability, de-alerting, and further nuclear cuts. While there is unlikely to be a panacea or “magic bullet” that will reduce the risk of cyberattacks on US and Russian nuclear forces to zero – be they designed to launch nuclear weapons or compromise the systems that support them – there are a number of options that might be considered and pursued in order to address these different types of threats and vulnerabilities. None, of these however, will be easy.

The most obvious and immediate priority for both the USA and Russia is working (potentially together) to harden and better protect nuclear systems against possible cyberattack, intrusion, or cyber-induced accidents. In fact, in October 2013 it was announced that Russian nuclear command and control networks would be protected against cyber incursion and attacks by “special units” of the Strategic Missile Forces (Russia Today 2014). Other measures will include better network defences and firewalls, more sophisticated cryptographic codes, upgraded and better protected communications systems (including cables), extra redundancy, and better training and screening for the practitioners that operate these systems (see Ullman 2015). However, and while comprehensive reviews are underway to assess the vulnerabilities of current US and Russian nuclear systems to cyberattacks, it may well be that US and Russian C2 infrastructure becomes more vulnerable to cyber as it is modernised and old analogue systems are replaced with increasingly hi-tech digital platforms. As a result, and while nuclear weapons and command and control infrastructure are likely to be the best protected of all computer systems, and “air gapped”14 from the wider Internet – this does not mean they are invulnerable or will continue to be secure in the future, particularly as systems are modernised or become more complex (Fritz 2009). Or as Peggy Morse, ICBM systems director at Boeing, put it, “while its old it’s very secure” (quoted in Reed 2012).

### 1NC---AT: Grid !

#### Cyberattack won’t shut down the grid – resiliency measures check

Craig, analyst @ Fox Business, citing the senior manager of industrial control systems at Mandiant, 16

(Victoria, “The U.S. Power Grid is 'Vulnerable,' But Don't Panic Just Yet”, http://www.foxbusiness.com/features/2016/02/02/u-s-power-grid-is-vulnerable-but-dont-panic-just-yet.html)

The idea of the nation's power grids becoming the next battleground for cyber warriors could make hacking into consumers’ credit card accounts and personal information seem like child’s play. While U.S. power companies are likely targeted by foreign governments and others in increasingly sophisticated breaches, actually shutting off the lights and causing chaos is far more complicated than many pundits make it seem. Dan Scali, senior manager of industrial control systems at Mandiant, a cybersecurity consulting arm of FireEye ([FEYE](http://www.foxbusiness.com/quote.html?stockTicker=FEYE)), explained that while cyber criminals may gain access to power and utility data systems, it doesn’t necessarily mean the result will be a power outage and a total takedown of power grid control systems. In other words, the power grid is controlled by more than just a panel of digital buttons. “Losing the control system is bad from the perspective that it takes you out of your normal mode of operations of being able to control everything from one command center, but it doesn’t mean you’ve lost control or all the lights go out [in the city],” Scali explained. While many of the systems have been modernized to include digitized control panels, if a hacker were to infiltrate the system, a utility worker could still have the ability to manually control the machines by flipping a switch, pushing a button, or tripping a breaker. As the world saw with the recent attack in Ukraine, which caused a blackout for 80,000 customers of the nation’s western utility, the biggest problem may be ensuring the power grid’s control systems are not vulnerable to cyber break ins. The January attack in Ukraine was likely caused by a corrupted Microsoft Word attachment that allowed remote control over the computer, according to the U.S. Department of Homeland Security. Scali said there was no evidence from the incident in Ukraine that the hacker’s malware was able to physically shut down the power. “It wiped out machines, deleted all the files. Kill disk malware made it impossible to remotely control things. It caused chaos on the business network, and the area where control system operations sat. But the attacker, we believe, would have had to actually used the control system to cause load shedding, which caused the power to go out, or trip breakers to cause the actual problem. Malware itself didn’t turn the power out,” Scali said. He said what most likely happened in that incident was the hacker stole user credentials and logged into the system remotely. The bottom line: Yes, a similar event could happen in the U.S. And corporate America is concerned. A recent survey released in January on the state of information security, conducted by consulting firm Pricewaterhouse Coopers, showed cybersecurity as one of the biggest concerns among the top brass at U.S. power and utilities firms. Part of the problem, Brad Bauch, security and cyber sector leader at PwC said, is the interconnectedness of the industry’s tools. “Utilities want to be able to get information out of [their] systems to more efficiently operate them, and also share that information with customers so they have more real-time information into their usage,” he explained. While allowing access to their own consumption data allows the companies to give their customers more of what they want, it also opens up a host of access points for hackers, making the systems more vulnerable than they otherwise would be. But to say that the power grid is susceptible to cyber hackers is a bit of an oversimplification.

### 1NC---AT: Internet !

#### Internet doesn't solve extinction---Eagleman’s a tool, he fails to address blatant loopholes in his points and his work cites faulty sources

Seth Mnookin 12 teaches science writing at MIT and blogs at the Public Library of Science, Download the Universe, 3/23/2012, "The Frozen Future of Nonfiction", http://www.downloadtheuniverse.com/dtu/2012/03/why-the-net-matters-how-the-internet-will-save-civilization-by-david-eagleman-canongate-books-2010-for-ipad-by-set.html

Or maybe you’re like me, and you can no longer remember when you first became aware of Eagleman and his work--you just know you’re curious about whatever it is he decides to tackle next because it will inevitably be interesting and erudite and thought-provoking and, in all likelihood, fun.

At least, that’s what I assumed before I read Why The Net Matters, Eagleman’s frustrating 2010 e-book about how and why the Internet will save civilization. (I reviewed the $7.99 iPad version, which is the platform it was designed for; a stripped-down, text-based version is available on the Kindle for the portentous price of $6.66.) The problems start with Eagleman’s premise, which is so vague and broad as to be practically meaningless. There are, he writes, just “a handful of reasons” that civilizations collapse: “disease, poor information flow, natural disasters, political corruption, resource depletion and economic meltdown.” Lucky for us (and Eagleman does offer readers “[c]ongratulations on living in a fortuitous moment in history”), the technology that created the web “obviates many of the threats faced by our ancestors. In other words...[t]he advent of the internet represents a watershed moment in history that just might rescue our future.”

On the other hand, it just might not: In order to make his point, Eagleman either ignores or doesn’t bother to look for any evidence that might undercut it. The first of six “random access” chapters that make up the bulk of Why The Net Matters is devoted to “Sidestepping Epidemics,” like the smallpox outbreak that helped bring down the Aztec Empire. In the future, Eagleman writes, the “protective net,” in the form of telemedicine, telepresence (“the ability to work remotely via computer”), and sophisticated information tracking, will save us from these outbreaks. That all sounds lovely, but what of the fact that we’re currently experiencing a resurgence in vaccine-preventable diseases such as measles...a resurgence which is fueled in no small part by misinformation spread over that very same “protective net”?

A few chapters later, in a section celebrating the benefits of the hive mind, Eagleman invokes Soviet pseudoscientist Trofim Lysenko, a famed quack who took over the U.S.S.R.’s wheat production under Stalin. Because the Soviet Union spanned 13 time zones, Eagleman writes, “central rule-setting was disastrous for wheat production. … Part of the downfall of the USSR can be traced to this centralization of agricultural decisions.” That sounds nice, and might even be true—but it’s not a point that’s supported by Lysenko, whose main shortcoming was not that he believed in a one-size-fits-all approach; it was that he was a fraud.

Moving to the present day, Eagleman addresses wildfires that swept through Southern California in 2007, which, he writes, “brought into relief the relationship between natural disasters and the internet.”

At the beginning of the outbreak in October, Californians were glued to their television screens, hoping to determine if their own homes were in danger. But at some point they stopped watching the televisions and turned to other sources. A common suspicion arose that the news stations were most concerned with the fate of celebrity homes in Malibu and Hollywood; mansions that were consumed by the flames took up airtime in proportion to their square footage, which made for gripping video but a poor information source about which areas were in danger next. So people be­gan to post on Twitter, upload geotagged cell phone photos to Flickr, and update Facebook.

I had been fairly obsessed with the wildfires, and since I didn’t remember this “common suspicion,” I decided to check the article Eagleman cites as the source of this info, which was a Wired blog post titled “Firsthand Reports from California Wildfires Pour Through Twitter.” It contained no references to a celebrity-obsessed news media; instead, the piece described how “the local media [was] overwhelmed.” It also talked about a San Diego resident who was “[a]cting as an ad hoc news aggregator of sorts” by “watching broadcast television news, listening to local radio reports and monitoring streaming video on the web” and then posting information, along with info gleaned from IMs, text messages, and e-mails, to his Twitter account.

### 1NC---AT: Meltdowns !

#### No meltdowns extinction

Lajos Brons 19, Adjunct professor of philosophy at Lakeland University, “On the Fragility of Civilization,” F = ma, 03/19/19, http://www.lajosbrons.net/blog/on-the-fragility-of-civilization/

Among the people quoted by Bendell is Guy McPherson who is relatively well known for making a considerably more extreme prediction: within a decade global society will collapse after which no-longer maintained nuclear power plants will meltdown leading to human extinction.8 McPherson’s “research” mostly consists of wild extrapolations based on inconclusive evidence, however, and the idea that nuclear meltdowns will lead to human extinction is very implausible.9

\*\*\*FOOTNOTE BEGINS\*\*\*

Most meltdowns will be contained in the reactor vat. Those that breach the reactor vat will cause major nuclear accidents, but the only effect thereof is an increase of cancer in the direct environment of the nuclear power plant (and a tiny little bit at greater distances). The impact thereof is negligible on a global scale (that is, on a scale relevant to human extinction), however, even if very many of the 400-or-so active nuclear plants experience major nuclear accidents.

\*\*\*FOOTNOTE ENDS\*\*\*

#### No meltdowns impact, and evacuation solves

Tiffany Kaiser 11, writer for Daily Tech, citing Nuclear Regulatory Commission Report, 8/2/2011, DailyTech, "NRC: Far Fewer People Would Die in a U.S. Nuclear Meltdown Than Previously Thought," http://www.dailytech.com/NRC+Far+Fewer+People+Would+Die+in+a+US+Nuclear+Meltdown+Than+Previously+Thought/article22330.htm

The nuclear crisis at Fukushima Daiichi in Japan has caused a nuclear frenzy where leaders around the world are questioning the safety of their plants. For instance, French President Nicolas Sarkozy called for global nuclear review after visiting Japan, and U.S. senators demanded that the Nuclear Regulatory Commission (NRC) repeat an expensive inspection of the country's nuclear power.¶ But now, the NRC is close to completing a large nuclear study that may ease a few worried minds.¶ The NRC has been working with Sandia National Laboratories (a Department of Energy lab) on a study that revises previous projections of how quickly and how much cesium 137, which is a radioactive material made when uranium is split, could release from a plant after a nuclear core meltdown. The NRC has been working on the study for six years, and it will not be completely finished until next spring. But the nuclear watchdog group, Union of Concerned Scientists, has obtained an early copy of the report through a Freedom of Information Act request.¶ The new study is based on how much and how quickly cesium 137 could escape an American nuclear plant if a total blackout were to occur. A total blackout means complete loss of power from the grid, and backup diesel generators and batteries have failed as well. This leads to a nuclear meltdown. NRC scientists said that a total blackout would be rare at an American plant, but it is better to be safe than sorry. In addition, the NRC wanted to update previous projections related to cesium 137.¶ The NRC focused on two different types of reactors in the U.S.: the Peach Bottom Atomic Power Station in Pennsylvania, which has boiling-water reactors like Fukushima Daiichi, and the Surry Power Station in Virginia, which has pressurized-water reactors. Over 100 different plants were studied. Through computer models and engineering analyses, the NRC has concluded that the meltdown of a typical American reactor would lead to "far fewer deaths" than previously thought.¶ According to the new study, only 1 to 2 percent of a reactor core's cesium 137 could escape during a total blackout. Previous NRC estimates concluded that 60 percent of the cesium inventory could escape.¶ In addition, the new study found that one person in every 4,348 within a 10-mile radius of a nuclear meltdown would develop a "latent cancer" from radiation exposure. In previous estimates, it was one person in every 167.¶ The NRC said that large releases of radioactive material would not be "immediate," meaning that people within a 10-mile radius would have plenty of time to evacuate the premises. It concluded that the chance of death from acute radiation exposure within a 10-mile radius would be near zero, but some would be exposed to high enough doses to experience fatal cancers decades later.¶ "Accidents progress more slowly, in some cases much more slowly, than previously assumed," said Charles G. Tinkler, a senior adviser for research on severe accidents and an author of the study. "Releases are smaller, and in some cases much smaller, of certain key radioactive materials."

## Dependency

### Dependency

#### Mergers thump

#### Alt causes to inequitable digital economies---no data sharing and lack of infrastructure---antitrust alone fails.

1AC Gurumurthy et al. ’20 [Anita “Unskewing the Data Value Chain: A Policy Research Agenda for Equitable Platform Economies”; (September 1, 2020); Available at SSRN: <https://ssrn.com/abstract=3872492>; AS]

Development is about how developing countries can move out of highly competitive activities with low margins to higher value activities with higher knowledge premiums, a process that has been recognized as structural transformation (Mann & Iazzolino, 2019). Fuelled by digital intelligence, all sectors of the economy are today undergoing a rapid makeover; a transition that requires developing countries to ensure that their productivity gains and digital capabilities are in a virtuous cycle. However, the “intelligence premium” harvested by dominant platform-lead firms in global data value chains constitutes a barrier to entry, impairing the global competitiveness of developing countries (Gurumurthy et al., 2019). The private enclosures of data and digital intelligence unfairly cement the competitive advantage of rich countries in global data value chains and thwart the potential for structural transformation of developing countries. Hence, while the data paradigm presents an urgency for systemic coordination towards national digital industrialization, it also represents a highly contested faultline in global resource redistribution.

The development question for the digital economy then is this: how can the data value chain be unskewed for redistributive equity and inclusion?

This conundrum has been the topic of significant, even if nascent, debates. Both traditional and new age policy proposals are being put forth from various quarters: institutional reform proposals from multilateral agencies and regional political blocs such as OECD, policy review assessments initiated at the national level, and unconventional and radical solutions from progressive civil society networks and scholars.

The emerging proposals can broadly be divided into three main areas: reining in Big Tech power, carving out a new resource governance regime for data resources, and building intelligence infrastructure capabilities in the Global South. Admittedly, many of the ideas involved are fledgling and demand in-depth exploration and robust debate before they can coalesce into clear and effective policies. But the juggernaut of Big Tech impunity and a yawning democratic deficit in global/regional policies in critical areas like trade, taxation and capital flows demand bold and agile action that eschews incremental, status quoist measures. They call for a conceptual overhaul that accounts for the realpolitik of geo-economic power.

The following sections take stock of noteworthy policy proposals that have emerged in each of the three areas, examining them critically and posing priority directions for a research agenda11 that can answer the following questions:  How are current policy directions and emerging institutional mechanisms able to address questions of market fairness and economic equity in the digital economy?  How do emerging global policy frameworks on data and AI impact national development priorities and pathways?

Area 1. Reining in Big Tech power through traditional policy instruments

In mainstream policy discourses in the digital arena, there is increasing recognition that competition and taxation policy reform are urgently needed to effectively curb Big Tech power in global data value chains.

With respect to competition policy, there is mounting consensus that industrial era competition law frameworks need to be overhauled so that they are able to effectively address the anti-competitive risks of network-data effects in data value chains. In 2020, the European Commission for Competition announced an in-depth study aimed at the updation of its merger assessment rubrics to address the realities of asset light, data heavy platform business models of the digital age (Modrall, 2020). The United States House Judiciary Committee has just concluded an investigation into the structural separations to be effected in data value chains to ensure that corporations controlling essential platform infrastructures are not also competing with the businesses that transact goods and services on them, the urgently needed “separation of platforms and commerce” that legal scholar, Lina Khan, has flagged in her study of Amazon’s antitrust behavior (Khan, 2017; 2019). Such interventions to overhaul traditional competition laws are urgently needed in the Global South as well.12

Currently, the European Union is exploring a limited form of structural separation by prohibiting specialized data sharing services from deploying the data that they transact for other uses, in an attempt to establish boundaries between data intermediation and intelligence services layers. But as the proposed regulation in its current form does not extend to cloud service providers, content intermediaries, and data exchange platforms developed in the context of IoT, it can be argued that this regulatory solution does not go far enough.13

**[[Dartmouth’s Card Ends]]**

Emerging scholarship from the Global South suggests that a replication or emulation of the approaches of the US or EU may be inadequate and new conceptualizations may be needed. For example, a recent paper by IT for Change (Singh, 2020) emphasizes a new doctrine of structural separation for the data value chain. This proposal posits that Big Tech firms must be forced to choose between operating in either the upstream layers of provisioning cloud intelligence services or building their business models around the downstream activities of data collection and processing. This, it is argued, will ensure the creation and maintenance of a “salutary distance” between the different layers of global data value chains, preventing the end-to-end capture of data and intelligence value that leads to extreme market concentration.14

There is also recognition that in global data value chains enmeshed in transnational capital flows, national approaches alone may not suffice to curb platform firms’ abuse of their market dominance. Drawing attention to the multilaterally agreed Equitable Principles and Rules for the Control of Restrictive Business Practices adopted by the United Nations General Assembly in 1980, KozulWright (2020) has therefore called for a global competition authority.

As for international digital taxation, it is clear that breaking the global stalemate to arrive at a progressive tax regime is critical. The UN Economists Network (2020) has identified the development of a new global taxation framework on cross-border digital transactions to broaden the tax base of developing countries as an urgent policy priority. A pertinent research agenda for bringing competition and taxation laws up to speed in the digital era therefore includes:

 Models for legal-institutional frameworks that can guide the design of a global competition authority.

 Context-specific exploration of evidence from developing countries of transnational platforms’ anti-competitive practices in a range of economic sectors.

 Metrics for antitrust risk assessment of data value in mergers.

 An institutional model for digital competition regulation that accounts for structural separation of the multilayered data value chains in different sectors.

 Conceptual modelling to determine how ‘significant economic presence’ criteria for transnational digital firms can work in developing country contexts.

 Comparative case studies of digital taxation measures adopted by different countries from the Global South and implications for macroeconomic development.

Area 2. A new resource governance regime for data

Conventional policy measures to check Big Tech are partial solutions. While they can make a dent in the market power of digital giants, by themselves they are unlikely to ensure equitable ‘intelligence dividends’ across firms/economic actors in the platform economy. In the absence of an appropriate resource ownership regime around data that balances public and private interests, the intelligence premium garnered by Big Tech will only further private value capture, transferring out value from most of the developing world. Additionally, data building blocks essential for public digital infrastructures across all key sectors – health, education, finance, agriculture, finance, manufacturing etc. – will remain elusive for these countries, condemning them to a downward development trajectory. A new resource governance regime for data therefore becomes a cornerstone policy agenda for development in the twenty-first century.

Legal scholarship on resource governance underlines the role of appropriate private and public ownership frameworks (Epstein, 1987), with room for context-specific resource management tenets (such as access rights for forest-based communities). This is vital for the public interest, and a precondition for the realization of social good. Unfortunately, mainstream policy discussions on data governance (for instance, the World Bank’s concept note for its 2021 World Development Report – Data for Better Lives and ongoing conversations at the WIPO (2020) on exploring a sui generis patents regime for AI generated outputs) assume as a given, the de facto private ownership regime that operates in data resources.

As illustrated in Section 2b, in global and plurilateral negotiations on digital trade, the contestation between the dominant data economies and the rest of the world is primarily over the extent of liberalization of data flows and market access in e-commerce and digital services. The enclosure of data by first-mover digital firms leaves the majority of developing countries with no other option than to integrate into the e-commerce/digital services status quo.

In order to effectively address the resource governance vacuum that has created the data wild west, we need a “global constitutionalism for data” that lays down the first principles to inform data’s entry and movement through the value chain (Gurumurthy & Chami, forthcoming). As the Digital Justice Manifesto (2019) mooted by the progressive South-centric network, Just Net Coalition, recognizes, this would involve making normative decisions around a range of issues: determination of the boundaries of the data and the intelligence economy based on rights and inclusive development considerations, allocation of rights in data and intelligence resources, and the prevention of state/corporate abuse of data power. As more and more sectors of economic and social life get datafied, these questions occupy center-stage in many policy debates at the global and national level, and indeed, in each and every sector.

In order to effectively address the resource governance vacuum that has created the data wild west, we need a “global constitutionalism for data” that lays down the first principles to inform data’s entry and movement through the value chain.

A data economy based exclusively on safeguards through privacy rights cannot stall data extractivism. On the contrary, the privacy ‘shield’ becomes a minimalist, and even reductionist, means to allow data to flow ‘freely’ to the already powerful private hoarders dominating the global data value chains. Representing the embedded relationalities in which people, natural resources, things and phenomena share existence, data is a ‘system resource’ harnessed through intelligence infrastructures.

The commercial exploitation of advances in synthetic biology serves as a cautionary tale about the connection between value capture from digital intelligence and data theft from communities. Digital gene sequencing techniques enable Big Pharma and Big Agriculture to extract value from genetic resources (flora, fauna, microorganisms), without having to physically access genetic samples that attract various obligations – prior and informed consent of the ‘source communities’, benefits sharing mandates etc. – under the Convention on Biological Diversity. As the fourth industrial revolution transforms production chains in a range of sectors, the lack of ‘system resource’ frameworks for non-personal data sets will legitimize data theft, transferring control of the economic (and social) activity to digital (and digitally-emboldened)15 behemoths. Similarly, aggregate, anonymized personal data footprints of a community may be deployed to design commercial interventions that erode group privacy.16

Data discussions have a disproportionate focus on government open data frameworks for economic development, eclipsing the role of privately captured data for public and social value creation. Without appropriate data governance frameworks, Big Tech firms that exercise de facto ownership and control over valuable data and intelligence resources will have little incentive to share data voluntarily. IT for Change’s work, which has also informed national level policy processes on non-personal data governance in India, has underlined how a sui generis ‘community data’ regime grounded in the Ostromian idea of common property resource governance may be able to address these quandaries (Singh & Vipra, 2019; Singh & Gurumurthy, 2020). Drawing upon common property resource governance traditions in biodiversity, genetic, and traditional knowledge resources, we also propose five core principles of a community data regime: (1) the community’s right over data resources associated collectively with it, (2) prior informed consent of the community for use of such resources, (3) benefit sharing with the community, (4) transparency in the form of community data resource registers to prevent misuse and enable legitimate access, and (5) the community’s participation in governance of community data resources, including through non-profit trusts.17

Future research is required in a range of areas to build upon these directions:

 A model framework law for community data rights that outlines nested and overlapping sovereignties, including jurisdictional, indigenous, etc.

 Exploration of an equity-centered resource/benefit allocation regime for AI technologies based on community data rights and of a FRAND regime for essential AI building blocks for future innovation.

 Implications of digital trade agreements on resource governance regimes for data.

 Data market regulation to recognize social relationality and collective autonomy implicated in data transactions.

 Parameters of ‘relevant data communities’ and resolution of context-specific ambiguities of the notion.

 Application of community data claims in different categories of data resources.

 Issues of trusteeship for effective data stewardship models.

 Prior informed consent at the individual and collective level in aggregate, anonymized nonpersonal data resources.

Area 3. Data infrastructure capabilities for the Global South

Without endogenous capacities to process data and generate digital intelligence and thereby move into the high value segments of data value chains, most developing countries can only realize the “first-order benefits” of accessing global digital trade markets (UNCTAD, 2019). Investments in domestic digital and data infrastructure are hence vital to bridge the “digital capability gap” between domestic firms (in digital and other sectors) and transnational corporations, and to leverage the “second-order benefits” of productivity, wealth and well-being that the data revolution brings (UNIDO, 2020; UNCTAD, 2019). Official Development Assistance (ODA) has an important role to play in bridging this gap. But as current studies of the nexus between ODA, digital economies and sustainable development suggest, not enough attention has been paid to the potential downsides of ODA projects in the digital sector: harmful concentration and monopoly, rising inequality, or state and corporate use of digital technologies to control rather than empower citizens (Bennett, 2019). As a response to this deficit in global development cooperation, the UNCTAD has been advocating for stronger South-South cooperation in digital industrialization: development of public broadband and connectivity programs, investment in cloud infrastructure, and creation of regional level single digital markets that can contribute to the strategic integration of non-personal data flows for development of regional AI capacity (Banga & Kozul-Wright, 2018).

South-South cooperation is no simple mantra for the realization of inclusive and equitable growth. Policy choices must catalyze alternative platform business models, nudging data value chains towards a fairer and equitable distribution of data value across the economy (Gurumurthy et al., 2019). National data and AI strategies could support plural imaginaries of platform ecosystems that socialize data value

It is increasingly evident that the development of data public goods – including open digital/data ecosystems – is critical, especially to promote domestic innovation. At the same time, there is a very real risk that without clear access and use guidelines and licensing conditionalities for innovators, powerful transnational digital corporations may appropriate the value of such public goods (Walker, 2019; IT for Change, 2020). Also, a superficial extension of open access regimes for information and knowledge resources and software public goods to the data domain is not appropriate, with the latter needing institutional governance frameworks to ensure both safeguards and enabling conditions.

Learning labs that promote collaborative South-South research can bring significant, evidence based perspectives to understand national digital infrastructure policy pathways. Research is needed to explore the following issues:

 Global overview of standards development (including platform and data interoperability) and access-and-use regimes for public/national open/shared data infrastructures.

 Risk assessment and impact studies of ODA in national digital infrastructures.

 Development implications of regional single digital markets.

 Predisposing factors enabling virtuous cycles between intelligence infrastructures and economic development.

 Case studies of digital/data public goods initiatives (in health, agriculture, mobility, and transportation) to evolve progressive visions for national intelligence infrastructure development.

Table 1. A policy research agenda for unskewing data value chains: Indicative thematics

Table

Description automatically generated

#### China fills-in.

Gurumurthy 21 (Anita Gurumurthy, Executive Director @ IT for Change, Bengaluru, India, advisor and expert on various bodies including the United Nations Secretary-General’s 10-Member Group in support of the Technology Facilitation Mechanism, the Paris Peace Forum’s working group on algorithmic governance, Save the Children’s ICT4D Brain Trust, and Minderoo Tech & Policy Lab‘s Board; Nandini Chami, Deputy Director at IT for Change; “Towards a Global Digital Constitutionalism: A Radical New Agenda for UN75,” 05-03-21, *Development (2021)*, Springer Link, <https://doi.org/10.1057/s41301-021-00287-z>, TM)

With Big Tech corporations extending their monopoly control through integration of multi-sector vertical markets (e.g., Amazon has branched out from e-commerce into health and pharma, digital streaming, and robotics) and data-based horizontal markets (that is, Amazon is not only a data collector, but also cloud and analytics provider), norm- and rule-making in the digital arena is in the throes of a major shift. This is represented in the hollowing out of public infrastructures, not simply through privatization, but a systemic socialization of privately controlled platforms. The platformization epoch in the digital society hence represents a de-democratization and de-publicization of governance. The private platform and its constituent functionalities are the public protocols, and the data-based intelligence that powers it is the law.

This shifting terrain of power has ushered in what has been referred to as a new bipolar world, with China’s rise as a new AI superpower. China has historically pursued a different route to digital capability—digital and data sovereignty to expand domestic digital industry, and export of surplus industrial output through e-commerce (UNECA 2019). In the post-COVID-19 context, through its ‘Digital Silk Road’ initiative, the country has sought to export advanced technologies such as 5G and facial recognition (Triolo and Greene 2020). Chinese Big Tech companies are also establishing supply chains in agriculture, dairy, and retail commerce, extending their markets, in the South East Asian region.Footnote16 The fourth industrial revolution thus presents a Hobson’s choice in which countries may be forced to choose between US and Chinese corporations for access to advanced digital prowess.

# 2NC

# 2NC---Harvard R6

## CP---UN

### 2NC---O/V

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

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

#### It severs reform, expand scope, and antitrust law---the counterplan doesn’t touch the core laws---it reforms global law, which is a separate legal regime from national law.

Anderson 10 (Rachel J. Anderson, Associate Professor of Law @ William S. Boyd School of Law, UNLV; “Reimagining Human Rights Law: Toward Global Regulation of Transnational Corporations;” 12-21-10, Denver University Law Review, Vol. 88, p. 183, <https://ssrn.com/abstract=1729427>, TM)

Global law is an emerging legal order. It is a next iteration of law, following the law of nations and international law.35 Global law is neither superior nor inferior to other legal orders.36 Instead, it presupposes the interconnection and interdependency of all legal orders of the world, including international law and national law.37 Human rights are a core value of global law.38 There are multiple sources of global law, including specific economic or other subsectors, and organizational and functional networks.39 Lex mercatoria, also known as commercial law, transnational law, or the New Law Merchant, is an example of global law.40 Through various means, global law provides an opportunity to address corporate-related human rights abuses, in part because it is not state-centered.

#### AND ‘its’ is possessive, meaning they have to reform U.S. laws.

Merriam-Webster 5 (Merriam-Webster, “its;” Date accessed using Carbon Dating the Web: 11-28-05, <https://www.merriam-webster.com/dictionary/its>, TM)

: of or relating to it or itself especially as possessor, agent, or object of an action

### 2NC---AT: Theory

### 2NC---AT: Condo

### 2NC---Solvency---T/L

#### 2. Follow-on---UN Declarations on digital standards build on current momentum and generate international compliance.

Yilma 17 (Kinfe Micheal Yilma, Doctoral and Teaching Fellow, Melbourne Law School, The University of Melbourne, Australia; Lecturer-in-Law, School of Law, Addis Ababa University, Ethiopia; “Digital privacy and virtues of multilateral digital constitutionalism—preliminary thoughts,” *International Journal of Law and Information Technology*, Vol. 25, Issue 2, Summer 2017, Pgs. 115–138, <https://doi.org/10.1093/ijlit/eax001>, TM)

---IBRs= Internet Bill of Rights

A declaration offers stronger normative base

Primarily, a UNGA Declaration would be the most pertinent means of giving a lasting effect to the momentum set in motion by the Snowden affair. It would set concrete and permanent privacy standards than mere UNGA Resolutions with perhaps ‘fleeting’ legal and practical impact. The tenancy of the UN Resolutions seems largely temporary, and that passing a Declaration instead might add a sense of ‘permanence’. The trio UNGA privacy Resolutions were passed with the view to lessen the ‘uproar’ stirred by Snowden’s revelations.122 At the most basic level, they require states to make sure that their laws, policies and practices comply with their human rights obligations rather than giving substance to what privacy rights exactly mean in the digital context. Implicit in these Resolutions is that the current international human rights framework is fit for purpose in the digital age, and the gap exists in domestic law and practice. As such the substantive content of the human right to digital privacy is not articulated.

A UNGA Declaration could help ‘elevate’ the potential of the recent UN Resolutions on the right to privacy given the seemingly higher legal weight that Declarations wield than Resolutions. The proposed Declaration would provide higher normative base while at the same time fulfilling the aim of those Resolutions. The Declaration could be a well-suited way of ‘reaffirming’ the right to privacy in the digital context as well as to ‘update’ existing standards in light of the conditions of the day. The proposed Declaration might also perhaps be the pertinent instrument both to recognize emerging subsets of privacy rights and to give substance to the indispensable importance that privacy-enhancing technologies have in safeguarding digital privacy. Additionally, the proposed Declaration could serve as an essential roadmap for the UN bodies including the Special Rapporteurs, the Human Rights Committee, and other judicial bodies at various levels in the course of entertaining digital privacy matters.

A declaration enhances universality

The proposed Declaration could also be the first ‘universal’ articulation of emerging privacy rights now widely championed by various stakeholders. That the proposed Declaration is to be adopted by the UN means that it would reaffirm the doctrine of universality of human rights in the context of Internet rights. As alluded to above, there is an increasing interest among nations in passing laws that guarantee Internet rights. Yet again, these legislative measures are taking foot only in some countries. This factual state of affairs, however, risks providing an uneven level of protection for Internet users across the globe. In the absence of a general framework instrument that sets forth basic Internet rights of all net users, rights like privacy would be privileges of only quite a few netizens. This is more so given the transnational nature of the Internet where country-specific laws have limited scope of application. In this regard, the Declaration could serve as a ‘model law’ for the increasing number of national initiatives for IBRs thereby ensuring harmonization. Additionally, the Declaration could also serve as a benchmark for international, regional, and national judicial bodies thereby ensuring judicial certitude worldwide. Indeed, soft law norms normally bear an impact on national legislatures as ‘reference models’ and are often taken into account by municipal judges.123

A declaration short-circuits ‘hard legalization’

The proposed Declaration could serve as a shortcut means towards a legally binding instrument on digital privacy in two ways. Primarily, hard law is more likely to evolve from soft law which promotes a trend to the ‘hardening’ of international relations.124 Soft law is generally considered as a ‘precursor’ of hard law.125 And, rights normally grow through less bold declarations of positive law that gradually reshape the legal and political expectations of peoples.126 Secondly, a UNGA Declaration also carries the potential to facilitate the rapid codification of emerging state practices on IBRs. In this sense, once adopted by the UNGA, the Declaration might quickly evolve into a globally binding instrument thereby avoiding the ‘rather slow process of negotiation and entry into force of an international treaty’.127 It is also vital to note that several UN human rights treaties have been preceded by Declarations. Notable examples in this regard are: the Declaration on the Elimination of All Forms of Racial Discrimination, the Declaration on the Elimination of Discrimination against Women and the Declaration on the Rights of Disabled Persons.128 If we go by this precedent, the proposed Declaration might in due course be translated into a global binding instrument.

In a similar vein, the first Optional Protocol to the ICCPR that mandates ‘individual communication’ has so far received limited ratifications, 115 State Parties the time of writing.129 This means that the number of states that would not be subjected to scrutiny under the individual communications procedure is higher. For instance, notorious privacy violators such as the USA have not signed up to the Optional Protocol. The only way then to hold such states to account is through the reporting procedure which still some states like the USA are hesitant to fully engage with, one notable reason being the extraterritorial application of Article 17 of the ICCPR. Of course, the reporting mechanism does not totally apply to states such as China which have signed but not ratified the Covenant. The periodic nature of the UPR mechanism and—the emerging politicization therein—also limits its significance in sufficiently upholding the right to digital privacy. In the face of this state of affairs, the adoption of a Declaration proves to be an important step in the right direction.

A declaration is a feasible instrument

In contrast with hard law, adoption of soft law instruments is relatively easier and seamless particularly in terms of the ‘contracting cost’130—ie marshalling support for its adoption and ratification. Indeed, this has impelled UN bodies such as the International Labour Organization (ILO) to shift from passing binding conventions to unbinding soft instruments such as recommendations partly due to the higher ‘contracting cost’ of hard legalization.131 Another worth mentioning example is the UDHR. The interval between the start of the drafting of the UDHR in 1947 to its adoption in 1948 was unusually short in comparison with other human rights documents.132 This is remarkable because factors that inspired the UDHR such as the memory of the horrors of World War II were fading into the background, and chances of adoption were significantly lessening but it was ultimately adopted.133 With this remarkable precedent, a strong case can be made that adoption of IBRs Declaration would not be an insurmountable venture after all. Given the recent wide-spread worldwide focus on digital surveillance and privacy, the adoption of such a Declaration might even be seamless and achievable than ever before Of course, some UNGA Declarations such as the ‘Declaration on the Rights of Indigenous Peoples’ took many years before they were finally adopted.134 But, the already well-established efforts on IBRs and the global momentum built around digital privacy post the Snowden leaks make its quicker adoption a real possibility. This momentum would particularly make the likelihood of the Declaration’s adoption higher even in case the adoption will have to be made through vote. Unlike controversial subjects such as the Right to Development on which a Declaration has already been adopted by the UNGA,135 matters like the Internet freedoms are more likely to obtain the ascent of the international community. This is more so in a time like now when the UN and international community are seized with the issue of digital privacy.136

#### **They dropped the universal civil jurisdiction plank---it solves any enforcement deficits---people can sue any company from any location.**

Anderson 10 (Rachel J. Anderson, Associate Professor of Law @ William S. Boyd School of Law, UNLV; “Reimagining Human Rights Law: Toward Global Regulation of Transnational Corporations;” 12-21-10, Denver University Law Review, Vol. 88, p. 183, <https://ssrn.com/abstract=1729427>, TM)

C. Global Enforcement

The rights of victims of corporate-related human rights abuses are under-enforced and, therefore, the third component of this proposal is the expansion of adjudicatory and enforcement options.311 This expansion should help compensate for the fact that some states enforce and adjudicate fewer claims or adjudicate less consistently than others. This proposal envisions adjudication of claims of corporate-related human rights abuses in domestic courts and universal civil jurisdiction for corporate-related human rights abuses.312 However, it does not exclude the possibility of a global court or convention on enforcement of alternative forms of dispute resolution in the future.313 This is an initial proposal that will be expanded and refined in a future article entitled Universal Civil Jurisdiction: Adjudicating Corporate-Related Human Rights Abuses (working title). Universal civil jurisdiction would allow civil claims of corporate-related human rights abuses to be brought in domestic courts regardless of the nationality of the parties or the location and effects of the conduct.314 Universal civil jurisdiction should be established for the limited scope of corporate-related human rights abuses. In a multinational context, jurisdiction is generally determined by domestic and international rules.315 Universal civil jurisdiction would make it possible to bring a civil suit against a transnational corporation for corporate-related human rights abuses by any plaintiff in a domestic court in any country. One issue raised by universal civil jurisdiction is how to prevent unfairly overburdening the courts of any one jurisdiction.

Existing international law does not explicitly authorize universal civil jurisdiction.316 However, universal civil jurisdiction also is not inconsistent with international law.317 Thus, an expansion of universal civil jurisdiction is not precluded under international law. The Global Law Commission could contribute to ensuring the enforceability of universal civil jurisdiction by helping establish and advocating for soft-law norms that eventually could become customary international law. Another way to establish universal civil jurisdiction would be via an international convention. This would not undermine the development of global law but rather would reflect the interconnectedness and interdependency of global law and international law.

## Adv---Dynamism

### 2NC---AT: I/L

#### Chinese dependence inevitable---US companies want to sell to their market.

Thomas & Wu 21 (Christopher A. Thomas, Nonresident senior fellow in Foreign Policy at Brookings, a board director at Velodyne LIDAR, and a visiting professor at Tsinghua University, affiliated with the Brookings Artificial Intelligence and Emerging Technology Initiative; and Xue (Xander) Wu, startup advisor to open source software companies and an alumnus of Stanford Graduate School of Business; “How global tech executives view U.S.-China tech competition;” 02-25-21, Brookings, <https://www.brookings.edu/techstream/how-global-tech-executives-view-u-s-china-tech-competition/>, TM)

The future evolution of the global technology industry is often discussed as if it will be determined solely by government policy. Yet the entities that actually design next generation systems, deliver emerging technology solutions, code advanced software, run high-tech fabs, formulate electronic material recipes, and design state-of-the-art chips will collectively determine the outcome. As U.S. policymakers evaluate how to move forward regarding technology policy and China, they will have to accept certain hard realities. Lured by the sheer size of the Chinese market, U.S. companies will aim to compete there—as will competitors from Europe, Japan, Korea, Taiwan, and other advanced nations.

At the same time, Chinese policymakers will be limited in their options, as the likelihood of substantial and defensible technology independence is unattainable in the near-term and a longshot in the long-term. Chinese companies intending to sell solutions and services at scale and globally will still need to procure technology from global leaders, and many of those global leaders will likely be American companies. Major Chinese companies will face complex obstacles in building domestic supply chains for goods destined for the Chinese market—in parallel to a global supply chain for products for the rest of the world. Efforts by the government to limit the supply choices of Chinese companies lessen the competitiveness of these Chinese firms in global markets.

With this realization, the U.S. government could consider an approach that combines toughness and attraction. Such a policy would involve targeted technology transfer barriers for a limited number of leading technologies applied to firms with clear ties to PRC military or security interests, strengthened intellectual property protections for U.S. companies both at home and abroad, and nose-to-nose negotiations on Chinese home market access. At the same time, rather than motivating American and global tech companies not to do business with China at all, the new administration might consider shaping the inevitable business collaboration between Chinese and American firms to the advantage of the U.S. technology ecosystem. In other words: Promote American technology in global markets; don’t just protect it. And if openness to global talent, capital, and companies is to the advantage of the United States, then the Biden administration might consider doubling down on attracting those companies and countries that adhere to the transparent rules and norms of the American sphere. This could include those Chinese companies that aim to go global and can commit to doing so while using American-sourced technologies and protecting American-sourced innovation.

These policies must comprehend that these same Chinese companies generally will aim to enable and support a domestic, controllable supply chain as a backup plan. These efforts will receive strong support from the Chinese state. Chinese customers will be less incentivized to go local if American suppliers are innovating faster and delivering better technologies than local PRC alternatives. So while U.S. government policies that backstop American suppliers by pushing for a more level playing field and providing more tools to protect at-risk intellectual property can help, strengthening the innovation environment at home will also matter greatly. And universally in our survey, tech executives believe that openness to global talent and global companies strengthens that home-grown innovation engine.

Technology is an ecosystem game. Winning means aligning a set of companies and engineers around key technologies, maximizing investment to those technology themes and delivering an end-to-end value proposition that is better and has better economics than the alternatives. U.S. policies will be unlikely to convince the CCP not to pursue building a Chinese-dominated tech ecosystem and will be unlikely to convince multinational companies to avoid investing in such a Chinese ecosystem. Boundaries between the U.S. and Chinese ecosystems will be blurry, sharing certain supply chains, companies, standards, and technologies. This makes crafting bright-line policies that limit the success of the Chinese sphere difficult. Policies that mold the right environment for the U.S. technology ecosystem to thrive, while attracting as many global adherents as possible to that ecosystem, needs to be the core objective of U.S. policy. An American ecosystem that convinces the appropriate elements from China (such as globally-oriented technical talent or systems providers keen to win globally) to join the U.S. efforts will likely outperform one that completely excludes Chinese capital and talent. Defining and executing a policy to support such an open approach while protecting American IP, promoting a level playing field, and discouraging the misuse or theft of American technologies will be one of the defining challenges of the Biden administration.

### 2NC---AT: Econ !

### 2NC---AT: China !

#### Authoritarian tech is inevitable if its what the country wants --- even the US supplies it

Bagwandeen 21 --- Mandira Bagwandeen is a Non-resident Senior Fellow in FPRI’s Africa Program, “Don’t Blame China for the Rise of Digital Authoritarianism in Africa”, Foreign Policy Research Institute, Sept 13th 2021, https://www.fpri.org/article/2021/09/dont-blame-china-for-the-rise-of-digital-authoritarianism-in-africa/

Solely blaming China for the rise of digital authoritarianism in Africa is, however, somewhat foolhardy. Western nations, and particularly the US, have not hesitated to accuse China of exporting digital authoritarianism to the continent, overlooking the active role of African agency in acquiring Chinese surveillance technologies, while simultaneously failing to hold African regimes and leaders accountable.

By pointing fingers at China alone, western partisans run the ‘risk of oversimplifying a complex environment’ (Africa, after all, is not a country) and overlooking the roles of other distributors. These accusations are parochial and seem to imply that other serial offenders do not exist – offenders such as Russia and Saudi Arabia. Both these states make use of technology for repressive purposes and have influenced the use of authoritarian digital tactics and tools in Africa.

Moreover, the narrative that China is championing digital authoritarianism on the continent cannot be analysed without the miasma of hegemons waging tech wars and overarching struggles for dominance. By portraying China (and, by extension, its tech companies) as deviant actors that want to diminish digital democracy, the US places itself on higher moral ground. However, this moral edifice is one thinly lacquered – after all, they too spy on their citizens (thanks to Edward Snowden for enlightening us on extensive surveillance by US intelligence). Furthermore, countries such as France, the US, the UK, Israel and Germany also supply high-end surveillance technology, spyware, hacking software and censorship applications to fragile democracies and illiberal governments.

Let’s face it, if the US was really serious about restricting the spread of so-called ‘authoritarian technology’, then it should also impose comprehensive measures and restrictions on both democratic and autocratic producers.

Ultimately, the argument that China is bent on exporting its tech-governance model around the globe is as flawed and hypocritical as it is accusatory. Instead, like its Western counterparts, it is more likely that China, through its tech giants, is exporting aspects of its brand of surveillance capitalism. We must avoid becoming trapped by conveniently amnesiac arguments and generalisations that paint China as this digital baddy. It would be more prudent to assess African countries that import Chinese technology on a case-by-case basis to determine whether there really is a causal link (supported by evidence and data) that Chinese tech tools are being used for malignant purposes with the intent to replicate aspects of Beijing’s brand of tech-governance.

#### No risk of US – China war – diplomatic ties, economic interdependence, geography, nuclear postures, balancing powers, no ideological conflict – any crisis won’t escalate

Shifrinson, 19 – Joshua Shifrinson (Assistant professor of international relations at Boston University, “The ‘new Cold War’ with China is way overblown. Here’s why,” <https://www.washingtonpost.com/news/monkey-cage/wp/2019/02/08/there-isnt-a-new-cold-war-with-china-for-these-4-reasons/?noredirect=on&utm_term=.2f92e43bb9f3>)

Is a new Cold War looming — or already present — between the United States and China? Many analysts argue that a combination of geopolitics, ideology and competing visions of “global order” are driving the two countries toward emulating the Soviet-U.S. rivalry that dominated world politics from 1947 through 1990. But such concerns are overblown. Here are four big reasons why. 1. The historical backdrops of the two relationships are very different When the Cold War began, the U.S.-Soviet relationship was fragile and tenuous. Bilateral diplomatic relations were barely a decade old, U.S. intervention in the Russian Revolution was a recent memory, and the Soviet Union had called for the overthrow of capitalist governments into the 1940s. Despite their Grand Alliance against Nazi Germany, the two countries shared few meaningful diplomatic, economic or institutional links. In 2019, the situation between the United States and China is very different. Since the 1970s, diplomatic interactions, institutional ties and economic flows have all exploded. Although each side has criticized the other for domestic interference (such as U.S. demands for journalist access to Tibet and China’s espionage against U.S. corporations), these issues did not prevent cooperation on a host of other issues. Yes, there were tensions over the past decade, but these occurred against a generally cooperative backdrop. 2. Geography and powers’ nuclear postures suggest East Asia is more stable than Cold War-era Europe The Cold War was shaped by an intense arms race, nuclear posturing and crises, especially in continental Europe. Given Europe’s political geography, the United States feared a “bolt from the blue” attack would allow the Soviet Union to conquer the continent. Accordingly, the United States prepared to defend Europe with conventional forces, and to deter Soviet aggrandizement using nuclear weapons. Unsurprisingly, the Soviet Union also feared that the United States might attack and wanted to deter U.S. adventurism. Concerns that the other superpower might use force and that crises could quickly escalate colored Cold War politics. Today, the United States and China spend proportionally far less on their militaries than the United States and the Soviet Union did. Though an arms race may be emerging, U.S. and Chinese nuclear postures are not nearly as large or threatening: Arsenals remain far below the size and scope witnessed in the Cold War, and are kept at a lower state of alert. As for geography, East Asia is not primed for tensions akin to those in Cold War Europe. China can threaten to coerce its neighbors, but the water barriers separating China from most of Asia’s strategically important states make outright conquest significantly harder. Of course, as scholars such as Caitlin Talmadge and Avery Goldstein note, crises may still erupt, and each side may face pressures to escalate. Unlike the Cold War, however, U.S.-Chinese confrontations occur at sea with relatively limited forces and without clear territorial boundaries. This suggests there are countervailing factors that may give the two sides room to negotiate — and limit the speed with which a crisis unfolds. 3. The Cold War had just two major powers The Cold War took place in a bipolar system, with the United States and Soviet Union uniquely powerful, compared with other nations. This dynamic often pushed the United States and the U.S.S.R. toward confrontation and contributed to more or less fixed alliances; moreover, it encouraged efforts to suppress prospective great powers, such as Germany. In 2019, it’s not at all clear we are back to bipolarity. Analysts remain divided over whether the U.S. unipolar era is waning (or is already over) — and, if so, whether we are heading for a new period of bipolarity, modern-day multipolarity or something else. Regardless, most analysts accept that other countries will play a central role in East Asian security affairs. Russia, for example, still benefits from legacy military investments, India is developing economically and militarily, and Japan is beginning to build highly capable military forces to complement its still-significant economic might. Even if these nations aren’t as powerful as the United States or China, their presence makes for more fluid diplomatic arrangements and more diffuse security concerns than during the U.S.-Soviet competition. The resulting security dynamics are therefore likely to look very different. 4. Ideology plays less of a role in U.S.-Chinese relations Many people see the Cold War as an ideological contest between U.S.-backed liberalism and Soviet-backed communism. But that’s not the whole story. The early 20th century saw liberalism, communism and fascism vie for ideological preeminence. With fascism defeated alongside Nazi Germany, the postwar stage was set for a struggle between communism and liberalism to reinforce the U.S.-Soviet contest. That each ideology claimed universal scope ensured that the ideologies served as rallying cries for Third World conflicts, which were subsequently associated with the U.S.-Soviet struggle. The respective “ideologies” of the United States and China do not favor this type of contest today. Indeed, analysts calling for a hard-line stance against China have faced difficulties even identifying a coherent Chinese ideological alternative. And while some researchers claim that a nascent ideological contest pitting an “autocratic” China against the “liberal” United States is emerging, this narrative ignores the political contests that shape Chinese politics (and have parallels in U.S. politics). Autocracies and democracies often cooperate. And on one important ideological issue — how they organize their economic lives — China and the United States have both embraced economic growth via trade, the private sector and semi-free markets. Likewise, while a clearer Chinese ideological “brand” may eventually emerge, it is unclear whether the ideology would claim universal applicability. This is not to deny that there are tensions between the United States and China. What we are seeing, however, is not a new cold war but a reversion to a pre-1945 form of great power politics. What changed? Put simply, the United States no longer enjoys preeminence as the only superpower, as it did in the immediate post-Cold War era. The ideological, historical and geopolitical differences between today and the Cold War years far outweigh the similarities. As David Edelstein notes, at times it’s hard to understand what the United States and China are competing over. If that’s true, then there’s reason to believe there are more nuanced ways of understanding the tensions — and options for managing great power politics — than a Cold War reboot.=

## Adv---Systemic Risk

### 2NC---I/L

#### Government interventions check collapse

Konings 18 (Martijn Konings, Associate Professor of Political Economy at the University of Sydney, author of *The Emotional Logic of Capitalism* and *Capital and Time: For a New Critique of Neoliberal Reason*, series editor for the Stanford University Press book series, Currencies, “A Critique of the Critique of Finance,” Stanford University Press Blog, 2-7-2018, https://stanfordpress.typepad.com/blog/2018/02/a-critique-of-the-critique-of-finance.html)

Critics of neoliberal capitalism rarely recognize the productive power of speculation. If there is one theme that unites the various critiques of contemporary finance, it is the emphasis on its speculative character. Financial growth is said to be driven not by the logic of efficient markets, but rather by irrational sentiment, “animal spirits” that do not respect fundamental values. Emphasizing the role of volatility in contemporary capitalism (evident at the time of writing, as the stock market is experiencing a downturn) is important as an antidote to notions of market efficiency and equilibrium. But it is a mistake to think that it provides a sufficient basis for effective critique. Predictions regarding the limits or collapse of neoliberal finance have simply not enjoyed a good track record. Over and over, the contemporary financial system has proven capable of sustaining higher levels of speculative activity than anticipated. This has certainly been true of the past decade. Capital and Time: For a New Critique of Neoliberal Reason is my attempt to make sense of this—that is, to understand what might be wrong or missing in the existing heterodox critique of speculation, and to advance a more accurate understanding of the role of uncertainty, risk, and speculation in contemporary capitalism. At the heart of the critique of speculation we find a distinction between real and fictitious forms of value. Although “essentialist” (or “foundationalist”) modes of explanation have been under fire across the social sciences for several decades now, when it comes to the critique of finance they have had considerable staying-power: without a notion of real value, it often seems, we lose any objective standard against which to assess the speculative gyrations of capitalist markets. Capital and Time asks what kind of critical theory we might develop if we bracket the anxious attachment to a notion of fundamental value. To that end, it turns to the work of economist Hyman Minsky. Although Minsky has been popularized precisely as a critic of speculation, he in fact insisted that almost all value judgments and investments were to some degree speculative—their success or failure would be determined in an unknown future. For him, the key economic question is how order emerges in a world that offers no guarantees, how more or less stable standards and norms arise amidst uncertainty. Of course, the “endogenous” origin of financial standards is a well-rehearsed theme in heterodox economics—indeed, it is a staple of the “post-Keynesian” literature that claims Minsky’s legacy. But such perspectives have never been able to break with the idea that financial stability is at its core dependent on external interventions that suppress speculative impulses. For Minsky, however, this is to miss the point about endogeneity. To his mind, there was no clear dividing line between financial practices and their governance: central banks and other public authorities are no more able to see into the future and to transcend uncertainty than private investors are. Minsky was therefore highly skeptical about official claims of discretionary precision management: financial governance is always embroiled in the very risk logic that it is charged with managing. That also means that financial policy can appear quite ordinary, even banal: at the heart of capitalist financial management is a logic of backstopping and bailout that responds to the possibility that the failure of an institution may take down wider financial structures. The stability of the post-New Deal financial system is often attributed to the Glass-Steagall separation of the stock market and commercial banking. But Minsky tended to view Glass-Steagall as one of several measures to direct bank credit away from the stock market towards other, no less speculative ends, notably consumer and mortgage financing. To his mind, the stability of the post-war period derived rather from the creation of an extensive financial safety net (which included, for instance, deposit insurance, which removed the rationale behind bank runs) that served to socialize risk. This institutional arrangement turned out to have a significant drawback: a pattern of chronic inflation emerged that, by the late 1970s, was widely perceived as a major problem. Minsky’s lack of faith in the possibility of cleanly staged external interventions led him to feel that that there was no real way out of this predicament. Monetarist doctrines, ascendant during the 1970s under the influence of Milton Friedman, relied on exactly the belief in an arbitrarily defined monetary standard that Minsky rejected as naïve. Muddling through, it seemed, was the price of avoiding another financial crash and depression. The Volcker shock of 1979 changed this dynamic in a way that Minsky had not foreseen but that is comprehensible when seen through the lens he provided us with. Paul Volcker looked to monetarism not as a means to enforce an external limit or standard on the financial system, but as a politically expedient way to break with accommodating policies and to proactively engage the endogenous dynamics of finance. The consequences of the Volcker shock were predictable (which is exactly why the Federal Reserve had been reluctant to pursue similar policies in previous years): inflation gave way to instability and crisis. Inflation was conquered as jobs were lost and wages stagnated. And, far from money being returned to its neutral exchange function, opportunities for speculation multiplied. The American state was never going to sit idly by as the financial system returned to dynamics of boom and bust: when instability took the form of systemic threats, authorities would bail out the institutions that had overextended themselves. Of course, Volcker would not have been able to predict the specific features of the too-big-to-fail regime as it emerged during the 1980s and evolved subsequently; but the very point of the neoliberal turn in financial management that he had overseen was to create a context where risk could be socialized in ways that were more selective and therefore did not entail generalized inflation. The inflation of asset values that has been such a marked feature of the past four decades has always been premised centrally on the willingness of authorities to view the “moral hazard” of the too-big-to-fail logic as a policy instrument—even if they may have decried it officially as a regrettable corruption of market principles. Spectacular bailouts, mundane policies to protect the key nodes of the payment systems, the “Greenspan put”, the different iterations of quantitative easing—these are all variations on that basic too-important-to-fail logic. Existing critical perspectives tend to view crisis and the need for bank bailouts as manifesting the essential incoherence of neoliberal finance, its lack of solid foundations and the irrationality of speculation. Capital and Time breaks with such moralistic assessments. The way deepening inequality and the speculative growth of asset values continue to feed off each other is troubling for any number of reasons, but there is nothing inherently “unsustainable” about it—the process does not have a natural or objective limit. At this point in time, the critique of speculation does little more than lend credibility to official discourses that present crises as preventable and bailouts as one-off, never-to-be-repeated interventions. In that way, it prevents us from critically relating to a neoliberal reality that has been shaped to its core by the speculative exploitation of risk and uncertainty, and in which regressive risk socialization serves as the everyday logic of financial governance.

### 1NC---AT: Cyber !

#### NC3 impacts are nonsense.

Dr. Andrew Futter 16, Associate Professor of International Politics and Director of Research for Politics and International Relations at the University of Leicester, “War Games Redux? Cyberthreats, US–Russian Strategic Stability, and New Challenges for Nuclear Security and Arms Control”, European Security, Volume 25, Issue 2, p. 171-172

It is of course highly unlikely that either the USA or Russia has plans – or perhaps more importantly, the desire – to fully undermine the other’s nuclear command and control systems as a precursor to some type of disarming first strike, but the perception that nuclear forces and associated systems could be vulnerable or compromised is persuasive. Or as Hayes (2015) puts it, “The risks of cyber disablement entering into our nuclear forces are real”. While the growing possibility of “cyber disablement” should not be overstated (notions of a “cyber-Pearl Harbor” (Panetta 2012) or “cyber 9–11” (Charles 2013) have done little to help understand the nature of the challenge), cyberthreats are nevertheless an increasingly important component of the contemporary US–Russia strategic context. This is particularly the case when they are combined with other emerging military-technical developments and programmes. The net result, especially given the current downturn in US–Russian strategic relations, and the way cyber is exacerbating the impact of other problematic strategic dynamics, is that is seems highly unlikely that either the USA or Russia will make the requisite moves to de-alert nuclear forces that the new cyber challenges appear to necessitate, or for that matter to (re)embrace the “deep nuclear cuts” agenda any time soon.

Assessing the options for arms control and enhancing mutual security

Given the new challenges presented by cyber to both US and Russian nuclear forces and to US–Russia strategic stability, it is important to consider what might be done to help mitigate and guard against these threats, and thereby help minimise the risks of unintentional launches, miscalculation, and accidents, and perhaps create the conditions for greater stability, de-alerting, and further nuclear cuts. While there is unlikely to be a panacea or “magic bullet” that will reduce the risk of cyberattacks on US and Russian nuclear forces to zero – be they designed to launch nuclear weapons or compromise the systems that support them – there are a number of options that might be considered and pursued in order to address these different types of threats and vulnerabilities. None, of these however, will be easy.

The most obvious and immediate priority for both the USA and Russia is working (potentially together) to harden and better protect nuclear systems against possible cyberattack, intrusion, or cyber-induced accidents. In fact, in October 2013 it was announced that Russian nuclear command and control networks would be protected against cyber incursion and attacks by “special units” of the Strategic Missile Forces (Russia Today 2014). Other measures will include better network defences and firewalls, more sophisticated cryptographic codes, upgraded and better protected communications systems (including cables), extra redundancy, and better training and screening for the practitioners that operate these systems (see Ullman 2015). However, and while comprehensive reviews are underway to assess the vulnerabilities of current US and Russian nuclear systems to cyberattacks, it may well be that US and Russian C2 infrastructure becomes more vulnerable to cyber as it is modernised and old analogue systems are replaced with increasingly hi-tech digital platforms. As a result, and while nuclear weapons and command and control infrastructure are likely to be the best protected of all computer systems, and “air gapped”14 from the wider Internet – this does not mean they are invulnerable or will continue to be secure in the future, particularly as systems are modernised or become more complex (Fritz 2009). Or as Peggy Morse, ICBM systems director at Boeing, put it, “while its old it’s very secure” (quoted in Reed 2012).

### 1NC---AT: Grid !

#### Systemic risk from cyber is wrong---infrastructure isn’t interconnected

Jeremy **Rabkin &** John **Yoo 17**. Rabkin is a Professor of Law at the Antonin Scalia Law School, George Mason University; Yoo is currently the Emanuel S. Heller Professor of Law at the University of California, Berkeley. 09/12/2017. “CHAPTER 6 Cyber Weapons.” Striking Power: How Cyber, Robots, and Space Weapons Change the Rules for War, Encounter Books.

Some writers, however, dwell on the fear that cyber attacks and retaliation could spark a spiral of uncontrolled escalation that unleashes mass destruction. The underlying thought seems to be that cyber attacks always risk harm to unintended targets because of their unforeseen consequences.40 The Stuxnet virus, for example, did not just cause Iranian nuclear centrifuges to crash, it also found its way into thousands of computers around the world. Hence, cyber weapons are likely to generate more harm than originally intended. The concern is exaggerated. The rhetoric used to describe cyber attacks may heighten the sense of the risk, such as when analysts speak of computers as “infected” with a “virus.” The biological metaphor is misleading. Humans have similar physical structures, which is not generally true of electronic control programs. A virus that interferes with respiration in one person is likely to restrict lung function for a great many others. But all computer systems do not possess the same “physiology” with slight variations. Systems are custom designed to do different things in different settings. A virus that successfully disrupts or redirects one network will not likely have the same effects against others. Researchers in Europe, analyzing software oddities circulating there, discovered the Stuxnet virus used to “infect” the Iranian nuclear program.41 But the virus seems to have done no serious harm to anything other than the Iranian nuclear program. Its engineers specifically designed Stuxnet to disrupt specific machines controlled by German computer software. Stuxnet’s sharp focus on the Iranian centrifuges rendered it harmless to other computer networks.

#### Cyberattack won’t shut down the grid – resiliency measures check

Craig, analyst @ Fox Business, citing the senior manager of industrial control systems at Mandiant, 16

(Victoria, “The U.S. Power Grid is 'Vulnerable,' But Don't Panic Just Yet”, http://www.foxbusiness.com/features/2016/02/02/u-s-power-grid-is-vulnerable-but-dont-panic-just-yet.html)

The idea of the nation's power grids becoming the next battleground for cyber warriors could make hacking into consumers’ credit card accounts and personal information seem like child’s play. While U.S. power companies are likely targeted by foreign governments and others in increasingly sophisticated breaches, actually shutting off the lights and causing chaos is far more complicated than many pundits make it seem. Dan Scali, senior manager of industrial control systems at Mandiant, a cybersecurity consulting arm of FireEye ([FEYE](http://www.foxbusiness.com/quote.html?stockTicker=FEYE)), explained that while cyber criminals may gain access to power and utility data systems, it doesn’t necessarily mean the result will be a power outage and a total takedown of power grid control systems. In other words, the power grid is controlled by more than just a panel of digital buttons. “Losing the control system is bad from the perspective that it takes you out of your normal mode of operations of being able to control everything from one command center, but it doesn’t mean you’ve lost control or all the lights go out [in the city],” Scali explained. While many of the systems have been modernized to include digitized control panels, if a hacker were to infiltrate the system, a utility worker could still have the ability to manually control the machines by flipping a switch, pushing a button, or tripping a breaker. As the world saw with the recent attack in Ukraine, which caused a blackout for 80,000 customers of the nation’s western utility, the biggest problem may be ensuring the power grid’s control systems are not vulnerable to cyber break ins. The January attack in Ukraine was likely caused by a corrupted Microsoft Word attachment that allowed remote control over the computer, according to the U.S. Department of Homeland Security. Scali said there was no evidence from the incident in Ukraine that the hacker’s malware was able to physically shut down the power. “It wiped out machines, deleted all the files. Kill disk malware made it impossible to remotely control things. It caused chaos on the business network, and the area where control system operations sat. But the attacker, we believe, would have had to actually used the control system to cause load shedding, which caused the power to go out, or trip breakers to cause the actual problem. Malware itself didn’t turn the power out,” Scali said. He said what most likely happened in that incident was the hacker stole user credentials and logged into the system remotely. The bottom line: Yes, a similar event could happen in the U.S. And corporate America is concerned. A recent survey released in January on the state of information security, conducted by consulting firm Pricewaterhouse Coopers, showed cybersecurity as one of the biggest concerns among the top brass at U.S. power and utilities firms. Part of the problem, Brad Bauch, security and cyber sector leader at PwC said, is the interconnectedness of the industry’s tools. “Utilities want to be able to get information out of [their] systems to more efficiently operate them, and also share that information with customers so they have more real-time information into their usage,” he explained. While allowing access to their own consumption data allows the companies to give their customers more of what they want, it also opens up a host of access points for hackers, making the systems more vulnerable than they otherwise would be. But to say that the power grid is susceptible to cyber hackers is a bit of an oversimplification.

### 1NC---AT: Internet !

#### Internet doesn't solve extinction---Eagleman’s a tool, he fails to address blatant loopholes in his points and his work cites faulty sources

Seth Mnookin 12 teaches science writing at MIT and blogs at the Public Library of Science, Download the Universe, 3/23/2012, "The Frozen Future of Nonfiction", http://www.downloadtheuniverse.com/dtu/2012/03/why-the-net-matters-how-the-internet-will-save-civilization-by-david-eagleman-canongate-books-2010-for-ipad-by-set.html

Or maybe you’re like me, and you can no longer remember when you first became aware of Eagleman and his work--you just know you’re curious about whatever it is he decides to tackle next because it will inevitably be interesting and erudite and thought-provoking and, in all likelihood, fun.

At least, that’s what I assumed before I read Why The Net Matters, Eagleman’s frustrating 2010 e-book about how and why the Internet will save civilization. (I reviewed the $7.99 iPad version, which is the platform it was designed for; a stripped-down, text-based version is available on the Kindle for the portentous price of $6.66.) The problems start with Eagleman’s premise, which is so vague and broad as to be practically meaningless. There are, he writes, just “a handful of reasons” that civilizations collapse: “disease, poor information flow, natural disasters, political corruption, resource depletion and economic meltdown.” Lucky for us (and Eagleman does offer readers “[c]ongratulations on living in a fortuitous moment in history”), the technology that created the web “obviates many of the threats faced by our ancestors. In other words...[t]he advent of the internet represents a watershed moment in history that just might rescue our future.”

On the other hand, it just might not: In order to make his point, Eagleman either ignores or doesn’t bother to look for any evidence that might undercut it. The first of six “random access” chapters that make up the bulk of Why The Net Matters is devoted to “Sidestepping Epidemics,” like the smallpox outbreak that helped bring down the Aztec Empire. In the future, Eagleman writes, the “protective net,” in the form of telemedicine, telepresence (“the ability to work remotely via computer”), and sophisticated information tracking, will save us from these outbreaks. That all sounds lovely, but what of the fact that we’re currently experiencing a resurgence in vaccine-preventable diseases such as measles...a resurgence which is fueled in no small part by misinformation spread over that very same “protective net”?

A few chapters later, in a section celebrating the benefits of the hive mind, Eagleman invokes Soviet pseudoscientist Trofim Lysenko, a famed quack who took over the U.S.S.R.’s wheat production under Stalin. Because the Soviet Union spanned 13 time zones, Eagleman writes, “central rule-setting was disastrous for wheat production. … Part of the downfall of the USSR can be traced to this centralization of agricultural decisions.” That sounds nice, and might even be true—but it’s not a point that’s supported by Lysenko, whose main shortcoming was not that he believed in a one-size-fits-all approach; it was that he was a fraud.

Moving to the present day, Eagleman addresses wildfires that swept through Southern California in 2007, which, he writes, “brought into relief the relationship between natural disasters and the internet.”

At the beginning of the outbreak in October, Californians were glued to their television screens, hoping to determine if their own homes were in danger. But at some point they stopped watching the televisions and turned to other sources. A common suspicion arose that the news stations were most concerned with the fate of celebrity homes in Malibu and Hollywood; mansions that were consumed by the flames took up airtime in proportion to their square footage, which made for gripping video but a poor information source about which areas were in danger next. So people be­gan to post on Twitter, upload geotagged cell phone photos to Flickr, and update Facebook.

I had been fairly obsessed with the wildfires, and since I didn’t remember this “common suspicion,” I decided to check the article Eagleman cites as the source of this info, which was a Wired blog post titled “Firsthand Reports from California Wildfires Pour Through Twitter.” It contained no references to a celebrity-obsessed news media; instead, the piece described how “the local media [was] overwhelmed.” It also talked about a San Diego resident who was “[a]cting as an ad hoc news aggregator of sorts” by “watching broadcast television news, listening to local radio reports and monitoring streaming video on the web” and then posting information, along with info gleaned from IMs, text messages, and e-mails, to his Twitter account.

#### The Internet will never collapse

John C. Dvorak 7, Syndicated Technology and Computing Analyst, Bachelors in History from California-Berkley, “Will the Internet Collapse?” PC Magazine, 5/1/2007, http://www.pcmag.com/article2/0%2c2817%2c2124376%2c00.asp

When is the Internet going to collapse? The answer is NEVER. The Internet is amazing for no other reason than that it hasn't simply collapsed, never to be rebooted. Over a decade ago, many pundits were predicting an all-out catastrophic failure, and back then the load was nothing compared with what it is today. So how much more can this network take? Let's look at the basic changes that have occurred since the Net became chat-worthy around 1990. First of all, only a few people were on the Net back in 1990, since it was essentially a carrier for e-mail (spam free!), newsgroups, gopher, and FTP. These capabilities remain. But the e-mail load has grown to phenomenal proportions and become burdened with megatons of spam. In one year, the amount of spam can exceed a decade's worth, say 1990 to 2000, of all Internet traffic. It's actually the astonishing overall growth of the Internet that is amazing. In 1990, the total U.S. backbone throughput of the Internet was 1 terabyte, and in 1991 it doubled to 2TB. Throughput continued to double until 1996, when it jumped to 1,500TB. After that huge jump, it returned to doubling, reaching 80,000 to 140,000TB in 2002. This ridiculous growth rate has continued as more and more services are added to the burden. The jump in 1996 is attributable to the one-two punch of the universal popularization of the Web and the introduction of the MP3 standard and subsequent music file sharing. More recently, the emergence of inane video clips (YouTube and the rest) as universal entertainment has continued to slam the Net with overhead, as has large video file sharing via BitTorrent and other systems. Then VoIP came along, and IPTV is next. All the while, e-mail numbers are in the trillions of messages, and spam has never been more plentiful and bloated. Add blogging, vlogging, and twittering and it just gets worse. According to some expensive studies, the growth rate has begun to slow down to something like 50 percent per year. But that's growth on top of huge numbers. Petabytes. So when does this thing just grind to a halt or blow up? To date, we have to admit that the structure of the Net is robust, to say the least. This is impressive, considering the fact that experts were predicting a collapse in the 1990s. Robust or not, this Internet is a transportation system. It transports data. All transportation systems eventually need upgrading, repair, basic changes, or reinvention. But what needs to be done here? This, to me, has come to be the big question. Does anything at all need to be done, or do we run it into the ground and then fix it later? Is this like a jalopy leaking oil and water about to blow, or an organic perpetual-motion machine that fixes itself somehow? Many believe that the Net has never collapsed because it does tend to fix itself. A decade ago we were going to run out of IP addresses—remember? It righted itself, with rotating addresses and subnets. Many of the Net's improvements are self-improvements. Only spam, viruses, and spyware represent incurable diseases that could kill the organism. I have to conclude that the worst-case scenario for the Net is an outage here or there, if anywhere. After all, the phone system, a more machine-intensive system, never really imploded after years and years of growth, did it? While it has outages, it's actually more reliable than the power grid it sits on. Why should the Internet be any different now that it is essentially run by phone companies who know how to keep networks up? And let's be real here. The Net is being improved daily, with newer routers and better gear being constantly hot-swapped all over the world. This is not the same Internet we had in 1990, nor is it what we had in 2000.

## Adv---DT

### 2NC---A/C

#### Finishing card

and to leverage the “second-order benefits” of productivity, wealth and well-being that the data revolution brings (UNIDO, 2020; UNCTAD, 2019). Official Development Assistance (ODA) has an important role to play in bridging this gap. But as current studies of the nexus between ODA, digital economies and sustainable development suggest, not enough attention has been paid to the potential downsides of ODA projects in the digital sector: harmful concentration and monopoly, rising inequality, or state and corporate use of digital technologies to control rather than empower citizens (Bennett, 2019). As a response to this deficit in global development cooperation, the UNCTAD has been advocating for stronger South-South cooperation in digital industrialization: development of public broadband and connectivity programs, investment in cloud infrastructure, and creation of regional level single digital markets that can contribute to the strategic integration of non-personal data flows for development of regional AI capacity (Banga & Kozul-Wright, 2018).

South-South cooperation is no simple mantra for the realization of inclusive and equitable growth. Policy choices must catalyze alternative platform business models, nudging data value chains towards a fairer and equitable distribution of data value across the economy (Gurumurthy et al., 2019). National data and AI strategies could support plural imaginaries of platform ecosystems that socialize data value

It is increasingly evident that the development of data public goods – including open digital/data ecosystems – is critical, especially to promote domestic innovation. At the same time, there is a very real risk that without clear access and use guidelines and licensing conditionalities for innovators, powerful transnational digital corporations may appropriate the value of such public goods (Walker, 2019; IT for Change, 2020). Also, a superficial extension of open access regimes for information and knowledge resources and software public goods to the data domain is not appropriate, with the latter needing institutional governance frameworks to ensure both safeguards and enabling conditions.

Learning labs that promote collaborative South-South research can bring significant, evidence based perspectives to understand national digital infrastructure policy pathways. Research is needed to explore the following issues:

 Global overview of standards development (including platform and data interoperability) and access-and-use regimes for public/national open/shared data infrastructures.

 Risk assessment and impact studies of ODA in national digital infrastructures.

 Development implications of regional single digital markets.

 Predisposing factors enabling virtuous cycles between intelligence infrastructures and economic development.

 Case studies of digital/data public goods initiatives (in health, agriculture, mobility, and transportation) to evolve progressive visions for national intelligence infrastructure development.

Table 1. A policy research agenda for unskewing data value chains: Indicative thematics

Table

Description automatically generated

#### China fills-in.

Gurumurthy 21 (Anita Gurumurthy, Executive Director @ IT for Change, Bengaluru, India, advisor and expert on various bodies including the United Nations Secretary-General’s 10-Member Group in support of the Technology Facilitation Mechanism, the Paris Peace Forum’s working group on algorithmic governance, Save the Children’s ICT4D Brain Trust, and Minderoo Tech & Policy Lab‘s Board; Nandini Chami, Deputy Director at IT for Change; “Towards a Global Digital Constitutionalism: A Radical New Agenda for UN75,” 05-03-21, *Development (2021)*, Springer Link, <https://doi.org/10.1057/s41301-021-00287-z>, TM)

With Big Tech corporations extending their monopoly control through integration of multi-sector vertical markets (e.g., Amazon has branched out from e-commerce into health and pharma, digital streaming, and robotics) and data-based horizontal markets (that is, Amazon is not only a data collector, but also cloud and analytics provider), norm- and rule-making in the digital arena is in the throes of a major shift. This is represented in the hollowing out of public infrastructures, not simply through privatization, but a systemic socialization of privately controlled platforms. The platformization epoch in the digital society hence represents a de-democratization and de-publicization of governance. The private platform and its constituent functionalities are the public protocols, and the data-based intelligence that powers it is the law.

This shifting terrain of power has ushered in what has been referred to as a new bipolar world, with China’s rise as a new AI superpower. China has historically pursued a different route to digital capability—digital and data sovereignty to expand domestic digital industry, and export of surplus industrial output through e-commerce (UNECA 2019). In the post-COVID-19 context, through its ‘Digital Silk Road’ initiative, the country has sought to export advanced technologies such as 5G and facial recognition (Triolo and Greene 2020). Chinese Big Tech companies are also establishing supply chains in agriculture, dairy, and retail commerce, extending their markets, in the South East Asian region.Footnote16 The fourth industrial revolution thus presents a Hobson’s choice in which countries may be forced to choose between US and Chinese corporations for access to advanced digital prowess.

#### Mergers thump---MSU is blue.

Buthelezi & Hodgeet ’21 [Thembalethu, James; Principal Economist at the Economic Research Bureau of the Competition Commission of South Africa.Chief Economist at the Economic Research Bureau of the Competition Commission of South Africa.; “Competition and Consumer Protection Policies”; The United Nations; <https://unctad.org/system/files/official-document/ditccplp2021d2_en_0.pdf>; AS]

Conglomeration is a clear trend in digital markets, with larger digital platforms rapidly moving into adjacent markets, including producing or providing the products sold on their platforms. This is in stark contrast with the most recent trend of the industrial age, which is to focus on core competencies and abandon conglomeration which was often punished by investors. Various factors are driving this trend. One is the economies of scope associated with data gathered or consumers accessing those platforms, which can then be monetized in various ways. Rather than exchanging this data, firms have sought to exploit it themselves. Amazon’s move from online retailing of books to all other products, including its own brands, is a classic case. A second is the enormous resources at their disposal. For example, Amazon invested early in data centres to support the development of its e-commerce activities but then later decided to enter the market for cloud services (through Amazon Web services).44 The third way that inclusion 44 Bourreau M and de Streel A. (2019). Digital Conglomerates and EU Competition Policy. CRIDS Namur Digital Institute. can be undermined is that the control of consumer access enables platforms to displace those that depend on it. Amazon and Google shopping are examples for commercial goods, but Facebook and Apple do the same with apps.45 Finally, the observation of global trends indicate that digital conglomerates are much more likely to acquire start-ups than be challenged by them.46 Conglomeration is not only a global platform phenomenon. The same economic forces can support local conglomeration. South Africa has its own Internet giant, Naspers, which built its position through acquiring shares in Chinese social networking and gaming firm Tencent early on. Naspers has been building its local e-commerce and digital online platforms, in part through a series of acquisitions. It has also been expanding the product range of such platforms. Furthermore, the gradual expansion of the highly successful South African healthcare insurer Discovery into life insurance, short-term insurance and now banking is a more “old economy” example of how such data and consumer access can be leveraged into adjacent markets.

Conglomeration by global and local digital market firms has the potential to negatively impact inclusion, even if there is sufficient competition among these larger players to maintain price and non-price market outcomes at competitive levels. This is particularly concerning in the South African context, where market concentration levels are already high, and the likely impact of increased conglomeration are heightened barriers to entry for potential entrants since the large digital platforms become “gatekeepers” to access markets.

Therefore, from a competition policy perspective, more needs to be done to ensure that digital markets are also open to domestic start-ups and challengers, and that global firms share in the rewards that they derive from developing markets. Locally, additional tools will be required to address the threat of conglomeration. For example, merger control needs to be revisited not only for killer acquisitions, which have attracted most attention, but also to combat increased conglomeration through merger creep. Such acquisitions do not necessarily kill a potential competitor, but rather gives the conglomerate platform a foothold in an adjacent market that can be leveraged later.47

Merger control also needs to be alert to the removal of a potential entrant of another sort. In a developing country context, there is also a tendency for global platforms to acquire the largest local home-grown platform rather than enter themselves. Such mergers deny consumers the benefit of additional competition and a potentially less concentrated market in the future. In addition, taking a tougher stance on conglomerate strategies, such as self-preferencing, exclusive and most favoured nation agreements, may also be appropriate. In its draft buyer-power enforcement guidelines48 the CCSA has already highlighted that behaviour such as self-preferencing would be considered as unfair trading practice by dominant online platforms that bring together thirdparty suppliers and consumers, such as e-commerce platforms.

### 2NC---AT: LIO !

#### LIO resilient.

Ikenberry ’18 [John; June 28; Professor of International Relations at Princeton University; Ethics & International Affairs, “Why the Liberal World Order Will Survive,” vol. 32, no. 1]

Self-Reinforcing Characteristics of Liberal International Order

The United States has dominated the post-war international order. It is an order built on asymmetries of power; it is hierarchical. But it is not an imperial system. It is a complex and multilayered political formation with liberal characteristics— openness and rules-based principles—that generate incentives and opportunities for other states to join and operate within it.

Four characteristics reinforce and draw states into the order. First, it has integrative tendencies. Over the last century states with diverse characteristics have found pathways into its “ecosystem” of rules and institutions. Germany and Japan found roles and positions of authority in the post-war order; and after the cold war many more states—in Eastern Europe, Asia, and elsewhere—have joined its economic and security partnerships. It is the multilateral logic of the order that makes it relatively easy for states to join and rise up within the order. Second, the liberal order offers opportunities for leadership and shared authority. One state does not “rule” the system. The system is built around institutions, and this provides opportunities for shifting and expanding coalitions of states to share leadership. Formal institutions, such as the IMF and World Bank, are led by boards of directors and weighted voting. Informal groups, such as the G-7 and G-20, are built on principles of collective governance. Third, the actual economic gains from participation within the liberal order are widely shared. In colonial and informal imperial systems, the gains from trade and investment are disproportionately enjoyed by the lead state. In the existing order, the “profits of modernity” are distributed across the system. Indeed, China’s great economic ascent was only possible because the liberal international order rewarded its pursuit of openness and trade-oriented growth. For the same reason, states in all regions of the world have made systematic efforts to integrate into the system. Finally, the liberal international order accommodates a diversity of models and strategies of growth and development. In recent decades the Anglo-American model of neoliberalism has been particularly salient. But the post-war system also provides space for other capitalist models, such as those associated with European social democracy and East Asian developmental statism. The global capitalist system might generate some pressures for convergence, but it also provides space for the coexistence of alternative models and ideologies.

These aspects of the liberal international order create incentives and opportunities for states to integrate into its core economic and political realms. The order allows states to share in its economic spoils. Its pluralistic character creates possibilities for states to “work the system”—to join in, negotiate, and maneuver in ways that advance their interests. This, in turn, creates an order with expanding constituencies that have a stake in its continuation. Compared to imperial and colonial orders of the past, the existing order is easy to join and hard to overturn.

#### LIO resilient---alternatives won’t gain purchase.

Fried **’20** [Daniel; 2020; Weiser Family distinguished fellow at the Atlantic Council; Atlantic Council; “Peering through the fog: The liberal international order in the real world,” https://www.atlanticcouncil.org/blogs/new-atlanticist/peering-through-the-fog-the-liberal-international-order-in-the-real-world/]

Porter suggests that the liberal world order is inherently expansionist. But perhaps the rule of law, democracy, and freedom has an attractive power of its own, an inherent appeal. In that case, it is the Realist’s preferred system of spheres of influence that is actually unstable: tyrannies, like Vladimir Putin’s Russia and possibly Xi Jinping’s China, exercise repression at home and in their “spheres” either because they can’t deliver for their people or are made insecure by the example of democracy too close to home. And, partly for the same reason, they will always push to expand their spheres.

Yes, the United States was inconsistent and hypocritical in its years leading the free world. And, yes, the more extravagant promises of the liberal world order, e.g. to usher in Immanuel Kant’s era of perpetual peace between republics, fall apart when set against the messy realities of the real world.

But does reality’s messiness mean that the post-1945 international system—the liberal world order that the United States led—was meaningless? Was it nothing more than fog and cant, as Porter and many others charge? Let’s peer through the fog. Let’s instead compare the liberal world order not against the purity of its adherents’ most extravagant claims or against its critics’ abstract standards of unattainable perfection, but against the track record of its recent competition, Soviet Communism; the previous competitor of fascism; or against the pre-1914 system of imperialist balance of power. The liberal order gave the world generations of general great power peace and unprecedented prosperity. Stack that against the first half of the twentieth century.

Let’s set the liberal world order, for all its faults, against its current challenger: neo-nationalism and might-makes-right, which appear to be the ultimate argument of this generation’s set of authoritarian challengers: Russian President Vladimir Putin, Chinese President Xi Jinping, and others including, in some sense, Trump himself.

Restoring some imagined Golden Age is not the issue. The issue is whether the liberal world order can be fixed and reengineered to meet today’s challenges. That’s akin to Roosevelt’s challenge of reengineering US capitalism from the pits of the Great Depression: it’s no fun, and we’ll be hit as we try from left and right. But we’d better get started.

#### No impact – liberal order resilient and collapse doesn’t cause conflict

Busby 13 [Joshua Busby is an Associate Professor in the LBJ School of Public Affairs at the University of Texas-Austin 3-8-2013 <http://duckofminerva.com/2013/03/is-weakness-overblown.html>]

Both that article and their earlier one are part of a liberal order pessimism that captures the current zeitgeist but may look dated in a few years. I’d put in that category Charlie Kupchan’s book No One’s World, Ian Bremmer’s G-Zero world in Every Nation for Itself, and perhaps Kishore Mahbubani’s new book The Great Convergence, if his past writings are any indication [though the first chapter is surprisingly supportive of making the current global order better].

While there is a lot about this piece I like, especially the focus on problem-solving through “coalitions of the relevant,” I wonder if Barma, Ratner, and Weber are underestimating the resilience of the liberal order and created a straw man version of it as well.

The Liberal Order Straw Man

Here is how they described what the liberal order should look like:

Consider an objective-based definition: a world in which most countries most of the time follow rules that contribute to progressively more collective security, shared economic gains and individual human rights. States would gradually downplay the virtues of relative advantage and self-reliance. Most states would recognize that foreign-policy choices are constrained (to their aggregate benefit) by multilateral institutions, global norms and nonstate actors. They would cede meaningful bits of sovereign authority in exchange for proactive collaboration on universal challenges. And they would accept that economic growth is best pursued through integration, not mercantilism, and is in turn the most reliable source of national capacity, advancement and influence. With those ingredients in place, we would expect to see the gradual, steady evolution of something resembling an “international community” bound by rights and responsibilities to protect core liberal values of individual rights and freedoms.

This strikes me as a utopian version of the liberal order that could never live up to such grandiose expectations. The liberal order is not only supposed to have generated some sort of collective buy-in by states but create support for multilateralism, a preference for absolute gains, and normative convergence.

images (1)I think a more limited understanding of the liberal order as it is rather than its ideal is the place to start. Here, the liberal order’s stability is based more on behavioral outcomes than motivations. The order works because it has structural properties that bind leaders, including those more interested in national self-interest than mutual gain. The nature of the rules and interlocking interdependencies create checks on self-serving behavior, such that even mercantilist or unilateralist politicians from powerful states will be disciplined for, say, putting in protective tariffs on steel or starting a war without sufficient buy-in from one’s allies.

As Dan Drezner wrote in his review of their piece:

As Barma, Ratner and Weber point out, this was at best a partial order even prior to 2008. This matters: a misplaced nostalgia for prior eras of global governance is one reason that so many commentators think that the system is f\*\*ked right now. Once you realize that the post-1945 liberal order was partial, riddled with exceptions, and also prone to crisis, suddenly the present day doesn’t look so bad in comparison.

Late 20th and early 21st century globalization may have created sufficient interdependence that actions hostile to the current global order or even those parallel to it like “routing” around may be self-defeating, that agency to depart from the current structure comes with a high price. Perhaps states with deep pockets like China or mineral/oil wealth like Russia will be able to bear those costs for a while and in turn re-shape the global order, but it seems premature to argue that they have or even want to.

As Drezner quipped in his response:

Yes, this explains why the publics in the developing world have rejected economic globalization as an economic strategy — oh, wait, I’m sorry, they haven’t done that, nor have their governments. If anything, the commitment to a liberal economic order has held up remarkable well since 2008.

Too Soon to Suggest “Routing Around” Has Generated Structural Properties

The authors’ biggest problem is trying to read lasting structural changes in the global order off of fragmented, nascent trends. What if these currency swaps, the proposed BRICs bank, and other endeavors don’t amount to much in the end? Barma and company explicitly reject that “routing around” is some “high-concept description of an alternative world order” (62), but they do suggest that like “balancing” behavior, “routing around” reflects an analytically important category of action that states will increasingly adopt as a strategic choice. Or will they?

Overly Pessimistic Take on the Liberal Order?

I also wonder if the sense of pessimism about the current order is premature. Yes, there are many problems in how global governance is functioning in different policy arenas, including trade, the environment, security, you name it. And, some of these like climate change may prove to too big, too complex for us to deal with very successfully. But, for other issues like trade, we’ve been down this road before of extreme pessimism before a later breakthrough. Here is Allan Meltzer writing in 1993 on the apparent failure of the then Uruguay Round:

What ever happened to the Uruguay Round to expand the scope of the General Agreement on Tariffs and Trade? What started as the major trade initiative of the past decade is now almost dormant. Although negotiations must be completed in less than two months, there has been almost no public discussion of the round for months.

Doha may yet fail and not be superseded by anything better. That said, I would take issue with reading the bad news of the day, on trade, on the U.S. budget impasse, the EU’s financial problems, or failure to deal with crises around the world and use these instances as evidence of permanent dysfunction in either domestic systems or the liberal order.

Security and the Liberal Order

Finally, when it comes to security, Barma, Ratner, and Weber seem to conflate problems of the liberal order with problems of global governance. They find fault with the Security Council’s inability to deal with humanitarian problems in the Congo and the ongoing crisis in Syria. But, those are problems that go beyond the liberal order and to the international system more broadly, which involve a host of states that have yet to embrace democratic governance.

US-Japan21Here, the liberal order is perhaps even more partial than in the economic arena where democracies and non-democracies alike are jockeying for position. I think their point is that with democratization stalled in the Middle East and problems in the U.S. and Europe, democracy itself does not appear to be a potent magnet of attraction.

Again, it is too soon to draw some closure on what recent events like the Arab Spring yet mean for the future of democratization. The aspiration for individuals to have more control over their political life still seems a potent one.Finally, we should remember that the liberal order, partial as it is, goes beyond regime type. Where democracies have consolidated, there are security relationships, like NATO and the U.S.-Japan bilateral alliance, that remain important, though stressed. And, within Europe, even as troubling as the current situation is, war within the West is off the table entirely.

Moreover, as Ratner has written about elsewhere, the Asia pivot by the United States is an effort to undergird the liberal order by what is still the world’s dominant military power. Barma, Ratner, and Weber suggest that multipolarity has come along faster than expected, but in the security sphere, it is too soon to make such a judgment.So, even in the security space, where the liberal order encompasses a narrower slice of states, the democratic and commercial peace among like-minded states remains an important tie that binds.

# 1NR

### 2NC – ! O/V

#### AND, expectations of that dynamic alone makes nuclear war inevitable in the short term

Dr. Michael T. Klare 20, Five Colleges Professor of Peace and World Security Studies at Hampshire College, Ph.D. from the Graduate School of the Union Institute, BA and MA from Columbia University, Member of the Board of Director at the Arms Control Association, Defense Correspondent for The Nation, “How Rising Temperatures Increase the Likelihood of Nuclear War”, The Nation, 1/13/2020, https://www.thenation.com/article/archive/nuclear-defense-climate-change/

Climbing world temperatures and rising sea levels will diminish the supply of food and water in many resource-deprived areas, increasing the risk of widespread starvation, social unrest, and human flight. Global corn production, for example, is projected to fall by as much as 14 percent in a 2°C warmer world, according to research cited in a 2018 special report by the UN’s Intergovernmental Panel on Climate Change (IPCC). Food scarcity and crop failures risk pushing hundreds of millions of people into overcrowded cities, where the likelihood of pandemics, ethnic strife, and severe storm damage is bound to increase. All of this will impose an immense burden on human institutions. Some states may collapse or break up into a collection of warring chiefdoms—all fighting over sources of water and other vital resources.

A similar momentum is now evident in the emerging nuclear arms race, with all three major powers—China, Russia, and the United States—rushing to deploy a host of new munitions. This dangerous process commenced a decade ago, when Russian and Chinese leaders sought improvements to their nuclear arsenals and President Barack Obama, in order to secure Senate approval of the New Strategic Arms Reduction Treaty of 2010, agreed to initial funding for the modernization of all three legs of America’s strategic triad, which encompasses submarines, intercontinental ballistic missiles, and bombers. (New START, which mandated significant reductions in US and Russian arsenals, will expire in February 2021 unless renewed by the two countries.) Although Obama initiated the modernization of the nuclear triad, the Trump administration has sought funds to proceed with their full-scale production, at an estimated initial installment of $500 billion over 10 years.

Even during the initial modernization program of the Obama era, Russian and Chinese leaders were sufficiently alarmed to hasten their own nuclear acquisitions. Both countries were already in the process of modernizing their stockpiles—Russia to replace Cold War–era systems that had become unreliable, China to provide its relatively small arsenal with enhanced capabilities. Trump’s decision to acquire a whole new suite of ICBMs, nuclear-armed submarines, and bombers has added momentum to these efforts. And with all three major powers upgrading their arsenals, the other nuclear-weapon states—led by India, Pakistan, and North Korea—have been expanding their stockpiles as well. Moreover, with Trump’s recent decision to abandon the Intermediate-Range Nuclear Forces (INF) Treaty, all major powers are developing missile delivery systems for a regional nuclear war such as might erupt in Europe, South Asia, or the western Pacific.

#### Glasgow success is independently key to check global spread of nuclear waste and radiation, and antibiotic-resistant pathogens

Castronuovo 21 (Celine Castronuovo, breaking news reporter at The Hill, former Editor-in-Chief of MediaFile, BA Journalism and Mass Communication, International Affairs, George Washington University, “Warming Arctic could spread nuclear waste, unknown viruses: report,” The Hill, 10-1-2021, <https://thehill.com/policy/equilibrium-sustainability/574904-warming-arctic-could-spread-nuclear-waste-unknown-viruses?amp>)

As temperatures continue to rise in the Arctic, thawing frozen land that scientists have already said contributes to greenhouse gas emissions could also spread nuclear waste and radiation, as well as unknown viruses and antibiotic-resistant bacteria, according to new research released Thursday.

A report published in the scientific journal Nature Climate Change noted that the permanently frozen land, called permafrost, thawing in the Arctic at increasing rates due to global warming could potentially release radioactive waste from Cold War-era weapons production and damage from mining.

The study's researchers noted that between 1955 to 1990, the Soviet Union conducted a total of 130 nuclear weapons tests in the atmosphere and near the ocean's surface off the coast of northwest Russia.

While the Russian government said it has since launched a cleanup of the area, the authors of Thursday's study found that high levels of radioactive substances have recently been detected in the area.

Additionally, the authors said that deep permafrost in the Arctic, which is roughly a million years old, contains bacteria that, because frozen, has not been exposed to modern antibiotics on Earth.

The report noted that the potential thawing of the permafrost could melt into oceans and eventually create antibiotic-resistant strains of existing bacteria.

One of the report's authors, Arwyn Edwards from Wales' Aberystwyth University, told the BBC that while much of the Arctic still remains unknown, changes in the region's "climate and ecology will influence every part of the planet as it feeds carbon back to the atmosphere and raises sea levels."

"This review identifies how other risks can arise from the warming Arctic," he said. "It has long been a deep-freezer for a range of harmful things, not just greenhouse gases."

"We need to understand more about the fate of these harmful microbes and pollutants and nuclear materials to properly understand the threats they may pose," he argued.

Edwards called on world leaders to take "demonstrable action" at next month's 2021 United Nations Climate Change Conference in Glasgow, noting that a starting point could be investing in more research on the potential impacts of thawing permafrost.

The report comes after a German study released in August found that a heatwave in 2020 revealed a source of methane emissions "potentially in much higher amounts" from rock formations thawing in the Arctic permafrost that could be "much more dangerous" than previously thought.

#### Radiation accumulation makes extinction inevitable

Nadesan 14 (Majia H. Nadesan, Associate Dean and Professor of Communication in the School of Social and Behavioral Sciences, New College of Interdisciplinary Arts and Sciences, Arizona State University, former assistant professor, Syracuse University, Ph.D. communication studies, Purdue University, B.S., M.S. San Diego State University, “3 years since Fukushima: nuclear power 'road to our extinction' – expert,” Voice of Russia News, 3-10-2014, http://voiceofrussia.com/2014\_03\_10/3-years-since-Fukushima-nuclear-power-road-to-our-extinction-expert-3829/)

Three years after the Fukushima catastrophe, Japan’s stricken power plant is still struggling to contain radioactive water leaks that are making the area uninhabitable, while TEPCO’s effort to clean up what remains of the crippled nuclear site has turned into a disaster of its own. The Voice of Russia spoke with Majia H. Nadesan, Associate Dean of the New College at Arizona State University and the author of a blog on Fukushima, who believes humanity might have already “forged its extinction” with nuclear technology and is now just waiting for it to unfold. Three years ago, a disastrous tsunami and earthquake killed nearly 20,000 people and settled the nuclear crisis in Japan. Did the region manage to recover from the catastrophe and what are the current results of its recovery? The situation at the Daiichi site remains unstable. Contaminated water production is continuing as ground water and the water injected for cooling encounter uncontained nuclear fuel. And TEPCO has admitted that ground water is indeed encountering uncontained nuclear fuel, and some of that water is ending up in the ocean, some of that water is saturating the site and some of that water is being captured and stored in tanks, and those tanks are emitting radiation, including X-rays and Beta-radiation. There are about a thousand tanks that hold approximately 350,000 tons of highly contaminated water and the IAEA is recommending that some of that water, the less contaminated among it, be put into the ocean. So what we are having is a situation of catastrophic contamination that is ongoing for the Pacific ocean and increased water saturation at the site, simultaneously atmosphere contamination is continuing through emissions and also through the reactions of the contaminated water in the tanks. So we have a situation of great instability and ongoing significant levels of contamination. What are the other consequences of Fukushima disaster? What have been done to struggle against them? Is it possible that the region will be safe to live in again? The thing is that people in Japan are living in contaminated land. For example, The Asahi Shimbun described one resident who is living near 500 tons of stored radioactive waste measuring at least 8,000 becquerels per kilogram of cesium and that is the only radionulcide that they provided the measurements for, there could be uranium and plutonium, other nuclear waste stored there as well. So people are living amidst contaminated waste; reservoirs in Japan are contaminated. There was an article also in The Asahi Shimbun, that indicated that the highest level of contamination measured in one of the contaminated reservoirs was 390,000 becquerels per kilogram of soil at the bottom of the reservoir, so people are potentially going to be drinking contaminated water. People are living in areas that measure up to twenty millisieverts a year and there is even temporary living that is available in more contaminated areas. And people who are living in areas of twenty millisieverts a year or less are responsible for clean-up, and the clean-up plan doesn't address hot spots or recontamination and it doesn't help people dispose of the radioactive waste. People are living in highly contaminated areas with children. There have been some surveys that looked at what the consequences are for children: diabetes rates have increased, thyroid nodules have increased, thyroid cancer has increased. And there was one recent survey that was published in The Mainichi that one in four children in the disaster hit areas need mental care for problematic behavior and that was interesting because the problematic behavior included things such as dizziness and nausea and symptoms that might be caused by psychological problems but also could be symptomatic of radiation exposure. So the consequences of this disaster is that people who are living in highly contaminated areas and the region are not going to be safe again for generations because the amount of radiation contamination is increasing daily. So it is going to be land of dispossessed people. What prospects does the region have in its future development? Is there any risk that Fukushima disaster can repeat? The thing that so tragic is that radiation damage accumulates across time for a variety of reasons. First, because animals and plants and people all bioaccumulate radionuclides. And so across time people and animals and vegetation will become more contaminated rather than less contaminated. And the effects of radiation don't just affect one generation, they affect multiple generations. There is quite a bit of research, done in the Chernobyl region, for example, by Anders Møller and Timothy Mousseau, who found that the increased background radiation from Chernobyl has significant effects on immunology, mutation and disease frequency across animal species and in fact they found decline in population and long-term mutation accumulations. Over time, each generation inherits the mutations of their parents and acquires their own. And then children have even more germline cell mutation and micro delusions in DNA than their parents. Micro-deletions in DNA are increasingly linked to diseases such as autism and congenital heart disease. So we can assume that over the long-term the health of the people in the zones and the animals in the zones – their health also is going to decrease as bioaccumulation, bio-magnification and trans-generational mutations increase. And it is a human tragedy what is occurring there. It can happen anywhere in the world because of a solar flare that knocks out a transformer, an earthquake, for example, that might affect Diablo Canyon in California which is sitting on a fault, terrorism - all of these forces could create another Fukushima any place in the world. Nuclear power is going to be the road to our extinction. We don't know what the trans-generational effects are going to be, but we know they are going to be detrimental. And as humans acquire more of them, their ability to successfully reproduce is going to decline. So we might already have forged our extinction and we are just waiting for it to unfold. We need to make changes very quickly to find ways of dealing successfully with storing nuclear waste. And we've just discovered in New Mexico of the US, there is a site near Carlsbad, they've just had a salt cave-in collapse and there is nuclear waste which is now venting into the atmosphere, even though it is being filtered, it is still coming out. That is not a successful solution. So we have to find solutions that work for nuclear waste and we need to find alternative energy that will allow us to sustain civilization in the future.

#### So does ABR

Srivatsa 17 (Kadiyali M. Srivatsa, doctor, inventor, and publisher, worked in acute and intensive pediatric care in British hospitals, “Superbug Pandemics and How to Prevent Them,” American Interest, 1-12-2017, https://www.the-american-interest.com/2017/01/12/superbug-pandemics-and-how-to-prevent-them/)

It is by now no secret that the human species is locked in a race of its own making with “superbugs.” Indeed, if popular science fiction is a measure of awareness, the theme has pervaded English-language literature from Michael Crichton’s 1969 Andromeda Strain all the way to Emily St. John Mandel’s 2014 Station Eleven and beyond. By a combination of massive inadvertence and what can only be called stupidity, we must now invent new and effective antibiotics faster than deadly bacteria evolve—and regrettably, they are rapidly doing so with our help. I do not exclude the possibility that bad actors might deliberately engineer deadly superbugs.1 But even if that does not happen, humanity faces an existential threat largely of its own making in the absence of malign intentions.

As threats go, this one is entirely predictable. The concept of a “black swan,” Nassim Nicholas Taleb’s term for low-probability but high-impact events, has become widely known in recent years. Taleb did not invent the concept; he only gave it a catchy name to help mainly business executives who know little of statistics or probability. Many have embraced the “black swan” label the way children embrace holiday gifts, which are often bobbles of little value, except to them. But the threat of inadvertent pandemics is not a “black swan” because its probability is not low. If one likes catchy labels, it better fits the term “gray rhino,” which, explains Michele Wucker, is a high-probability, high-impact event that people manage to ignore anyway for a raft of social-psychological reasons.2 A pandemic is a quintessential gray rhino, for it is no longer a matter of if but of when it will challenge us—and of how prepared we are to deal with it when it happens.

We have certainly been warned. The curse we have created was understood as a possibility from the very outset, when seventy years ago Sir Alexander Fleming, the discoverer of penicillin, predicted antibiotic resistance. When interviewed for a 2015 article, “The Most Predictable Disaster in the History of the Human Race, ” Bill Gates pointed out that one of the costliest disasters of the 20th century, worse even than World War I, was the Spanish Flu pandemic of 1918-19. As the author of the article, Ezra Klein, put it: “No one can say we weren’t warned. And warned. And warned. A pandemic disease is the most predictable catastrophe in the history of the human race, if only because it has happened to the human race so many, many times before.”3

Even with effective new medicines, if we can devise them, we must contain outbreaks of bacterial disease fast, lest they get out of control. In other words, we have a social-organizational challenge before us as well as a strictly medical one. That means getting sufficient amounts of medicine into the right hands and in the right places, but it also means educating people and enabling them to communicate with each other to prevent any outbreak from spreading widely.

### T/C – China Tech Leadership

#### Turns and solves China tech race / leadership

Anderson 2-22-2021, Chairman & CEO of CG/LA Infrastructure, a firm focused on global infrastructure project development, driving productivity across countries, and maximizing the benefits of infrastructure for people in the U.S. and around the world (Norman, “The Biden Infrastructure Plan - 5 Actions To Jolt Us Awake, Now,” *Forbes*, <https://www.forbes.com/sites/normananderson/2021/02/22/the-biden-infrastructure-plan5-actions-to-jolt-us-awake-now/?sh=1d72f17b2ebd>)//BB

The Focus Needs to be on Creating Project Results. Producing immediate results is necessary for our political system - how does this work, when the average highway project takes 9.5 years to move through the approval process, and 4.5 years after that for results - say cars, or autonomous trucks, zipping down the freeway? Lucky for us we are not starting from scratch - we have an enormous pent-up backlog of projects that can start showing results… this year.

By results I don’t just mean creating new and well-paying jobs, or saving the thousands of struggling professional service firms that are in danger of turning off their computers, rather what I mean is addressing the Administration’s priorities in the way that infrastructure professionals think about investment (yes, these people exist - and they are as smart as economists!):

* Brownfield projects - you can revitalize Army Corps reservoirs, or put 5G on interstate highways, or authorize the Gateway tunnel, or make rural broadband really fast, right now, tomorrow,
* Greenfield projects - infrastructure is a ‘thinking short, thinking long’ business, so while you are speeding up investment in ultra high voltage transmission lines, you can also get moving on the Brent Spence Bridge, and by the end of 2024 you can get butts in seats on the Dallas/Houston high speed rail project, and the Great Lakes Basin highway project, and
* New Infrastructure - this is the low-hanging fruit, and the battlefield between China and the U.S. for global influence, period. Largely private, and almost wholly environmentally friendly, this is where our economy has tremendous strengths that we are not seeing. It’s also the battlefield - AI, Machine Learning, 5G, Autonomy, High Voltage Transmission, along with high speed rail - that is critical to the achievement of every single goal that our country can set for the future.

Every infrastructure person - and every citizen - across the country can tell you the five projects that they’d like to see happen. The map above is a 500 project stimulus map that my firm, CG/LA infrastructure, created by polling people around the country. Why not engage citizens now, and show results this year, picking up steam in 2022 and in 2023? Infrastructure is 5G/AI and Electrification, and it Needs a Budget. The infrastructure of the future is going to be as different as cellular is from fixed line telephony, and that future is coming at us extremely fast… The 2020’s will be a decade of disruption - the greatest period of disruption in 100 years or more. We can either continue our course, and try and weather the storm, or we can make the kind of strategic investments that will allow us to lead - with enormous environmental and equity benefits, coupled with the kind of productivity increases that come from rapid innovation. There couldn’t be a bigger difference between the way that China is going about new infrastructure creation, with their top down, devil may care about the individual approach, and our celebration of the individual. The problem - in democracies around the world - is that we are absent, and so China is winning. Leaders Set Goals, Achieve Goals - and Create Trust. Who is in charge of infrastructure? Without an infrastructure office it is hard to tell, and this is a fatal flaw problem. The presidency needs to to bring everyone together to discuss what world we want to create, what our infrastructure vision going forward will look like. This needs to happen fast - and then we need to set goals that we all agree to: projects completed, time to project approvals, life expectancy, reduction of traffic congestion, reduction in carbon by sector, even increases in infrastructure equity. I am a business guy - everything is opportunity. Then we (all of us) need to row hard in the same direction, and achieve those goals. Action This Day. If we can get this right, the results for all of us will be extraordinary - domestic growth, environmental leadership and an injection of strength into the global democratic model. Unimaginable things can quickly be envisioned, and developed, including the return of manufacturing (advanced and distributed manufacturing) to our newly digitized and electrified heartland. Infrastructure can bring us together, but it is a very heavy lift - as in war, the first thing a president things about in the morning, and the last thing he thinks about before going to bed at night.

### t/c pandemic growth

#### **Post-pandemic growth high now –** most recent ev, q3 was a blip

Siegel 10/28 (Rachel Siegel is an economics reporter covering the Federal Reserve, yale alum, Andrew Van Dam covers data and economics, October 28th 2021, “U.S. economic growth lagged in the third quarter, but hopeful signs abound for the rest of 2021” Washington Post, <https://www.washingtonpost.com/business/2021/10/28/gdp-q3-economy-delta/>) MULCH

The U.S. economy grew at a disappointing 2.0 percent annual rate in the third quarter as the delta variant peaked, but promising signs suggest 2021 is on track to notch the fastest full-year growth in almost four decades.

The coronavirus tore through unvaccinated communities during much of the July-through-September period measured in Thursday’s gross domestic product report, eviscerating economists’ expectations from earlier in the year of continued rapid growth near the 6.3 and 6.7 percent seen in the first two quarters of 2021.

The White House, top lawmakers and economists are debating whether the weak GDP report reflects a blip on the way to a boom, or something more, especially as Democrats close in on a deal on President Biden’s $1.75 trillion budget plan overhauling health care, education, and climate and tax laws.

Much will depend on the path of the virus, and whether higher prices, persistent supply-chain issues and a wobbly job market dampen consumer spending going into the holiday season.

Thursday’s report from the Bureau of Economic Analysis is a backward-looking glimpse at the economy’s worst quarter since the recovery began. But looking ahead, economists say the numbers hid myriad reasons for optimism in the fourth quarter and beyond.

New coronavirus infections in the United States have dropped nearly 60 percent since the September spike brought on by the delta variant. Some of the biggest coronavirus-era distortions in Americans’ buying habits — like the car-buying boom that goosed inflation and ravaged supply chains — also started to normalize. And indicators from consumer confidence to unemployment claims have improved in October.

As positive trends pile up — and assuming no major stumbles in the final three months of the year — the economy should grow more than 5 percent overall of 2021. That would be its strongest year since 1984, when GDP grew more than 7 percent in a rebound from a double-dip recession.

### AT: Won’t Pass – T/L / Manchin+Sinema

#### Progressives are locked in, despite the failed House vote – only question is whether Manchin and Sinema publicly commit

Sargent 10-29 (Greg Sargent, columnist covering national politics at The Washington Post, former political analyst at Talking Points Memo, New York Magazine and the New York Observer, BA English, Hunter College, “Opinion: Inside Biden’s surprising confidence that he’s on the cusp of a big victory,” The Washington Post, 10-29-2021, https://www.washingtonpost.com/opinions/2021/10/29/biden-framework-reconciliation-pathway/)

Looked at in one way, the failure of the House to pass the bipartisan infrastructure bill on Thursday was a major setback for President Biden. It means he heads into the international climate conference without being able to say the United States took a big leap toward delivering on its climate agenda, which could complicate his ability to lead.

That is obviously something we’d hoped to avoid. And let’s be clear: It’s still very uncertain whether Biden’s agenda will ultimately succeed or implode.

But the White House seems strangely, eerily confident about what’s happening right now. If you read between the lines of the doomscrolling coverage, what emerges is this: Improbably, Biden and his advisers seem to think the latest events have placed them on the brink of securing his agenda.

This is despite the fact that this week, in some ways, things went badly awry. When Biden introduced his framework for the Build Back Better reconciliation bill Thursday, Sens. Joe Manchin III (D-W.Va.) and Kyrsten Sinema (D-Ariz.) conspicuously failed to endorse it. That raised questions about whether the White House seriously miscalculated.

Then, when House Speaker Nancy Pelosi (D-Calif.) tried to hold a vote on the bipartisan infrastructure bill that already passed the Senate — to deliver Biden a victory before going abroad — progressives refused to support it, fearing Manchin and Sinema would ultimately renege on the reconciliation bill. Then everyone left to regroup, raising more questions about who’s running the show.

That looks like a big legislative mess and a spectacular failure at managing the Democratic coalition, right? Well, the White House sees it differently. Punchbowl News explains why:

Administration officials argue that no one will care in the end that the infrastructure bill got pushed back again. They say they are closer than ever to passing two transformative pieces of legislation. That’s mostly true.

That’s mostly true, and it’s pretty important!

Let’s also note that something big happened because of the release of this framework. It made it official that major progressive priorities — such as paid leave, the billionaires’ tax, the Medicare expansion to dental and vision — will be jettisoned. Yet the Congressional Progressive Caucus overwhelmingly and strongly endorsed it, anyway.

That locks in the left’s willingness to accept those concessions while enthusiastically backing the package. As Politico Playbook correctly noted, Rep. Pramila Jayapal (D-Wash.) provided the key quote revealing this: “We wanted a $3.5 trillion package, but we understand the reality of the situation.”

And don’t overlook this: Putting out the framework was the hook for numerous progressive and environmental groups to put out statements hailing its transformative potential, which further shores up the left flank behind it.

The trouble here is that highly visible speed bumps and glitches — like Manchin and Sinema not yet endorsing the framework — get magnified in day-to-day coverage into the latest sign of doom. That’s because everyone is training microscopes on every detail to divine where things are going.

Indeed, when various factions and players make such feints to increase leverage or realize some other goal — such as not wanting to appear jammed to preserve the aura of independence — it might magnify the impression of messiness and chaos. But as Jonathan Bernstein points out, this is how the legislative process works: Legislating inherently involves reconciling a lot of complicated moving parts. That’s messy and chaotic.

Which is why, from the White House perspective, the fact that the progressive caucus and a range of liberal groups are rallying behind the package shows that we’re seeing big general movement in the right direction. The left is one of those big moving parts — and it moved pretty dramatically.

“Every corner of the Democratic Party is coalescing around a vision that would be transformative and overwhelmingly popular right now,” one White House official tells me. “And it’s within reach.”

In fact, all that movement should focus our attention on the fact that there’s really one big missing piece left: getting Manchin and Sinema publicly on board behind the framework.

To be clear, that is a very big missing piece. We still don’t know whether Sinema supports some of its various revenue raisers, such as the surtax on income over $10 million. We don’t know whether Manchin will support things like the expanded child tax credit in its current form. The Senate is currently debating text and may allow changes to such things.

But regardless, here’s how all this would now have to unfold. Sinema and Manchin would have to indicate their support for the framework in a persuasive enough public way to get progressives in the House to pass the two bills. After that, the Senate could pass the reconciliation one.

Another way this might work out is via private talks among Manchin and Sinema on one hand, and House progressives on the other. If a solid enough understanding is reached, that could allow the House to pass both bills, and Senate action might follow.

All this might still collapse. Manchin and Sinema might pull the plug on the reconciliation framework. Or progressives might insist that the Senate go first on the reconciliation bill, and Manchin and Sinema might balk at that. Or lingering disagreements among House Democrats over things like prescription drug pricing and state and local tax deductions could upend matters.

But the key point here is that the final missing piece is within view: Getting Manchin and Sinema to yes on a concrete framework that the rest of the party has endorsed. We were not at this point 24 hours ago.

So if you squint, you can see a path to success. And it’s not crazy for the White House to think that in the end, this just might all work out.

#### They’ve privately committed – prefer insiders – BUT PC’s key to public – which is key to the House – Thursday debacle only reflected disagreement over sequencing, NOT substance

Mascaro 10-31 (Lisa Mascaro, and Farnoush Amiri, Associated Press, “Big, messy, complicated: Biden's plan churns in Congress,” Wheeling News-Register, 10-31-2021, https://www.theintelligencer.net/news/top-headlines/2021/10/big-messy-complicated-bidens-plan-churns-in-congress/)

It's big. It's messy. And it's very politically complicated. That's President Joe Biden's sweeping domestic policy package as Democratic leaders in Congress try to muscle it into law.

Fallout was brutal Friday after Biden's announcement of a $1.75 trillion framework, chiseled back from an initial $3.5 trillion plan, still failed to produce ironclad support from two key holdout senators — West Virginia's Joe Manchin and Arizonan Kyrsten Sinema. On Capitol Hill, Congress adjourned the night before with fingers pointed, tempers hot and so much at stake for the president and his party.

Yet a formal nod of endorsement of Biden's plan from the party's Congressional Progressive Caucus late Thursday moved the president one step closer to the support needed for passage in the House. Determined to wrap it up, the House will try next week to pass Biden's big bill, along with a companion $1 trillion bipartisan infrastructure package.

"It's only 90% done," said Rep. Joyce Beatty, D-Ohio, the chair of the Congressional Black Caucus. "So you got to get through the complicated — the last 10%, as you know, is always the most difficult."

The fast-moving — then slow-crawling — state-of-play in Congress puts the president and his party at significant political risk.

Biden's slipping approval rating and the party's own hold on Congress are at stake with the 2022 midterm election campaigns soon underway. Democrats are struggling in governor's races next week in Virginia and New Jersey, where safe victories might have been expected.

"It's sort of stunning to me that we're in this place," exasperated Stephanie Murphy, D-Fla., told reporters late Thursday as the House adjourned.

Biden arrived that morning on Capitol Hill triumphant in announcing a historic framework on the bill that he claimed would get 50 votes in the Senate. But the two Democratic Senate holdouts Manchin and Sinema responded — maybe, maybe not.

Manchin and Sinema's reluctance to fully embrace Biden's plan set off a domino series of events that sent Biden to overseas summits empty handed and left the party portrayed as in disarray.

House Speaker Nancy Pelosi was forced to abandon plans to pass the related measure, the $1 trillion bipartisan infrastructure plan, that has become tangled in the deliberations. Progressives have been refusing to vote for that public works package of roads, bridges and broadband, withholding their support as leverage for assurances that Manchin and Sinema are on board with Biden's big bill.

"Everyone is very clear that the biggest problem we have here is Manchin and Sinema," Rep. Ruben Gallego of Arizona told reporters. "We don't trust them. We need to hear from them that they're actually in agreement with the president's framework."

Still, step by step, Pelosi and Senate Majority Leader Chuck Schumer are edging their caucuses closer to resolving their differences over what would be the most ambitious federal investments in social services in generations and some $555 billion in climate change strategies.

"We will vote both bills through," said Rep. Pramila Jayapal, D-Wash., the chairwoman of the progressive caucus, after endorsing Biden's plan.

Lawmakers are expected to spend the weekend negotiating final details on text that's swelling beyond 1,600 pages. Some are trying to restore a paid family leave program or lower prescription drug costs that fell out of Biden's framework.

Manchin and Sinema, the two holdouts, now hold enormous power, essentially deciding whether Biden will be able to deliver on the Democrats' major campaign promises.

Both have privately indicated that they are on board, according to Democratic Sen. Chris Coons of Delaware, a Biden ally.

"I have new optimism," tweeted Sen. Brian Schatz, D-Hawaii, who was part of a small entourage that met privately with Sinema at the Capitol.

"Same," responded Rep. Joe Neguse, D-Colo., who served as a bridge between progressives and the Arizona senator.

But it won't be easy, if past congressional battles are any measure. Legislating is work that takes time and rarely happens on schedule.

### 2AC 2 – PC Key

#### Their ev overreads media pessimism.

Matt Viser & Sean Sullivan 10/28, Viser is a national political reporter for The Washington Post; Sullivan covers the White House for The Washington Post, “Biden raises the stakes with the biggest gamble of his presidency,” Washington Post, 10-28-2021, https://www.washingtonpost.com/politics/biden-deal-presidency/2021/10/28/52a273cc-37ff-11ec-91dc-551d44733e2d\_story.html

President Biden entered a caucus meeting of Democrats on Thursday morning, told them he wanted to speak from the heart, and then made one of the biggest gambles of a career that spans nearly a half century.

He put the future of his presidency, and the state of his party, on the line with a major bet that he could persuade a fractious group of Democrats to rally behind him and support a compromise $1.75 trillion social spending plan at the heart of his agenda.

“I don’t think it’s hyperbole to say that the House and Senate majorities and my presidency will be determined by what happens in the next week,” he said, according to a participant in the meeting.

His wager — the result of weeks of haggling and what has become a legislative Groundhog Day morass — was in some ways out of character for a president who has been relatively risk-averse, often keeping a safe distance from the most explosive legislative debates.

On a day of high drama with numerous deadlines looming — including the governor’s race in Virginia on Tuesday — Biden had a few hours before boarding Air Force One to depart on a consequential foreign trip that includes meeting with Pope Francis, attempting to make progress on climate change and renewing efforts to show that democracy can work.

Senior White House officials and top congressional aides spent the early hours Thursday morning scrambling to complete the text of a 1,684 page-piece of the social spending bill. They hoped that $1.75 trillion legislation might unlock opposition to quickly voting on a separate $1.2 trillion infrastructure plan, but the fate of both signature bills remained uncertain. The House abandoned plans to move ahead on the infrastructure package late Thursday, punting until next week.

“We badly need a vote on both of these measures,” Biden pleaded in the caucus meeting earlier in the day, adding, “I need you to help me. I need your votes.”

He reached for history, saying that what would be achieved through the two plans would be greater and more significant than the combined efforts of Franklin D. Roosevelt and Lyndon B. Johnson.

Biden’s agenda — and in many ways his presidency — has teetered on the verge of catastrophe in recent weeks, before he and Democratic congressional leaders slowly started to resolve intraparty conflicts that have been a stain on their tenure helming the federal government. How and whether Biden can navigate a Congress that Democrats have only nominal control over, with razor-thin majorities in both chambers, has been one of the enduring questions over his first nine months in office.

For Biden, the revised plan held the potential to show strength after months in which even his allies felt he was projecting weakness. Amid all of his challenges, his presidency at times has felt rudderless to some supporters.

Just as important, Democrats said, if they can reach a deal to pass the social spending plan and the infrastructure measure, it would demonstrate that the party can govern, meeting Biden’s campaign promise to successfully work with Republicans and unite a party in which old fractures resurfaced after Trump left office.

“The rest of the world wonders whether we can function,” he said at least twice during the caucus meeting. “Not a joke.”

Part of Biden’s political biography is rooted in coming from behind and succeeding despite being underestimated. In his 2020 Democratic primary campaign, he lost the first two contests by large margins and was all but counted out before making his comeback.

But it was done through a plodding belief that he had a candidacy that voters would come around to support, rather than any sudden shifts in a campaign strategy built on a message of stability, competence and normalcy.

Biden and his closest aides have long steered clear of polarizing issues and tiptoed around topics on which they faced pressure to act but recognized their leverage was limited.

He has delayed hard decisions, including whether to get into a presidential campaign, which running mate to pick or how to fill administration positions. And his career has been one in which he’s been most comfortable finding the center of his party, as he often placed small, incremental bets rather than big, sweeping ones.

Liberal activists and civil rights leaders have pressured Biden to wage a campaign to end the Senate filibuster to clear the way for legislation to broaden voting rights and raise the federal minimum wage, while judicial activists pressed him to expand the Supreme Court. While nodding to their concerns, Biden has avoided such fights, which his team believed were not winnable.

Throughout much of the social spending plan negotiations, Biden was determined not to speak publicly on behalf of lawmakers whose votes they were trying to win, and his aides often studiously avoided doing so in public. He held a long series of meetings, with lawmakers saying he was doing more listening at first and then gradually became more assertive in the sessions.

On Thursday, Biden used his most definitive tone yet to describe the progress he had made. “I am back here to tell you that we have a framework that will get 50 votes in the United States Senate,” he told House Democrats in their closed-door meeting, according to a Democrat with knowledge of his remarks, who spoke on the condition of anonymity to discuss the private discussions.

In the eyes of some Democrats, he had little choice after being backed into a corner. Biden’s approval rating has slipped across the board, registering this week at just 43 percent, according to one survey in deep-blue New Jersey. A summer resurgence of the coronavirus, a chaotic withdrawal from Afghanistan, concerns about inflation and months of inaction on his domestic agenda have fueled what many Democrats regard as a dire political situation for the party heading into next year’s midterm elections.

In this year’s feature election, Virginia Democratic gubernatorial nominee Terry McAuliffe, a close Biden ally, is running neck-and-neck in the polls with Republican Glenn Youngkin in a state Biden carried by 10 points last year. McAuliffe has been imploring Democrats in Washington to “quit talking” and “get something done” — a signal of the toll that inaction has taken on the party brand — and has acknowledged the challenge posed by Biden’s unpopularity.

McAuliffe was quick to seize on Thursday’s progress, tweeting, “The middle class tax cut announced today by President Biden is a game changer for Virginians in every corner of the Commonwealth. Massive investments in child care, pre-K, and climate plus more jobs and lower health care costs. MAJOR win for VA families.”

While some Democrats are hopeful it will help McAuliffe energize more voters in the final days of the race, some Democrats privately said in the run-up to Thursday’s announcement that it was probably too late to have a significant effect.

One close ally of the White House, who has knowledge of the internal dynamics, said the desire to seize on the moment to spur action and strengthen his position before heading abroad was a clear factor in setting the stage for Thursday’s rollout. Biden himself had pleaded with lawmakers in to help him get a deal before his trip — even appealing to their patriotism in at least one meeting.

Beyond that, there was a sense around Biden that deadlines can move things along, said the ally, who spoke on the condition of anonymity to be candid. Now Biden allies hope he looks stronger both at home and abroad.

Sen. Christopher A. Coons (D-Del.), a close friend of Biden’s, said the president’s trip to Europe, combined with the need to move ahead with other legislative priorities like the defense authorization bill and dealing with the debt ceiling, spurred the president to act on Thursday.

“We’re out of runway. In the caucus, we’ve been sort of circling this airport for weeks, and it’s time to the land the plane so that he can take off and focus on world leadership and so that the average American can see the positive outcomes,” Coons said. “There’s also the small but very urgent matter of the election in Virginia coming up.”

Biden, a veteran of the Senate, also is in tune with the rhythms of legislative negotiations and struck the right closing tone at the right moment, Coons said. “He understands that the legislative process has an arc to it,” he said.

Coons, who said he has spoken with Biden a number of times in recent weeks, described him as “determined, optimistic,” but clear about the challenges he faces.

### 2AC 3 – financing

#### BUT, climate financing for developing countries is still included

--Green Climate Fund = the UN account that Aberg is referring to when talking about climate financing for developing countries

Kelly 10-19 (Laura Kelly, staff writer at The Hill, “Democrats offer State funding bill that sets up fights with GOP,” The Hill, 10-19-2021, <https://thehill.com/homenews/administration/577384-democrats-offer-state-funding-bill-that-sets-up-fights-with-gop>)

It also would make $705 million available for international family planning, including $55 million for the United Nations Population Fund (UNFPA). President Biden in January resumed funding for the UNFPA which was halted under the former Trump administration.

Republicans allege that the U.N. body is complicit in coerced abortions and forced sterilizations because it operates in China — where the Chinese government is believed to be carrying out such acts against the Uyghur Muslim minority population in the territory of Xinjiang.

The UNFPA had called the claim it coerces abortion or forces sterilization “erroneous.”

It says on its website that it provides family planning services in an effort to prevent abortions, and provides health services to deal with the consequences of unsafe abortions.

The bill also includes $1.9 billion to fund U.S. contributions to the Green Climate Fund and the Clean Technology Fund. Republicans have opposed a large price tag for the Green Climate Fund, an international program meant to battle the effects of climate change, in favor of domestic spending.

### 2AC 4 – Nominations

#### NO thumpers – they’re all explicitly priced in to our uniqueness ev, he’s got enough now, AND won’t spend PC on anything else – only plan’s fiat disrupts his careful prioritization

Lemire et al 10-18 (Jonathan Lemire and Zeke Miller, Associated Press, “President Biden faces critical next 2 weeks for agenda,” NBC Wesh 2, 10-18-2021, wesh.com/article/biden-faces-critical-weeks-for-agenda/37984609)

President Joe Biden is entering a crucial two weeks for his ambitious agenda, racing to conclude contentious congressional negotiations ahead of both domestic deadlines and a chance to showcase his administration’s accomplishments on a global stage.

Biden and his fellow Democrats are struggling to bridge intraparty divides by month’s end to pass a bipartisan infrastructure bill and a larger social services package. The president hopes to nail down both before Air Force One lifts off for Europe on Oct. 28 for a pair of world leader summits, including the most ambitious climate change meeting in years.

But that goal has been jeopardized by fractures among Democrats, imperiling the fate of promised sweeping new efforts to grapple with climate change. There's also rising anxiety within the party about a bellwether gubernatorial contest in Virginia and looming Senate fights over the federal debt limit and government funding that could distract from getting the president’s agenda across the finish line.

Biden is trying to stabilize his presidency after a difficult stretch marked by the tumultuous end of the Afghanistan war, a diplomatic spat with a longtime ally and a surge in COVID-19 cases that rattled the nation’s economic recovery and sent his poll numbers tumbling.

His team has continued its strategy — one that served it well during the campaign and earlier this year — of blocking out the outside noise to stay focused on a singular mission, this time to pass the two-part package that will give Democrats a platform on which to run in next year’s midterm elections.

“These bills, in my view, are literally about competitiveness versus complacency, about opportunity versus decay, and about leading the world or continuing to let the world move by us,” Biden said Friday while pushing the legislation in Connecticut.

Yet beneath the White House’s pleas for patience — reminding people that hard things take time — is a bubbling sense of urgency that a deal needs to be struck rapidly.

For the White House, there are the explicit target dates, including an end-of-month deadline on transportation funding and Biden’s upcoming foreign trip. But there are also more abstract imperatives: proving Democrats can deliver on their promises to voters and protecting Biden’s waning political capital.

With new urgency, the administration has sent signals to Capitol Hill in recent days that it is time to wrap up negotiations, that a deal needs to be reached, according to two White House officials who spoke on condition of anonymity because they were not authorized to publicly discuss private conversations. Biden himself has expressed impatience and will be increasing his own personal outreach this week to push lawmakers to find a compromise and bring the bills to a vote, the officials said.

West Wing officials are still optimistic that an agreement will ultimately be struck, but there are also fears that the messy, drawn-out negotiation has clouded the tangible benefits of what Biden aims to deliver to voters.

Biden sought to address some of that when he traveled to Hartford, Connecticut, last week to showcase initiatives to sharply reduce the cost of early childhood care — perhaps one of the only pieces of the legislation that is a lock to make the final package.

### 2AC 5 – AT: Compartmentalized

#### Compartmentalization wrong – prefer ev specific to Biden and antitrust.

* 2A’s love “no spillover” – but this ev expressly says pushing antitrust cannot exist in a vacuum relative to other priorities.
* Makes a budget link – which applies bc Affs include perceived spending.

Foer ‘21

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3. Antitrust does not float in a vacuum. The Biden administration’s antitrust policies must somehow be fitted into the larger picture of the massive challenges this administration will be facing: first, ending the pandemic; second, reopening and rebuilding the economy after a year of on-again, off-again close-downs; third, entering into a more diplomatic international mode; fourth, addressing the magnified problems of poverty, welfare, racial injustice, immigration, health care, education, and physical and environmental infrastructure; and maybe fifth, figuring out how to handle such competition policy issues as industrial concentration, high-tech platforms, the loss of small and medium-sized businesses, privacy and data security, labor in an evolving sharing sector, and more.

4. Other observers may order their list of the administration’s priorities differently, but it appears to me that the problems of antitrust will largely be problems of a more encompassing competition policy nature involving multiple decision makers, and they will necessarily be relatively low on the administration’s overall agenda, no matter which party controls the Senate. Moreover, at a time when so much will have to be spent on rebuilding the economy, budgets for each component of competition policy may be tight. I am not a deficit hawk, but we are probably going to have to give more attention to efficiencies in the overall governance of competition policy.

### 2AC 6 - Link Turn

#### Devils in the details---conservatives want deregulation (NOT antitrust), progressives want reform based in consumer welfare, and antitrust populists want varied, comprehensive reforms.

Melamed 20 (A. Douglas Melamed, Professor of the practice of Law @ Stanford Law School; “ANTITRUST LAW AND ITS CRITICS;” 01-14-20, 83 Antitrust L.J., Forthcoming, <https://dx.doi.org/10.2139/ssrn.3519523>, TM)

Antitrust law is the tool that comes first to mind as a means of addressing concerns about private economic power. On the surface, there appears to be a conversation about the future of antitrust law between three groups. The first group might be called the conservatives. They argue that antitrust law is basically fine as it is4 and that market concentration is transitory and, when enduring or not a reflection of superior efficiency, is largely “the result of heavy regulation rather than a natural development from the nature of business.”5 To the extent they advocate revisions to antitrust doctrine, they generally support modifying doctrinal provisions, such as market share presumptions in horizontal merger cases, that make enforcement easier, 6 and extending doctrinal provisions that restrict enforcement, such as the price-cost test for predatory pricing, to more complex forms of conduct, such as loyalty discounts.7 The second group might be called mainstream progressives. They argue that antitrust enforcement has been too lax and that antitrust law should be adjusted but within the prevailing consumer welfare paradigm.8 The third group might be called the populist critics. They include the self-described “New Brandeis” proponents9 and some who have more far-reaching and eccentric proposals.10

In fact, however, there are really two very separate conversations. One, between conservatives and progressives, concerns how antitrust law might best promote economic welfare. The other, pushed largely by the populists, concerns how to replace what is now known as antitrust law with alternatives that will serve other objectives, in addition to economic welfare, such as promoting an equitable distribution of wealth and of economic and political power. The two conversations seldom intersect in any meaningful way.

Part I sets the table by briefly summarizing the core principles and institutional context of antitrust law as it now exists. Part II addresses the conversation between the conservatives and the mainstream progressives about antitrust law and economic welfare. Part III explains why the concerns raised by the populist critics, although often couched in terms of economic welfare, are not really about economic welfare and why antitrust law cannot prudently address both economic welfare and the other objectives with which these critics are concerned. Part IV gazes through a hazy crystal ball and suggests possible ways to bring the conversations closer together.

I. ANTITRUST LAW AND THE CONSUMER WELFARE STANDARD

U.S. antitrust law prohibits private, anticompetitive conduct that results in more market power than would otherwise exist.11 There are three basic elements to any antitrust offense: anticompetitive conduct, an actual or likely increase in market power compared to the but-for world as a result of the creation or maintenance of market power, and a causal connection between them. Anticompetitive conduct is conduct that is not efficiency-based competition on the merits—conduct that does not, in other words, shift the supply curve to the right by innovation or other forms of cost reduction, shift the demand curve to the right by innovation or other forms of product improvement, or reduce above-cost prices. For this purpose, increased market power means the ability profitably to increase price or otherwise disadvantage trading partners because of a reduction in the competitive efficacy of actual and potential rivals. The competitive efficacy of rivals can be reduced both by collusion among rivals that would otherwise compete and by conduct that weakens or excludes rivals.

Anticompetitive conduct can increase the actor’s market power only by impairing the competitive process. By definition, market power reflects harm to the competitive process. Market power diminishes economic welfare when it is used to increase price, reduce output, or harm rivals and when it reduces incentives for product improvement, cost reduction, or innovation. Antitrust law is thus about protecting the competitive process in order to promote economic welfare.12 This is commonly known as “the consumer welfare standard.”13

Antitrust law is more complicated than that, of course. For example, single firm conduct can violate the antitrust laws only if the defendant winds up with, or with a dangerous probability of obtaining, an amount of market power sufficient to be called monopoly power.14 Also, there are per se rules and other “quick look” decision tools, in which an increase in market power is presumed and need not be proven. It is often said that exclusionary conduct can be illegal, even if it has some efficiency benefits, if those benefits are outweighed by the resulting harm to competition,15 but few if any cases have so held. Perhaps most important, antitrust law embraces simplified principles and rules even though they sometimes permit the creation of market power by conduct that does not promote efficiency.

These principles and rules are largely made by judges. The key statutory provisions are brief and imprecise. In effect, Congress “delegated much of its lawmaking power to the judicial branch.”16 Legal doctrine thus evolves in a common law-like process that “permits the law to adapt to new learning” from business and judicial experience, economic theory and analysis, and market developments.17 The principles and rules of antitrust law are heavily influenced by error-cost analysis. The basic idea is that antitrust cases almost always involve uncertainty and that antitrust principles should therefore be shaped, not to reflect the theoretically optimal outcome that an all-knowing fact finder might reach, but rather to reduce likely error costs. These error costs include the costs of false positives (i.e., false convictions, such as blocking a procompetitive merger or condemning efficient conduct) and false negatives (i.e., false acquittals, such as permitting an anticompetitive merger or conduct that excludes rivals and does not generate substantial efficiencies). Error-cost analysis teaches that antitrust law should be designed to minimize the sum of the costs of false positives and false negatives. The theory makes good sense.18

Error-cost analysis figured prominently in so-called Chicago School thinking. In a very influential article, then-Professor and now-Judge Frank Easterbrook argued that false positives are a more serious problem than false negatives.19 Easterbrook reasoned that a false positive—blocking a merger or prohibiting conduct—is manifest in a final and enduring government order. By contrast, Easterbrook argued, new entry, innovation, and other changed circumstances are likely to dissipate the harm to competition enabled by a false negative.20

Courts have adopted some aspects of antitrust doctrine for the explicit purpose of avoiding false positives, even acknowledging that they would permit some anticompetitive conduct.21 Perhaps more important, antitrust courts have often imposed almost impossibly high burdens of proof on plaintiffs for the explicit or implicit purpose of avoiding false positives. For example, the majority in Ohio v. American Express held that direct proof of harm to competition is insufficient and the relevant market must be defined and proved in all cases involving vertical restraints, on the ground that such restraints can serve procompetitive purposes; that harm to competition cannot be inferred absent proof of reduced output or supra-competitive prices; and that efficiencies from vertical restraints can be presumed even if they are not supported by evidence.22

The inherent nature of antitrust law makes it fertile soil for a cautious error-cost approach. Antitrust law is a law of general application that applies to almost all industries. Antitrust enforcers and tribunals will thus not have deep industry expertise, comparable to that of a sectoral regulator, except perhaps in the tiny portion of industries that have been subject to repeated antitrust scrutiny. Because antitrust principles must be applicable to all industries, they cannot be fashioned to fit the idiosyncrasies of particular industries. Fact-finding, or more precisely application of general principles to very diverse facts, thus does the heavy lifting in antitrust enforcement. And those facts often involve the unknowable, e.g., future innovation, and the unobservable, e.g., incremental costs. Uncertainty is inevitable.

Perhaps more important, enforcement of U.S. antitrust law, unlike competition law in most other nations, is decentralized. In addition to the Justice Department and the Federal Trade Commission, fifty states23 and any person injured by a violation of the antitrust law can bring an enforcement action.24 It is likely, therefore, that a much higher percentage of suspected antitrust violations are subject to scrutiny in the United States than elsewhere and that deterrence of anticompetitive business conduct in general is a more important component of the impact of antitrust law on the economy. Antitrust principles thus need to be fashioned with careful attention to whether they will send clear signals to the business community about the line between permissible and impermissible conduct and whether they will be administrable by hundreds of generalist district courts.

II. ANTITRUST LAW AND ECONOMIC WELFARE

A number of the most prominent names in mainstream antitrust thinking have in recent months expressed the view that antitrust enforcement has been too lax and that antitrust law is too permissive. They are motivated at least in part by recent scholarship showing increases in industrial concentration, 25 share of GDP going to capital rather than labor,26 and price/cost margins27 and that mergers over the past 20 years or so have often resulted in higher prices.28 These studies do not prove that antitrust enforcement has been too lax or even that market power has been increasing throughout the economy, but they are suggestive of those inferences.

The proposals of these mainstream progressives are varied. For example, some propose modifying standards applicable to vertical mergers29 or challenging more often mergers that might harm sellers.30 Others propose challenging most favored nation agreements used by digital platforms31 or socalled horizontal shareholding.32 Carl Shapiro and I have suggested antitrust enforcement against standard-setting organizations that fail to take reasonable steps to ameliorate the welfare-reducing effects of technology market monopolies created by the multi-company agreements they orchestrate.33

The most comprehensive expression of mainstream progressive views is set forth in Jon Baker’s excellent book The Antitrust Paradigm, 34 the title of which is of course a play on Robert Bork’s The Antitrust Paradox. The Antitrust Paradigm consists of three parts. Part I addresses fundamental antitrust issues. Baker describes a “political consensus” supporting antitrust law, a compromise between regulation and laissez faire—between deterring anticompetitive conduct and chilling efficiencies—that can be expected to endure only if courts “maintain the efficiency gains that flow from competition.”35 He argues persuasively that the inclusion of noneconomic goals in mid-twentieth century antitrust law chilled efficient conduct and inherently leads to excessive judicial discretion and, ultimately, political corruption of antitrust law. But, Baker argues, the antitrust consensus is in jeopardy because of the failures of antitrust law even when measured solely by its impact on economic welfare. Baker sets forth several reasons to believe that market power has been generally increasing in the United States and now presents a “serious public policy problem.”36 The problem, Baker argues, is that antitrust law has gone too far in the direction of laissez-faire or antitrust minimalism. Part II consists of a more concrete discussion of antitrust rules for the information economy. Baker insightfully discusses, among other things, inferring agreement from algorithmic coordination, exclusionary conduct by dominant platforms, ways in which mergers can reduce innovation, anticompetitive conduct involving patents, and market definition when platforms are involved. Baker looks forward in Part III. He describes three factors that he believes “point in the direction of strengthened antitrust”—changes in business practices, political realignments, and developments in economic analysis.37 He ends with a call to action that will no doubt appeal to mainstream progressives.

Chapters 4 and 5 of Part I of The Antitrust Paradigm are a reprise of Baker’s earlier criticism of the approach to error costs manifest in current antitrust law.38 “While the error cost framework is a neutral economic tool, antitrust conservatives” have used it to advocate against antitrust intervention by overstating “the incidence and significance of false positives and understat[ing] the incidence and significance of false negatives.”39 They have based their advocacy on numerous “erroneous arguments” about markets and institutions, arguments that Baker addresses and refutes.40

The issues raised in these chapters are critical to current controversies about antitrust policy. For present purposes, it does not matter whether Easterbrook and other antitrust conservatives were right about error costs in the past. The question now is whether changed circumstances warrant reassessing the relative tolerance for the risks of false positives and false negatives that antitrust law now embodies. The indications of under-enforcement summarized above and the failure in court of economically sound cases suggest that the likelihood of false negatives might be greater than previously thought and perhaps that current antitrust law has gone too far in its quest to avoid false positives. Those indications, together with the size, seemingly boundless scale and scope economies, and apparently durable market power of some of the global mega-firms and new learning about entry barriers and contestable markets, suggest that the duration and costs of false negatives might be greater than previously thought. Similarly, new empirical tools for assessing mergers and improved understanding of the economic effects of vertical agreements suggest that the likelihood of false positives might be lower than previously thought. And studies showing that mergers rarely achieve anticipated efficiencies suggest that the costs of false positives might be lower than previously thought.41

Recalibrating the law’s relative tolerance for the risks of false positives and false negatives could change antitrust law in numerous ways. It could, for example, lead to doctrinal changes, such as eliminating the recoupment requirement in predatory pricing cases, which has been criticized as being incoherent and a needless obstacle to proving anticompetitive pricing.42 It could encourage courts to clarify the law regarding unlawful refusals to deal. In Aspen Skiing, the Court emphasized that the defendant had demonstrated a willingness to forego profitable dealing with a competitor in order to increase its market power.43 Dicta in the Court’s subsequent decision in Trinko have been read by some to mean that a plaintiff must show a prior course of dealing between the defendant and the excluded party to establish an unlawful refusal to deal. 44 The law might be clarified to make clear that evidence other than a prior course of dealing might in appropriate circumstances suffice to prove a profit sacrifice, or it might find certain refusals to deal unlawful even absent a profit sacrifice.45

More broadly, antitrust law could be more willing to find violations on the basis of circumstantial evidence or predictions of future developments that are necessarily uncertain. The demanding proof required in some recent cases might be reexamined if the law were more willing to risk false positives and less willing to risk false negatives.46

Merger law might be most suited to recalibration, for three reasons. First, there is reason to suspect underenforcement, i.e., an excessive number of false negatives, in the past.47 Second, studies showing that parties often fail to realize anticipated efficiencies from mergers suggest that the cost of false positives might be less than previously thought.48 Third, merger enforcement is largely a matter for the expert enforcement agencies. Adjusting the legal standards for merger enforcement is therefore less likely to lead to abuse by private litigants. Such concerns appear to have been responsible, at least in part, for driving some aspects of current antitrust doctrine.

The law applicable to acquisitions by dominant firms of small, nascent competitors, for example, might be revised. Current law implicitly presumes that mergers are efficient and, thus, that false positives would be costly. Plaintiffs are therefore required to prove that increased market power is a likely result of the merger. That is an almost impossible task when the harm to competition is both uncertain and likely to occur, if at all, only in future years. One could imagine a regime in which an acquisition by a dominant firm, defined by size and duration of market share or some other indicia, of a much smaller or nascent firm is presumed to be unlawful if the acquired firm is shown to have a realistic possibility of developing into a competitive threat to the dominant firm. In that event, the defendant would have the burden of proving that harm to competition is very unlikely or that the merger will create substantial, merger-specific efficiencies. In other words, instead of requiring the plaintiff to justify running the risk of a false positive, the defendant could be required in specified circumstances to justify incurring the risk of a false negative.49

Such changes will not come easily, and careful analysis might show that they should not be made. The progressives are not the only ones talking about antitrust law and economic welfare. More conservative mainstream scholars argue that no major adjustments to antitrust law are called for or, as noted above, that antitrust law should in some instances be revised to reduce the risk of false positives. They argue, among other things, that there is no convincing evidence of widespread increases in market power,50 that increased market concentration reflects superior productivity and the forces of competition,51 that the law should not be changed on the basis of theoretical possibilities that have not been shown to be likely or frequent in fact, 52 that presumptions that have been urged as a means to shift to defendants a burden of justification are based on unsound economics, 53 and that the costs of false negatives emphasized by the progressives are lower than would be the costs of false positives if the law were revised to permit more aggressive enforcement.54

These two groups, the mainstream progressives and the conservatives, are engaged in a serious conversation about whether, and if so how, antitrust law should be adjusted to better achieve the ultimate objective of promoting economic welfare. It’s the kind of conversation that policy wonks and technocrats love.55

III. ANTITRUST LAW AND THE POPULIST CRITICS

Conversations that policy wonks and technocrats love do not often get wide public attention. The antitrust conversation that has gotten attention is that initiated by those who might be called antitrust’s populist critics. They include both legal scholars and others with more eclectic backgrounds. Three recent books illustrate the critics’ concerns. Tim Wu’s The Curse of Bigness focuses most directly on antitrust law. To oversimplify, Wu argues that antitrust law needs to be “updated to face the challenges of our time” posed by “extreme levels of industrial concentration” and “concentrated private power . . . with too much influence over government.”56 For this, Wu argues, antitrust law needs to return to the broader noneconomic goals originally intended by Congress. Wu’s short book is imprecise in important respects, perhaps because Wu appears to claim the mantle of “public advocate” fighting about matters of principle against powerful vested interests,57 and misstates contemporary antitrust law in places. 58 Wu does, though, make clear that he longs for a robust antitrust law that will both restore the “big case tradition” to challenge the “tech trusts” in particular and deal aggressively with problems that arise in the “age of oligopoly.”

In The Myth of Capitalism, Jonathan Tepper and Denise Hearn argue more broadly that competition is essential for capitalism but “remains an ideal that is receding further from our reach.”59 The government, they argue, “has not enforced rules that would increase competition, and through regulatory capture has created rules that limit competition.”60 Their book collects a diverse range of high-level data from which the authors draw broad conclusions about the failures of capitalism, which the data do not always support. As to antitrust law in particular, which the authors misstate in important respects, they argue that, since the election of President Reagan in 1980, “no president has enforced the spirit and letter of the Sherman and Clayton Acts.”61

Radical Markets is, well, more radical, and more imaginative. To authors Eric Posner and Glenn Weyl, the “most significant problem in our time is rising inequality within wealthy countries.”62 They argue that markets must be “strengthened, expanded and purified” but that the solution lies neither in “Market Fundamentalism,” which “is little more than a nostalgic commitment to an idealized version of markets as they existed in the Anglo-Saxon world in the nineteenth century,” nor “reliance on the discretion of bureaucratic elites to fix social ills.”63 Instead, they propose a variety of broad rules. These include, to ameliorate the “monopoly” power inherent in all property, requiring property owners to state the value of their property, which would provide both the basis for determining the amount of property tax owed and the price at which anyone else could buy the property;64 prohibiting institutional investors in almost all circumstances from diversifying their holdings within industries;65 and blocking mergers that increase political influence by concentrating lobbying capacity.66

On the surface, the populist critics, like the conservatives and mainstream progressives, are talking at least in part about whether antitrust law is well suited to promote its economic-welfare objective. They argue, in particular, that the “consumer-welfare standard” that has defined contemporary antitrust law is much narrower than suggested above and that it prevents antitrust law from effectively promoting economic welfare. They say, for example, that the consumer-welfare standard requires courts to pursue outcomes, a task for which they are not well-suited, instead of calling balls and strikes;67 confines antitrust law to a singular focus on consumer prices;68 is not able to address conduct that reduces innovation;69 and focuses solely on consumers and ignores harm to suppliers.70 Nicolas Petit and I have argued elsewhere that each of these criticisms is incorrect.71 In brief, antitrust is about proscribing anticompetitive conduct and does not call upon courts to measure or regulate welfare outcomes. Antitrust law has in the past effectively addressed harms to innovation; harms to suppliers, including in labor markets; and anticompetitive conduct that had nothing to do with prices and involved products sold for a zero monetary price. The common focus on pricing data and other perceived problems reflect limitations on available data and difficult problems of proof, not any conceptual restrictions arising from the consumer-welfare standard. These limitations and problems have been, and no doubt will continue to be, ameliorated by advances in economists’ toolkit and legal doctrine.

The important point for present purposes, however, is not whether the criticisms are correct or incorrect. It is that the criticisms are largely unrelated to what the critics are really saying. The critics do not respond to arguments that their criticisms of the consumer-welfare standard are incorrect or otherwise explain how antitrust law should be changed in order to better promote economic welfare. To the contrary, they think that antitrust law focuses too narrowly on economic welfare and unduly privileges efficiency at the expense of other objectives. Their criticisms of the consumer-welfare standard are not the criticisms of technocrats with a shared objective but rather are a rhetorical device in aid of an argument for replacing economically focused antitrust law with a law aimed more broadly at attacking concentrations of economic and resulting political power. As Tepper and Hearn put it, “antimonopoly is more than antitrust.”72

While the populist critics broadly share a concern about concentrations of power, they have various and potentially conflicting objectives. Many are concerned about the political power of big corporations.73 Some want to protect liberty and autonomy.74 Fewer are concerned about economic inequality.75 Tim Wu wants to protect competition and rivalry and to protect consumers from deception and manipulation.76

The critics point to a variety of indicia of what they regard as undesirable concentrations of power and inequality, but the various indicia have quite different implications. Critics complain about what they see as evidence of increased market concentration; that is most relevant to economic welfare. They complain about evidence of economic power more broadly;77 that is most relevant to issues of economic inequality. They point to indications of increasing industry concentration, which they argue makes industry-wide lobbying more likely and effective and thus increases inequality in political power.78 The mainstream progressives have also pointed to a variety of indicia that do not directly show increases in the market power with which they are concerned, but they explain how those indicia are suggestive of increased market power. The populist critics paint with a broader brush.

Not surprisingly, the policy proposals of the populist critics are less specific that those of Jon Baker and other mainstream progressives, and the populists’ proposals are not consistent with one another. Tim Wu, for example argues that the law should simply prohibit anticompetitive conduct without requiring that it be shown to create market power in an antitrust market.79 Senator Warren and others, by contrast, seem to favor structural intervention to reduce the size of big companies or to restrict the scope of their dealings even without proof that they engaged in anticompetitive conduct.80 Posner and Weyl would block mergers likely to increase the lobbying clout of the merged firm.81

It seems reasonable to assume that substantial and increasing inequality of wealth and economic and political power is a serious problem. 82 Some might object to such inequality on moral grounds, but the case against the current inequality does not depend on moral concerns. Even if the wealthy and powerful can be said to have earned their rewards by some theory of just deserts, substantial and increasing inequality erodes community and political stability. This is especially so if, as evidence suggests, wealth and power, and their absence, are passed on to progeny.83 Government policies that are likely to reduce such inequality would thus seem to warrant careful consideration.

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### Intrinsicness

Boo

### A2: “renewables suck”

#### Legislation’s key – XOs and other regulations do NOT solve because other countries assume the next president will reverse them

Linskey et al 10-20 (Annie Linskey, White House reporter at The Washington Post, formerly reported for the Boston Globe's Washington bureau, Bloomberg News and BusinessWeek, and the Baltimore Sun, graduate of Wellesley College; Sean Sullivan, covers the White House at The Washington Post, on-air contributor to CBSN, graduate of Hamilton College; and Matt Viser, national political reporter at The Washington Post, former deputy chief of the Washington Bureau for the Boston Globe, winner of the White House Correspondents' Association's Merriman Smith Award, graduate of the University of North Carolina at Chapel Hill; “Biden abruptly accelerates his involvement in agenda talks,” The Washington Post, 10-20-2021, <https://www.washingtonpost.com/politics/biden-agenda-democrats-spending/2021/10/20/cf88f12c-31b5-11ec-9241-aad8e48f01ff_story.html>)

For weeks, President Biden has met repeatedly with Democratic lawmakers as part of the tortuous negotiations over his agenda — but to the frustration of many, he has revealed few opinions of his own on what should remain in the plan and what should be jettisoned.

This week, however, Biden is doing something new: getting specific and plunging into details, telling lawmakers exactly what he thinks needs to go into the package that could define his presidency.

In private meetings with members of Congress this week, Biden outlined particular trade-offs, explaining for example that he wants universal prekindergarten care rather than free community college tuition, citing research that shows money spent on younger children has more impact.

He has floated the idea of giving seniors a debit card loaded with $800 to spend on dental benefits as part of an expansion of Medicare. He has revealed that he’s feeling pressure from his wife, Jill, who teaches at a local community college, to push for higher-education spending, joking that otherwise he would have to find somewhere else to sleep.

And Biden has stressed — several times — that lawmakers must help him show that democracies can tackle major problems, imploring them not to send him empty-handed to a pair of upcoming summit meetings.

“He was laying out what he wants,” said Rep. Debbie Dingell (D-Mich.), who met with Biden this week. “It was clear what he wanted — and it hasn’t been until now.”

Biden’s stepped-up involvement comes as a rapid succession of deadlines loom, including the expiration of federal highway funds Oct. 31, the president’s appearance at a climate summit in Scotland on Nov. 1, and a Virginia governor’s election that’s become a referendum on the Democratic agenda Nov. 2.

One White House official said that Biden has long been invested in the plan’s particulars but that different meetings with lawmakers have had different dynamics. The official, like several aides and lawmakers interviewed for this story, spoke on the condition of anonymity to be more candid.

However those working closely with Biden or familiar with his meetings say that the president is now more clearly setting guidelines for what should stay in his social-safety-net bill and what will have to go as it gets whittled down from $3.5 trillion to $1.9 trillion or less. These guidelines do not carry an ideological cast, the people said, but rather seem aimed at shaping a deal that can pass.

Biden, who often boasts of his knowledge of congressional workings from his 36 years in the Senate, appears to be gambling that his months of listening have given him the credibility to start imposing his will more.

In some recent meetings, Biden has acknowledged that the Clean Electricity Performance Plan, an ambitious but controversial part of his climate change agenda, probably will not be in the final bill. He noted that the child tax credit, which has nearly halved child poverty this year, will probably be extended only for one year.

During a meeting with lawmakers Tuesday, the president spoke at length, but he also went around the room to let lawmakers talk about the most important issues to them, two people with knowledge of the discussion said. “He knows the particulars inside and out, and he clearly is trying to be in closing mode for the deal,” said Rep. Mark Pocan (D-Wis.), who was at the meeting.

Pocan said that over the course of three meetings with Biden, including one via Zoom, he has seen what he termed a “progression.”

“It seems like a lot of this is starting to jell — like he’s got in his mind, at least, where this could be going,” Pocan said. “And very clearly yesterday, from all the conversations he had with all the different entities, he has a pretty good idea, I think, where he thinks it can go.”

After months when little progress was evident, top Democrats are now suggesting a breakthrough could be imminent. “I think we’ll get a deal,” Biden said as he prepared to board Air Force One for a trip to Scranton, Pa.

On Capitol Hill, Senate Majority Leader Charles E. Schumer (D-N.Y.) and House Speaker Nancy Pelosi (D-Calif.) are pushing to hammer out a framework this week.

Pelosi told her top lieutenants at a meeting Tuesday that she was aiming to finalize the outline of the package by Thursday night, people with knowledge of the conversation said. The speaker has also said she wants to hold House votes on the package by Oct. 31, or a week from Sunday.

Biden has been most vocal about the upcoming climate summit, where he will face more than 100 heads of state and wants to signal that the United States is leading the globe again on climate. He has frequently framed the international order as a competition between democracies and autocracies, and wants to show that a country such as the United States can tackle a complex problem like climate change.

“The president was very authentic and passionate in appealing to our patriotism,” said Rep. Ro Khanna (D-Calif.), who met with Biden this week. “He needs an agreement before going to Glasgow to lead on climate and to show that American democracy is capable of delivering.”

Khanna recounted a dramatic scene from the gathering. “He looked people in the eye and said the prestige of the United States is on the line,” Khanna told CNN.

The Glasgow summit represents a key moment in the world’s effort to combat climate change, a top Biden priority, as countries are expected to make ambitious commitments to reduce greenhouse gases.

Biden has committed to cutting U.S. emissions to 50 to 52 percent below 2005 levels by 2030. The aim far surpasses goals set by previous presidents, and climate experts say it is achievable — if most of Biden’s climate agenda passes.

On the other hand, if Biden cannot persuade Congress to pass much of his program, his credibility on the world stage would suffer, they say. “The world has grown skeptical of U.S. climate commitments, given our rather schizophrenic history,” said Paul Bledsoe, who served on the White House Climate Change Task Force under President Bill Clinton. “Other governments and industries overseas are very sophisticated — they understand the U.S. system, and they understand that legislation is more lasting than regulation.”

### A2: Impact D

#### AND, cumulative disjunctive existential risk across a litany of direct and indirect impacts mathematically outweighs any other X-risk

Dr. Yew-Kwang Ng 19, Winsemius Professor of Economics at Nanyang Technological University, Fellow of the Academy of Social Sciences in Australia and Member of Advisory Board at the Global Priorities Institute at Oxford University, PhD in Economics from Sydney University, “Keynote: Global Extinction and Animal Welfare: Two Priorities for Effective Altruism”, Global Policy, Volume 10, Number 2, May 2019, pp. 258–266

Catastrophic climate change

Though by no means certain, CCC causing global extinction is possible due to interrelated factors of non-linearity, cascading effects, positive feedbacks, multiplicative factors, critical thresholds and tipping points (e.g. Barnosky and Hadly, 2016; Belaia et al., 2017; Buldyrev et al., 2010; Grainger, 2017; Hansen and Sato, 2012; IPCC 2014; Kareiva and Carranza, 2018; Osmond and Klausmeier, 2017; Rothman, 2017; Schuur et al., 2015; Sims and Finnoff, 2016; Van Aalst, 2006).7

A possibly imminent tipping point could be in the form of ‘an abrupt ice sheet collapse [that] could cause a rapid sea level rise’ (Baum et al., 2011, p. 399). There are many avenues for positive feedback in global warming, including:

• the replacement of an ice sea by a liquid ocean surface from melting reduces the reflection and increases the absorption of sunlight, leading to faster warming;

• the drying of forests from warming increases forest fires and the release of more carbon; and

• higher ocean temperatures may lead to the release of methane trapped under the ocean floor, producing runaway global warming.

Though there are also avenues for negative feedback, the scientific consensus is for an overall net positive feedback (Roe and Baker, 2007). Thus, the Global Challenges Foundation (2017, p. 25) concludes, ‘The world is currently completely unprepared to envisage, and even less deal with, the consequences of CCC’.

The threat of sea-level rising from global warming is well known, but there are also other likely and more imminent threats to the survivability of mankind and other living things. For example, Sherwood and Huber (2010) emphasize the adaptability limit to climate change due to heat stress from high environmental wet-bulb temperature. They show that ‘even modest global warming could ... expose large fractions of the [world] population to unprecedented heat stress’ p. 9552 and that with substantial global warming, ‘the area of land rendered uninhabitable by heat stress would dwarf that affected by rising sea level’ p. 9555, making extinction much more likely and the relatively moderate damages estimated by most integrated assessment models unreliably low.

While imminent extinction is very unlikely and may not come for a long time even under business as usual, the main point is that we cannot rule it out. Annan and Hargreaves (2011, pp. 434–435) may be right that there is ‘an upper 95 per cent probability limit for S [temperature increase] ... to lie close to 4°C, and certainly well below 6°C’. However, probabilities of 5 per cent, 0.5 per cent, 0.05 per cent or even 0.005 per cent of excessive warming and the resulting extinction probabilities cannot be ruled out and are unacceptable. Even if there is only a 1 per cent probability that there is a time bomb in the airplane, you probably want to change your flight. Extinction of the whole world is more important to avoid by literally a trillion times.