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T Subsets

#### ‘Antitrust law’ is an exclusively general terms---that excludes subsets

Gerber ’20 [David; October; Distinguished Professor of Law at Chicago-Kent College of Law, Illinois Institute of Technology; Oxford Scholarship Online, Competition Law and Antitrust, “What is It? Competition Law’s Veiled Identity,” Ch. 1, p. 14-15]

C. A Core Definition

The Guide uses the terms “competition law” and “antitrust law” to refer to a general domain of law whose object is to deter private restraints on competitive conduct. We look more closely at the terms:

1. “General”—The laws included are those that are applicable throughout an economy and thereby provide a framework for all market operations (there are always some exempted sectors). Laws dealing only with specific markets (e.g., telecommunication) do not play that role.

2. “Domain of Law” here refers to a politically authorized set of norms and the institutional arrangements used to enforce them.

Is it law—or is it policy? The relationship between “competition law” and “competition policy” is not always clear. Often the terms are used interchangeably, but there can be important differences between them. Both can refer to norms used to combat restraints on competition, but they represent two different ways of looking at the relevant laws, and the differences can influence how norms are interpreted and applied. “Law” implies that established methods of interpretation are used to interpret and apply the norms and that established procedures are the sole or primary means of enforcing and changing the norms. In this view, the norms are a relatively stable component of a legal system. Thinking of those same norms as “policy,” on the other hand, implies that they are a tool of whatever government is in power and that it can use and modify them as it wishes.

3. “Restraint” refers to any limitation imposed by one or more private actors that reduces the intensity of competition in a market.

4. “Competition” refers to a process by which firms in a market seek to maximize their profits by exploiting market opportunities more effectively than other firms in the market.

#### Voting Issue---explodes the topic to infinite sectoral and case-specific affs the neg can never meaningfully prepare for

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Capitalism K

#### The 1AC invests in a form of neoliberal governmentality necessary to sustain global capitalism

Lebow ‘19 [David; Lecturer on Social Studies at Harvard University and lawyer; “Trumpism and the Dialectic of Neoliberal Reason,” Perspectives on Politics 18(2):380-398, doi:10.1017/S1537592719000434.]

I. Neoliberal Reason

As Michel Foucault and others have argued, neoliberalism entails far more than an economic doctrine favoring deregulated markets.4 It is a novel form of governmentality—a rationality linked to technologies of power that govern conduct, not just through direct state action but through liberty itself.5 Not isolated to the traditionally demarcated sphere of economics, neoliberal society entails a whole economic-juridical order.

The central program of neoliberal governmentality is the absolute generalization of competition as a universal behavioral norm. Whereas in liberal thought, the root principle of capitalism was exchange of equivalents, for neoliberal reason it is competition entailing inequality. The key result of market processes goes from specialization to selection. The competitive market is the exclusive site of rationality. It processes information, indicated by price, and is the only mechanism of producing knowledge, defined as what is profitably utilizable. Because consumers are free to refuse inferior goods or services, the price mechanism of the market system ensures optimal solutions and maximal satisfaction of preferences.

Liberal capitalism, as Karl Polanyi argued, required the construction of “fictitious” commodities like land and labor.6 These abstract, exchangeable factors of production had to be disembedded from concrete non-market social relations, norms, and values. Instead of merely disembedding commodities, neoliberalism intervenes to make competitive mechanisms regulate every moment and point in society. It strives to build an empire of market choice that invades every domain of life, and deposes all other social, political and solidaristic institutions and values.

Neoliberalism does not allege that markets are natural; competition must be constructed. Rather than endorsing laissez-faire overseen by a night watchman, it stipulates a strong state engaged in permanent vigilance, activity, and intervention to maintain artificial competition. It must not plan outcomes, which would upset the market’s innate rationality, and must be insulated from political disturbances. Economic interventionism leads down the road to serfdom; fascism and unlimited state power are its necessary results. A “minimum of economic interventionism” on the “mechanisms of the market” must be accompanied by “maximum legal interventionism” on the “conditions of the market.”7 Fixed, formal rules make up an economic constitution that inhibits planning, repulses political disruptions, and impartially safeguards competition. The state is the executor of the market and growth is the basis of public legitimacy. Governance depoliticizes public power, promotes ostensibly post-ideological technical problem-solving by experts, and relies on “best-practices” that dissolve the distinction between public and private organization.8

Unlimited generalization of competition yields an enterprise society in which calculations of supply/demand and cost/benefit become the model of all social relations. Neoliberal reason renders homo economicus, based on this model of the enterprise, the exhaustive figuration of human subjectivity. The center of economic thought shifts from labor and processes of production, exchange, and consumption to human capital and rational decision-making under conditions of scarcity. Capital is everything that can generate future income; wages are reconceived as income from capital. Labor is no longer comprehended as a commodity exchanged for a wage, but as a combination of human capital (the worker’s education and abilities) and the income stream it generates. This neoliberal subject is an aggregate of human capital who invests in his own income-generating abilities.

Neoliberalism replaces the invariant identity of the moral person as a rights-bearing citizen with a formally empty receptacle filled up through enterprising choices. It brushes aside models of freedom as self-rule achieved through moral autonomy or popular sovereignty.9 In the neoliberal “democracy of consumers,” individual consumers together constitute the sovereign that monopolizes the issuance of legitimate commands.10 Sovereign will is expressed not through political channels, but by choices in the “plebiscite of prices.”11 Whereas producers have particular interests like protectionism, consumers have a consensual and common interest; all favor the impartial functioning of market processes. In the neoliberal free society, consumers exercise their right to choose in complete independence.

II. From Keynesian State Capitalism to Neoliberal Deregulation

Situating the 2008 crisis in a historical account of American political and economic development clarifies its broader significance. The early twentieth-century Progressives were disdainful of what they took to be the chaos and waste of fin de siècle laissez-faire society. They strove to build a new American state that would replace the structural and rights-based formalisms of the nineteenth century with direct democracy and expert administration. It took the Great Depression and New Deal to bring into full bloom the Progressive commitment to pragmatic rationality. Thereafter, the “policy state” was authorized to pursue designated social goals and develop the means to accomplish them.12 The slew of New Deal innovations included state oversight of labor negotiations, invigorated antitrust, Keynesian countercyclical deficits to stimulate demand and increase purchasing power, an expansive public sector sheltered from the business cycle, aggressive banking regulation, and social insurance. Regulation and redistribution ensured the conditions necessary for an economic system based on capital accumulation, private property, and corporate profit to endure.

To many, the differences between the New Deal and Nazi political economies appeared less significant than their common response to monopoly capitalism. Both erased boundaries between state and society by politicizing the private sphere and authorizing public bureaucracies to rationalize crisis-prone economies. Frankfurt School member Friedrich Pollock suggested that this common “state capitalism” had solved the contradiction between the forces and relations of production, and thus overcome the economy’s crisis tendencies. It seemed to him that management had become merely technical and “nothing essential” had been “left to the laws of the market.”13 Worries abounded that the private law sphere of property and contract was necessary for individual freedom. Despite salient differences between Nazi and New Deal state capitalism, many feared that intervention into society was a waystation to domination. Unease about the specter of American despotism motivated development of mechanisms to ensure that interventionism did not devolve into arbitrary rule.14 Expertise was one justification and limitation of the policy state. Authority could be safely delegated to a new corps of public-spirited administrators because their scientific knowledge would not only make them effective, but also counsel restraint. Enduring misgivings led later to new laws of administrative process. The procedural state was legitimated by its defenders as being a substantively value-neutral and instrumentally rational machine serving goals set by society. Regulatory decision-making was shunted into the abstruse procedures of courtrooms and bureaucracies. Defenders of the state emphasized that its processes of allocating authority were neutral, impartial, and open to all. The balanced accommodation of all interest groups seeking to exercise influence would yield an equilibrium corresponding to the public interest.15

The intermeshing of state and society through interest groups, agencies, and professionalized parties marginalized the public. The sovereign public opinion that Progressives had hoped would rationalize government gave way to the rationality supposedly inherent in processes of public law, public-private negotiation, and regulated markets. The state was endowed with a diffuse legitimacy in exchange for a growing economy, broad distribution, and ongoing household capacity to consume.16 The Keynesian welfare settlement pacified the working class, protecting the market economy from more radical political pressures. Newly available, mass-produced commodities encouraged leveled-down notions of citizenship as welfare clientelism and privatistic consumption. As the state expanded and routinized, the initial politicization of private property relations through public intervention developed into depoliticized economic management by lawyers and social scientists organized by administrative and judicial processes.

The terms of the social contract preserving the coexistence of capitalism and democracy had been set. In exchange for a pacified citizenry and depoliticized regulatory authority, the policy state promised to deploy instrumental reason to sustain both capital accumulation and widely distributed capacity to consume (supported, always, by the exclusion of African Americans). During the decades of postwar growth, these twin responsibilities seemed attainable and compatible. Capitalism functioned smoothly enough and potentially delegitimating inequality was clipped by inflation, tax-based welfare, and collectively negotiated wages. But in the late 1960s and early 1970s, weakening growth, stagflation, trade deficits, and the collapse of Bretton Woods revealed that state capitalism had not solved the problems of economics. As the Great Depression had enabled construction of the instrumentally rational policy state, economic disturbances in the 1970s opened the breach into which neoliberal reason entered to reconfigure the political economy. Rather than shielding rational policy-making from political pressure and assuring broadly distributed welfare, neoliberalism promised growth driven by depoliticized markets freed from regulation and downwards redistribution. Believing in the optimal rationality of competitive markets, neoliberals sought to reinvigorate capital accumulation through deregulation, lowered taxes, financialization, privatization, and market expansion.

Liberating accumulation from the restrictions and obligations incurred under state capitalism might have imperiled capitalism’s peace treaty with democracy. For deregulation to proceed without impairing the system’s legitimacy, the quid pro quo—depoliticization for consumption—had to continue. Over the ensuing decades, as Wolfgang Streeck explains, the state “bought time” by finding new ways to generate illusions of widely distributed prosperity that prolonged the capacity of the lower and middle classes to consume.17 Each successive attempt exhausted itself, leading to new and escalating disturbances. In the 1970s, inflation safeguarded social peace by compensating workers for inadequate growth until stagflation ended this mode of buying time. A subsequent reliance on public debt enabled the government to pacify conflict with borrowed money. Rising debt and balking creditors delimited this phase, which was brought to a definitive close with the Clinton administration’s social spending cuts and balanced budgets. In a final stage that dawned in the 1980s but grew increasingly paramount over time, debt-based support of purchasing power was privatized. Household spending was financed through mortgages, student loans, and credit cards. This “privatized Keynesianism” buoyed consumption up through 2008, despite cuts to social spending, falling wages, and tightening employment markets.18

#### Capitalism structurally necessitates militarism, ecocide and technological dystopia---each causes extinction

Foster ‘19 [John; Sociology Professor @ Oregon; February 1; “Capitalism Has Failed—What Next?” *The Monthly Review*, Volume 70, Issue 9, <https://monthlyreview.org/2019/02/01/capitalism-has-failed-what-next/>]

Less than two decades into the twenty-first century, it is evident that capitalism has failed as a social system. The world is mired in economic stagnation, financialization, and the most extreme inequality in human history, accompanied by mass unemployment and underemployment, precariousness, poverty, hunger, wasted output and lives, and what at this point can only be called a planetary ecological “death spiral.”1 The digital revolution, the greatest technological advance of our time, has rapidly mutated from a promise of free communication and liberated production into new means of surveillance, control, and displacement of the working population. The institutions of liberal democracy are at the point of collapse, while fascism, the rear guard of the capitalist system, is again on the march, along with patriarchy, racism, imperialism, and war.

To say that capitalism is a failed system is not, of course, to suggest that its breakdown and disintegration is imminent.2 It does, however, mean that it has passed from being a historically necessary and creative system at its inception to being a historically unnecessary and destructive one in the present century. Today, more than ever, the world is faced with the epochal choice between “the revolutionary reconstitution of society at large and the common ruin of the contending classes.”3

Indications of this failure of capitalism are everywhere. Stagnation of investment punctuated by bubbles of financial expansion, which then inevitably burst, now characterizes the so-called free market.4 Soaring inequality in income and wealth has its counterpart in the declining material circumstances of a majority of the population. Real wages for most workers in the United States have barely budged in forty years despite steadily rising productivity.5 Work intensity has increased, while work and safety protections on the job have been systematically jettisoned. Unemployment data has become more and more meaningless due to a new institutionalized underemployment in the form of contract labor in the gig economy.6 Unions have been reduced to mere shadows of their former glory as capitalism has asserted totalitarian control over workplaces. With the demise of Soviet-type societies, social democracy in Europe has perished in the new atmosphere of “liberated capitalism.”7

The capture of the surplus value produced by overexploited populations in the poorest regions of the world, via the global labor arbitrage instituted by multinational corporations, is leading to an unprecedented amassing of financial wealth at the center of the world economy and relative poverty in the periphery.8 Around $21 trillion of offshore funds are currently lodged in tax havens on islands mostly in the Caribbean, constituting “the fortified refuge of Big Finance.”9 Technologically driven monopolies resulting from the global-communications revolution, together with the rise to dominance of Wall Street-based financial capital geared to speculative asset creation, have further contributed to the riches of today’s “1 percent.” Forty-two billionaires now enjoy as much wealth as half the world’s population, while the three richest men in the United States—Jeff Bezos, Bill Gates, and Warren Buffett—have more wealth than half the U.S. population.10 In every region of the world, inequality has increased sharply in recent decades.11 The gap in per capita income and wealth between the richest and poorest nations, which has been the dominant trend for centuries, is rapidly widening once again.12 More than 60 percent of the world’s employed population, some two billion people, now work in the impoverished informal sector, forming a massive global proletariat. The global reserve army of labor is some 70 percent larger than the active labor army of formally employed workers.13

Adequate health care, housing, education, and clean water and air are increasingly out of reach for large sections of the population, even in wealthy countries in North America and Europe, while transportation is becoming more difficult in the United States and many other countries due to irrationally high levels of dependency on the automobile and disinvestment in public transportation. Urban structures are more and more characterized by gentrification and segregation, with cities becoming the playthings of the well-to-do while marginalized populations are shunted aside. About half a million people, most of them children, are homeless on any given night in the United States.14 New York City is experiencing a major rat infestation, attributed to warming temperatures, mirroring trends around the world.15

In the United States and other high-income countries, life expectancy is in decline, with a remarkable resurgence of Victorian illnesses related to poverty and exploitation. In Britain, gout, scarlet fever, whooping cough, and even scurvy are now resurgent, along with tuberculosis. With inadequate enforcement of work health and safety regulations, black lung disease has returned with a vengeance in U.S. coal country.16 Overuse of antibiotics, particularly by capitalist agribusiness, is leading to an antibiotic-resistance crisis, with the dangerous growth of superbugs generating increasing numbers of deaths, which by mid–century could surpass annual cancer deaths, prompting the World Health Organization to declare a “global health emergency.”17 These dire conditions, arising from the workings of the system, are consistent with what Frederick Engels, in the Condition of the Working Class in England, called “social murder.”18

At the instigation of giant corporations, philanthrocapitalist foundations, and neoliberal governments, public education has been restructured around corporate-designed testing based on the implementation of robotic common-core standards. This is generating massive databases on the student population, much of which are now being surreptitiously marketed and sold.19 The corporatization and privatization of education is feeding the progressive subordination of children’s needs to the cash nexus of the commodity market. We are thus seeing a dramatic return of Thomas Gradgrind’s and Mr. M’Choakumchild’s crass utilitarian philosophy dramatized in Charles Dickens’s Hard Times: “Facts are alone wanted in life” and “You are never to fancy.”20 Having been reduced to intellectual dungeons, many of the poorest, most racially segregated schools in the United States are mere pipelines for prisons or the military.21

More than two million people in the United States are behind bars, a higher rate of incarceration than any other country in the world, constituting a new Jim Crow. The total population in prison is nearly equal to the number of people in Houston, Texas, the fourth largest U.S. city. African Americans and Latinos make up 56 percent of those incarcerated, while constituting only about 32 percent of the U.S. population. Nearly 50 percent of American adults, and a much higher percentage among African Americans and Native Americans, have an immediate family member who has spent or is currently spending time behind bars. Both black men and Native American men in the United States are nearly three times, Hispanic men nearly two times, more likely to die of police shootings than white men.22 Racial divides are now widening across the entire planet.

Violence against women and the expropriation of their unpaid labor, as well as the higher level of exploitation of their paid labor, are integral to the way in which power is organized in capitalist society—and how it seeks to divide rather than unify the population. More than a third of women worldwide have experienced physical/sexual violence. Women’s bodies, in particular, are objectified, reified, and commodified as part of the normal workings of monopoly-capitalist marketing.23

The mass media-propaganda system, part of the larger corporate matrix, is now merging into a social media-based propaganda system that is more porous and seemingly anarchic, but more universal and more than ever favoring money and power. Utilizing modern marketing and surveillance techniques, which now dominate all digital interactions, vested interests are able to tailor their messages, largely unchecked, to individuals and their social networks, creating concerns about “fake news” on all sides.24 Numerous business entities promising technological manipulation of voters in countries across the world have now surfaced, auctioning off their services to the highest bidders.25 The elimination of net neutrality in the United States means further concentration, centralization, and control over the entire Internet by monopolistic service providers.

Elections are increasingly prey to unregulated “dark money” emanating from the coffers of corporations and the billionaire class. Although presenting itself as the world’s leading democracy, the United States, as Paul Baran and Paul Sweezy stated in Monopoly Capital in 1966, “is democratic in form and plutocratic in content.”26 In the Trump administration, following a long-established tradition, 72 percent of those appointed to the cabinet have come from the higher corporate echelons, while others have been drawn from the military.27

War, engineered by the United States and other major powers at the apex of the system, has become perpetual in strategic oil regions such as the Middle East, and threatens to escalate into a global thermonuclear exchange. During the Obama administration, the United States was engaged in wars/bombings in seven different countries—Afghanistan, Iraq, Syria, Libya, Yemen, Somalia, and Pakistan.28 Torture and assassinations have been reinstituted by Washington as acceptable instruments of war against those now innumerable individuals, group networks, and whole societies that are branded as terrorist. A new Cold War and nuclear arms race is in the making between the United States and Russia, while Washington is seeking to place road blocks to the continued rise of China. The Trump administration has created a new space force as a separate branch of the military in an attempt to ensure U.S. dominance in the militarization of space. Sounding the alarm on the increasing dangers of a nuclear war and of climate destabilization, the distinguished Bulletin of Atomic Scientists moved its doomsday clock in 2018 to two minutes to midnight, the closest since 1953, when it marked the advent of thermonuclear weapons.29

Increasingly severe economic sanctions are being imposed by the United States on countries like Venezuela and Nicaragua, despite their democratic elections—or because of them. Trade and currency wars are being actively promoted by core states, while racist barriers against immigration continue to be erected in Europe and the United States as some 60 million refugees and internally displaced peoples flee devastated environments. Migrant populations worldwide have risen to 250 million, with those residing in high-income countries constituting more than 14 percent of the populations of those countries, up from less than 10 percent in 2000. Meanwhile, ruling circles and wealthy countries seek to wall off islands of power and privilege from the mass of humanity, who are to be left to their fate.30

More than three-quarters of a billion people, over 10 percent of the world population, are chronically malnourished.31 Food stress in the United States keeps climbing, leading to the rapid growth of cheap dollar stores selling poor quality and toxic food. Around forty million Americans, representing one out of eight households, including nearly thirteen million children, are food insecure.32 Subsistence farmers are being pushed off their lands by agribusiness, private capital, and sovereign wealth funds in a global depeasantization process that constitutes the greatest movement of people in history.33 Urban overcrowding and poverty across much of the globe is so severe that one can now reasonably refer to a “planet of slums.”34 Meanwhile, the world housing market is estimated to be worth up to $163 trillion (as compared to the value of gold mined over all recorded history, estimated at $7.5 trillion).35

The Anthropocene epoch, first ushered in by the Great Acceleration of the world economy immediately after the Second World War, has generated enormous rifts in planetary boundaries, extending from climate change to ocean acidification, to the sixth extinction, to disruption of the global nitrogen and phosphorus cycles, to the loss of freshwater, to the disappearance of forests, to widespread toxic-chemical and radioactive pollution.36 It is now estimated that 60 percent of the world’s wildlife vertebrate population (including mammals, reptiles, amphibians, birds, and fish) have been wiped out since 1970, while the worldwide abundance of invertebrates has declined by 45 percent in recent decades.37 What climatologist James Hansen calls the “species exterminations” resulting from accelerating climate change and rapidly shifting climate zones are only compounding this general process of biodiversity loss. Biologists expect that half of all species will be facing extinction by the end of the century.38

If present climate-change trends continue, the “global carbon budget” associated with a 2°C increase in average global temperature will be broken in sixteen years (while a 1.5°C increase in global average temperature—staying beneath which is the key to long-term stabilization of the climate—will be reached in a decade). Earth System scientists warn that the world is now perilously close to a Hothouse Earth, in which catastrophic climate change will be locked in and irreversible.39 The ecological, social, and economic costs to humanity of continuing to increase carbon emissions by 2.0 percent a year as in recent decades (rising in 2018 by 2.7 percent—3.4 percent in the United States), and failing to meet the minimal 3.0 percent annual reductions in emissions currently needed to avoid a catastrophic destabilization of the earth’s energy balance, are simply incalculable.40

Nevertheless, major energy corporations continue to lie about climate change, promoting and bankrolling climate denialism—while admitting the truth in their internal documents. These corporations are working to accelerate the extraction and production of fossil fuels, including the dirtiest, most greenhouse gas-generating varieties, reaping enormous profits in the process. The melting of the Arctic ice from global warming is seen by capital as a new El Dorado, opening up massive additional oil and gas reserves to be exploited without regard to the consequences for the earth’s climate. In response to scientific reports on climate change, Exxon Mobil declared that it intends to extract and sell all of the fossil-fuel reserves at its disposal.41 Energy corporations continue to intervene in climate negotiations to ensure that any agreements to limit carbon emissions are defanged. Capitalist countries across the board are putting the accumulation of wealth for a few above combatting climate destabilization, threatening the very future of humanity.

#### The alternative is radical democratic organizing around the collective goal of the abolition of capitalism---that necessitates rejecting neoliberal rhetoric in pedagogical spaces like debate

Giroux ’20 [Henry; McMaster University Professor for Scholarship in the Public Interest and The Paulo Freire Distinguished Scholar in Critical Pedagogy; June 9; “Racist Violence Can’t Be Separated from the Violence of Neoliberal Capitalism,” <https://truthout.org/articles/racist-violence-cant-be-separated-from-the-violence-of-neoliberal-capitalism/>]

As educators, it is crucial for us to examine how we talk, teach, and write about inequality as an object of critique in an age of precarity, uncertainty and the current pandemic crisis. This is especially true at a time when a growing number of authoritarian regimes around the globe substitute replace thoughtful dialogue and critical engagement with the suppression of dissent and a culture of forgetting r. How do we situate our analysis of education as part of a broader discourse and mode of analysis that interrogates the promises, ideals, and claims of a substantive democracy? How do we fight against iniquitous relations of power and wealth that empty power of its emancipatory possibilities, and as Hannah Arendt has argued, “makes most people superfluous as human beings”? How might we understand how neoliberal ideology, with its appropriation of market-based values, regressive notions of freedom and agency, uses language to infiltrate daily life? How does a pandemic pedagogy in the service of neoliberalism produce identities defined by market values, and normalize a notion of responsibility and individuality that convinces people that whatever problem they face they have no one to blame but themselves? Repeated endlessly on right-wing media platforms, the underlying conditions that disproportionately produce chronic illness among poor people of color disappear among a public distracted, if not persuaded, by a pandemic pedagogy that celebrates unchecked self-interest, disdains social responsibility, and turns away from the reality of a society with deep-seated institutional rot and unravelling of social connections and the social contract.

Pandemic pedagogy thrives on inequality and becomes a militarized and heartless normalizing tool to convince the broader public that the lives of the elderly, sick, and vulnerable should be valued according to how much they contribute to the economy. And if they are willing to die in order not to be a drain on the economy, all well and good. Nothing escapes the cruel logic of neoliberalism with its arrogance and hubris on full display as it bathes in the glow of right-wing populism, ultra-nationalism, and neofascism. Its accoutrements of dictatorship are everywhere and can be seen in the swagger of militia that storm state capitals, in police who punch and pepper spray protesters and push elderly men to the ground, and in military forces on the streets without badges reinforcing a climate of fear, repression, and unaccountability. There is more at work here than a lack of humanity on the part of the Trump administration. As the Irish journalist Fintan O’Toole observes, there is also the deepening grip of a culture of cruelty and dehumanization. He writes:

“As a society the American people are being habituated into accepting cruelty on a wide scale. Americans are being taught by Trump and his administration not to see other people as human beings whose lives are as important as their own. Once that line has been crossed – and it is not just Trump and the people around him, but many of Trump’s supporters as well – then we know where that all leads, what the ultimate destination is. There is no mystery about it. We know what happens when a government and its leaders dehumanize large numbers of people.”

Depoliticization and the Authoritarian Turn

Neoliberalism is not only an economic system, it is also an ideological apparatus that relentlessly attempts to structure consciousness, values, desires, and modes of identification in ways that align individuals with its governing structures. Central to this pedagogical project is the attempt to prevent individuals from translating private issues and troubles into broader systemic considerations. By doing this, it becomes difficult for individuals to grasp the historical, social, economic, and political forces at work in shaping a social order as a human activity deeply immersed in specific relations of power. Neoliberalism’s attempt to erase or rewrite historical and social forces makes it difficult for individuals to imagine alternative notions of society, with themselves as collective actors, or view their problems as more than the limitations of faulty character, moral failure, or a problem of personal responsibility. Reducing individuals to isolated, discrete, hermetically-sealed human beings whose lives are shaped only by notions of self-reliance and self-sufficiency is a pedagogical strategy that utterly depoliticizes people, leading them to believe that however a society is shaped, it is part of a natural order. President Trump echoed this “no alternative” narrative when asked about celebrities and rich people having special access to being tested for the coronavirus while few others had access. He replied, “Perhaps that’s been the story of life.”

This individualization of the social with its mounting privatization, gated communities, and social atomization undermines collective action, any viable notion of solidarity, and weakens the notion of global connectivity. The philosopher Byung-Chul Han has rightly argued that contemporary neoliberal society is shaped by a dysfunctional notion of solitude and hermitically-sealed notions of agency, all of which undermine the values and social connections vital to a democracy. He writes:

“Those subject to the neoliberal economy do not constitute a we that is capable of collective action. The mounting egoization and atomization of society is making the space for collective action shrink… The general collapse of the collective and the communal has engulfed it. Solidarity is vanishing. Privatization now reaches into the depths of the soul itself. The erosion of the communal is making all collective efforts more and more unlikely.”

This panoptical nature of hyper-individualism is more aligned with shared fears than shared responsibilities. Under such circumstances, trust and the notion that all life is related become difficult to grasp as the myopic language of private self-interest inures individuals to wider social problems such as extreme inequality. There is no understanding in this discourse of the damage fanatical entrepreneurialism does to our embodied collectivity. Nor is there any value attributed to the important responsibilities, social values, and notion of the common good that exceeds who we are as individuals, or how we have been shaped by diverse social forces in particular ways.

It should be clear that questions of economic and social justice cannot be addressed by a neoliberal pedagogy that enshrines self-interest and privatization while converting every social problem into individualized market solutions or regressive matters of personal responsibility. Under neoliberalism’s disimagination machine, individual responsibility is coupled with an ethos of greed, avarice, and personal gain. One consequence is the tearing up of social solidarities, public values, and an almost pathological disdain for democracy. This radical form of privatization is also a powerful force for the rise of fascist politics because it depoliticizes individuals, immerses them in the logic of social Darwinism, and makes them susceptible to the dehumanization of those considered a threat or disposable.

Just as the spread of the pandemic virus in the United States was not an innocent act of nature, neither is the rise and pervasive grip of inequality. What is clear is that neoliberal support for unbridled individualism has weakened democratic pressures and eroded democracy and equality as governing principles. Moreover, as a mode of public pedagogy, it has undercut social provisions, the social contract, and support for public goods such as education, public health, essential infrastructure, public transportation, and the most basic elements of the welfare state. As a form of pedagogical practice, neoliberalism has morphed into a form of pandemic pedagogy that sacrifices social needs and human life in the name of an economic rationality that values reviving economic growth over human rights. As a lived system of meaning and values, self-reliance and rugged individualism are the only categories available for shaping how individuals view themselves, and their relationship to others and to the planet. The individualization of everyone and the reduction of social problems to private troubles is paralleled by sanctioning a world marked by borders, walls, racism, hate, and a rejection of government intervention in the interest of the common good. Most importantly, neoliberal individualization personalizes power, creating a depoliticized subject whose only obligation as a citizen is defined by consuming and living in a world free from ethical and social responsibilities. In many ways, it does not just empty politics of any substance, it destroys its emancipatory prospects.

The neoliberal strategists use education not only to mask their abuses and the effects of their criminogenic policies, they also – in a time of crisis, when dissatisfaction of the masses might lead to chaos, revolts, and dangerous levels of resistance – move dangerously close to creating the conditions for a fascist politics. The noted theologian Frei Betto is right in stating that under such conditions, “…they cover up the causes of social ills and cover up their effects with ideologies that, by obscuring causes, fuel mood in the face of the effects. That’s why neoliberalism is now showing its authoritarian face – building walls that divide countries and ethnic groups, executive power over legislature and judiciary, disinformation about digital networks, the cult of the homeland, the brazen offensive against human rights.”

Neoliberalism and its regressive notion of individualism and individual responsibility has undermined the belief that human beings both make the world and can change it. The pandemic has ushered in a crisis that undermines that belief and opens the door for rethinking what kind of society and notion of politics will be faithful to the creation of a socialist democracy that speaks to the core values of justice, equality and solidarity. Under such circumstances, private resistance must give way to collective resistance, and personal and political rights must include economic rights. If inequality is to be defeated, the social state must replace the corporate state and social rights must be guaranteed for all. There can be no adequate struggle for economic justice and social equality unless economic inequality on a global level is addressed along with a movement for climate justice, the elimination of systemic racism and a halt to the spiraling militarism that has resulted in endless wars. This can only take place if the anti-democratic ideology of neoliberalism, with its collapse of the public into the private and its institutional structures of domination, are fully addressed and discredited. Étienne Balibar is right in stating that the triumph of neoliberalism has resulted in the “death zones of humanity.” Following Balibar, what must be made clear is that neoliberal capitalism is itself a pandemic and a dangerous harbinger of an updated fascist politics.

Overcoming Pandemic Pedagogy

The kind of societies that will emerge after the pandemic is up for grabs. In some cases, the crisis will give way to authoritarian regimes such as Chile, Hungary and Turkey, all of which have used the urgency of COVID-19 as an excuse to impose more state control and surveillance, squelch dissent, eliminate civil liberties and concentrate power in the hands of an authoritarian political class. As is well documented, history in a time of crisis also has the potential to change dominant ideologies, rethink the meaning of governance, and enlarge the sphere of justice and equality through a vision that fights for a more generous and inclusive politics. It is crucial to rethink the project of politics in order to imagine forms of resistance that are collective, inclusive and global, capable of producing new democratic arrangements for social life, more radical values and a “global economy which will no longer be at the mercy of market mechanisms.” This is a politics that must move beyond siloed identities and fractured political factions in order to build transnational solidarities in the service of an alternative radically democratic society. Making the pedagogical more political means challenging those forms of pandemic pedagogy that turn politics into theater, a favorite tactic of Trump. In this case, the performance works to suspend disbelief, hold power accountable and unravel one’s sense of critical agency. Pandemic pedagogy does more than undermine critical thinking and informed judgments, it dissolves the line between the truth and lies, fantasy and reality, and in doing so, destroys the foundation for understanding, engaging and promoting that social and economic justice. The endgame under the rubric of a pandemic pedagogy is not simply the destruction of the truth, but the elimination of democracy itself.

Central to developing an alternative democratic vision is development of a language that refuses to look away and be commodified. Such a language should be able to break through the continuity and consensus of common sense and appeals to the natural order of things. At stake here is the need to reclaim both critical and redemptive elements of a radical democracy in order to address the full spectrum of violence that structures institutions and everyday life in the United States. This is a language connected to the acquisition of civic literacy, and it demands a different regime of desires and identifications to enable us to move from “shock and stunned silence toward a coherent visceral speech, one as strong as the force that is charging at us.”

Of course, there is more at stake here than a struggle over meaning; there is also the struggle over power, over the need to create a formative culture that will produce informed critical agents who will fight for and contribute to a broad social movement that will translate meaning into a fierce struggle for economic, political and social justice. Agency in this sense must be connected to a notion of possibility and education in the service of radical change. Reimagining the future only becomes meaningful when it is rooted in a fierce struggle against the horrors and totalitarian practices of a pandemic pedagogy that falsely claims that it exists outside of history.

Václav Havel, the late Czech political dissident-turned-politician, once argued that politics follows culture, by which he meant that changing consciousness is the first step toward building mass movements of resistance. What is crucial here in the age of multiple crises is a thorough grasp of the notion that critical and engaged forms of agency are a product of emancipatory education. Moreover, at the heart of any viable notion of politics is the recognition that politics begins with attempts to change the way people think, act and feel with respect to both how they view themselves and their relations to others. There is more to agency than the neoliberal emphasis on the “empire of the self,” with its unchecked belief in the virtues of a form of self-interest that despises the bonds of sociality, solidarity and community.

The U.S. is in the midst of a political and pedagogical crisis. This is a crisis defined not only by a brutalizing racism and massive inequality, but also a constitutional crisis produced by a growing authoritarianism that has been in the making for some time. The recent attacks by the police on journalists, peaceful protesters and even elderly people marching for racial justice echoes the violence of the Brownshirts in the 1930s. Let’s stop the futile debate about whether or not the U.S. is in the midst of a fascist state and shift the register to the more serious question of how to resist it and restore a semblance of real democracy.

Under such circumstances, education should be viewed as central to politics, and it plays a crucial role in producing informed judgments, actions, morality and social responsibility at the forefront not only of agency, but politics itself. In this scenario, truth and politics mutually inform each other to erupt in a pedagogical awakening at the moment when the rules are broken. Taking risks becomes a necessity, self-reflection narrates its capacity for critically engaged agency and thinking the impossible is not an option, but a necessity. Without an informed and educated citizenry, democracy can lead to tyranny, even fascism.

Trump represents the malignant presence of a fascism that never dies and is ready to remerge at different times in different context in sometimes not-so-recognizable forms. The COVID-19 crisis and the pandemic of inequality and racism have revealed elements of a fascist politics that are more than abstractions. The struggle against a fascist politics is now visible in the rebellions taking place across the United States. While there are no political guarantees for a victory, there is a new sense that the future can be changed in the image of a just and sustainable society. There is a new energy for reform taking place in the aftermath of the killing of George Floyd. Massive protests for racial, economic and social justice are emerging all over the globe. As I have argued in The Terror of the Unforeseen, at stake here is the need for these protests to transition from a pedagogical moment and collective outburst of moral anger to a progressive international movement that is well organized and unified. Such a movement must build solidarity among different groups, imagine new forms of social life, make the impossible possible, and produce a revolutionary project in defense of equality, social justice and popular sovereignty. The racial, class, ecological and public health crisis facing the globe can only be understood as part of a comprehensive crisis of the totality. Immediate solutions such as defunding the police and improving community services are important, but they do not deal with the larger issue of eliminating a neoliberal system structured in massive racial and economic inequalities. David Harvey is right in arguing that the “immediate task is nothing more nor less than the self-conscious construction of a new political framework for approaching the question of inequality, through a deep and profound critique of our economic and social system.” This is a crisis in which different threads of oppression must be understood as part of the general crisis of capitalism. The various protests now evolving internationally at the popular level offer the promise of new global anti-fascist and anti-capitalist movements. In the current moment, democracy may be under a severe threat and appear frighteningly vulnerable, but with young people and others rising up across the globe — inspired, energized and marching in the streets — the future of a radical democracy is waiting to breathe again.

### 1NC---OFF

T Prohibit

#### ‘Prohibiting’ a practice requires per se illegality.

Lee Mendelsohn 6, Director at Edward Nathan, “KIPA Conduct Amounts to Price Fixing”, Business Day (South Africa), 6/12/2006, Lexis

The first step in any competition law analysis is to define the relevant market. There are two components to an analysis of the relevant market, namely the relevant product market and the geographic market.

The relevant product market consists of those products and services that operate as a competitive constraint on the behaviour of the suppliers of those products and/or services.

The relevant product market is determined by ascertaining whether a small but significant non-transient increase in pricing of the product in question would cause buyers to substitute the product with another product or would cause suppliers of other products to begin producing the product in question.

The relevant geographic market is determined by ascertaining whether a small but significant non-transient increase in pricing of the product in question would cause buyers to purchase the product from other geographic areas, alternatively suppliers of the product in other geographic areas to supply those products into the area in question.

For the purposes of this case study, we are instructed to accept that each medical speciality constitutes a relevant product market and that the relevant geographic market for each of them is Kleindorpie.

The Competition Act provides that "an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if … it involves … directly or indirectly fixing a purchase or selling price or any other trading condition".

An "agreement" is defined as including a contract, arrangement or understanding, whether or not legally enforceable. The term agreement is very widely defined. A "horizontal relationship" is defined as a "relationship between competitors".

The prohibition on the fixing of a purchase or selling price or any other trading condition is one of the so-called "per se" prohibitions which are included in our Competition Act. The prohibition is automatic and absolute and the fixing of prices or other trading condition cannot be justified on the basis of any technological, efficiency or other procompetitive gains that could outweigh the potential anticompetitive effect of the fixing of the price or trading condition. If the capitation plan of KIPA falls within the restrictive horizontal practice prohibiting price fixing and the fixing of other trading conditions, such practice will be a contravention of the act.

#### Voting issue---key to link uniqueness and preventing bidirectionality on an otherwise virtually unlimited topic

### 1NC---OFF

Taxes CP

#### The United States federal government should expand the scope of its core antitrust laws to anticompetitive business practices exempted by the Filed Rate Doctrine, enforced by applying a substantial progressive tax on rents from those practices.

#### The CP solves the case by expanding antitrust but, rather than enforcing it with a prohibition, it levies a progressive tax on anticompetitive rents---that’s an instantly effective deterrent AND creates traditional enforcement as follow-on.

Yonah ’21 [Reuven Avi; July 29; Irwin I. Cohn Professor of Law and Director of the International Tax LLM Program at the University of Michigan Law School, PhD in History from Harvard University, AM in History from Harvard University, JD from Harvard Law School; Tax Notes Federal, “A New Corporate Tax,” https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3743202]

If we can regulate our corporations simply through the medium of taxation, we can destroy every trust in a fortnight. It would be a great deal better for the Finance Committee to turn its attention to the imposition of such a tax upon corporations and the persons who actually need regulation, who are exercising powers that are injurious to the American people, destroying competition and invading our prosperity, than to attempt to levy a revenue tax upon all the little shareholders of all the little corporations throughout the length and breadth of the United States.1

I. Introduction: Why Tax Corporations?

Should the U.S. tax corporations? For many academic and political observers, the answer is no.2 The corporate tax is a strange tax because by definition it is not borne by the corporate taxpayer, because corporations are legal entities and cannot economically bear the burden of taxation. Moreover, unlike other indirect taxes (for example, consumption taxes that are passed on to consumers or the employer’s portion of the payroll tax that is passed on to employees), economists after over 50 years of debate are not sure who bears the burden of the corporate tax: shareholders, all capital providers, corporate employees, or consumers. The most likely answer is that all of the above do in varying ratios depending on the current elasticities of capital, labor, and demand in the global economy, and on the degree to which the U.S. economy is open.3

The general public, on the other hand, is convinced that the corporate tax is borne by large corporations, and politicians respond by maintaining the corporate tax as a tax paid by someone other than the voters. But this fiscal illusion, the opponents of the tax pronounce, is hardly a valid reason to maintain a very complicated tax that is the cause of significant deadweight loss (changes in behavior caused by the tax) and transaction costs (tax compliance and avoidance costs).4

This article will argue that we do need a corporate tax, but not for the traditional reason, which is that if we do not tax corporations, rich shareholders will be able to defer tax on their income. Instead, the article will argue that we should tax corporations for the same reason we originally adopted the corporate tax in 1909: to limit the power and regulate the behavior of our largest corporations, which are monopolies or quasi-monopolies that dominate their respective fields and drive their competitors out of business (the best example being Big Tech — that is, Amazon, Apple, Facebook, Google, and Microsoft). But if that is the reason to have a corporate tax, it should have a different structure from the current flat corporate tax of 21 percent. Instead, the tax should be set at zero for normal returns by allowing the expensing of physical capital, but at a sharply progressive rate for supernormal returns (rents), culminating at a rate of 80 percent for income above $10 billion a year.5 After this introduction, Section II of the article discusses and rejects the traditional reason given for taxing corporations. Section III argues that the only reason to maintain a corporate tax is as a tax on monopolistic rents. Section IV develops this proposal in some detail and Section V provides a conclusion.

II. A Tax on Shareholders?

The traditional reason for taxing corporations is that if we did not, rich shareholders would be able to earn their income through corporations and defer the tax until there is a dividend distribution or they sell the shares, or even avoid the tax altogether by holding their shares until death and having their heirs sell at a stepped-up basis.

That is not a valid reason for keeping alive a tax as complicated and costly as the corporate tax, which is why many academic observers have called for its abolition. Given that the corporate tax rate has been sharply cut to 21 percent and that the revenue from the corporate tax is at $230 billion (in 2019) and only a small fraction (below 7 percent) of total federal revenues of $3.4 trillion, it does not appear impossible that some future president could successfully argue for abolishing the corporate tax, despite its public popularity.

There are three reasons why the corporate tax is not a valid way of taxing shareholders. First, despite over 50 years of economic research, economists are still unsure of who bears the burden of the corporate tax.6 Plausible candidates are (a) the shareholders, if the corporate tax reduces corporate profits available to them as dividends or is reflected in the price of their shares (although even that assumes that the tax was not priced in when they bought the shares, in which case only the original shareholders in an initial public offering bear the burden); (b) all capital providers, if the tax causes capital to flow from the corporate to the noncorporate sector, which is influenced by the ever-changing relative tax rates on corporate versus passthrough businesses; (c) employees, if the corporations can effectively reduce wages in response to the tax by, for example, threatening to move production overseas; or (d) consumers, if corporations enjoy a monopolistic or quasimonopolistic position and therefore can raise prices to include the tax without fear of being undercut by competition. The true answer is probably that all of the above bear the burden in different ratios over time depending on the elasticities (response to the tax) of capital, labor, and demand.

Second, as economists have recently emphasized, many shareholders are tax exempt. In fact, a recent study has shown that 70 percent of U.S. equities are held by tax-exempt institutions or individuals (for example, through retirement accounts).7 The authors of the study argue that this is a reason to tax corporations because otherwise capital would not be taxed at all, but it seems to me that if we believe in the reason that we exempt these individuals and institutions from tax, there is no reason to tax them indirectly through a corporate tax (assuming that they do in fact bear the tax burden).

Third, even for taxable shareholders, there are better ways of taxing the shareholders directly, thereby eliminating the incidence issue. For closely held corporations, the answer is to tax the shareholders on their income earned through the corporation — that is, to make passthrough treatment mandatory — because there are no administrability issues for those corporations and most of them are passthroughs in any case. For publicly traded corporations and partnerships, passthrough taxation is not administratively feasible. Instead, the shareholders should be taxed on the changing value of their shares, because liquidity and valuation are not issues for publicly traded shares, and the same tax can be collected on a withholding basis on foreign shareholders and if necessary on tax-exempt domestic shareholders (the government can impose a lien on some of the shares and sell them if the tax is not paid by foreign shareholders).8 Pre-enactment unrealized appreciation can be reached by applying the tax in the year of enactment to the difference between the end-ofyear share value and original basis.

For these reasons, if the only rationale for having a corporate tax is to indirectly tax shareholders, it is not clear that it is worth fighting for against the many voices calling for its abolition. But that is in fact not the only rationale, as the next section explains.

III. A Tax on Monopolistic Rents

When the corporate tax was enacted in 1909, taxing shareholders was not the reason. In fact, taxing shareholders would in 1909 have been unconstitutional under the Supreme Court’s 1895 Pollock decision9 which both President Taft and then-Senate Majority Leader Nelson Aldrich believed precluded a tax on shareholders, although to placate the Progressives they also introduced a constitutional amendment to allow Congress to tax individual income, which neither expected to pass. Instead, the corporate tax was designated as an excise tax on the privilege of conducting business through the corporate form, since the Supreme Court had held such excise taxes on corporations to be constitutional in 1898; but neither Taft nor Aldrich thought that was a good reason to impose a federal tax on corporations, because the privileges of the corporate form derived from state, not federal, law.

Instead, as I have shown elsewhere by examining the legislative history, the corporate tax of 1909 was primarily seen as a vehicle for limiting the power of and regulating the great trusts such as John D. Rockefeller’s Standard Oil Co. or J.P. Morgan’s U.S. Steel Corp.10 The Taft administration was at the same time litigating against Standard Oil and American Tobacco (among many other trusts) to break them up under the Sherman Act of 1890, but the prospects of the litigation were uncertain (the government had lost the E.C. Knight case in the Supreme Court in 1895 and only narrowly won the Northern Securities case in 1904). Thus, as Taft said in his message to Congress, we should have a corporate tax to curb the trusts:

Another merit of this tax is the federal supervision which must be exercised in order to make the law effective over the annual accounts and business transactions of all corporations. While the faculty of assuming a corporate form has been of the utmost utility in the business world, it is also true that substantially all of the abuses and all of the evils which have aroused the public to the necessity of reform were made possible by the use of this very faculty. If now, by a perfectly legitimate and effective system of taxation, we are incidentally able to possess the Government and the stockholders and the public of the knowledge of the real business transactions and the gains and profits of every corporation in the country, we have made a long step toward that supervisory control of corporations which may prevent a further abuse of power.11

The corporate tax of 1909 had several features that were considered potentially effective as antitrust measures. First, even though the tax rate was only 1 percent, both supporters and opponents knew the rate could be increased (as it ultimately was, reaching 52.8 percent in 1968) and the threat of those changes might deter the trusts. Second, the tax returns were to be made public, thus alerting the press and the voters to which corporations were the most profitable and therefore the likeliest targets for antitrust enforcement actions. Third, while intercorporate dividends were exempt (a controversial feature, because the trusts were holding corporations), there were no tax-free reorganizations and no consolidated returns.

Unfortunately, all these antitrust features of the corporate tax were eliminated by 1928. The publicity feature was eliminated in 1910, taxexempt reorganizations were adopted in 1919, and consolidated returns were made elective in 1928. Also, various pro-corporate provisions like accelerated depreciation, percentage depletion, and the foreign tax credit were adopted in the same period. While the Franklin D. Roosevelt administration limited the dividends received deduction and tax-exempt reorganizations in the 1930s, it never eliminated them, and subsequent enactments like investment tax credits reduced the corporate tax even further. As for the rate, it never exceeded 52.8 percent (as opposed to the individual rate, which reached 94 percent during World War II and was still as high as 70 percent when Ronald Reagan was elected president). The effective corporate tax rate was much lower because of interest and depreciation deductions and investment tax credits. In 1986 the corporate rate was reduced from 46 percent to 34 percent (later raised to 35 percent), and despite various base-broadening measures, the effective corporate rate remained low. Corporate tax revenues consequently declined from 25 percent of total federal revenues in the 1960s to less than 10 percent in the 2000s. Finally, in 2017 the corporate tax rate was reduced to 21 percent, and it was a flat rate — all the previous progressivity, which applied only to small corporations with revenues below $15 million, was eliminated.

Other than the rates, we are unlikely to reverse these pro-trust features of the corporate tax, because they are old, well established, and benefit small as well as large corporations, which are not the proper subject of a corporate tax designated to limit the power of monopolies and quasi-monopolies.

Recent research by Edward Fox has shown, however, that most of the existing corporate tax falls on supernormal returns.12 Fox shows this by demonstrating from corporate tax returns for 1995-2013 that if expensing of capital expenditures were allowed before 2017, corporate tax revenues would have been almost identical to actual revenues. Because (as discussed later) expensing is equivalent to exempting the normal return, that means that the corporate tax has historically fallen primarily on supernormal returns, or rents. This finding is consistent with Laura Power and Austin Frerick’s evidence from 2016 that excess returns to corporations have been increasing over time.13 In the current environment, because expensing is in fact allowed until 2022, that finding is even more likely to be true.

In that case, and if the main reason to have a corporate tax is to tax rents and limit monopolies, then the tax should have a different rate structure than we have now. I would suggest that the effective tax rate on normal corporate profits be zero. On supernormal returns, because the main concern is monopolies and quasi-monopolies, the tax should be progressive, with a very high tax rate (for example, 80 percent) for profits above a very high threshold (for example, $10 billion). In between, there should be a series of graduated tax rates, similar to the individual rate schedule before 1980.

#### Using taxes as a new, independent regulatory tool mainstreams them as an instrument to broadly cushion societal responses to inevitable ecological, demographic, and political crises---extinction.

Bachus ’18 [Kris and Frederic Vanswijgenhoven; 2018; Research Manager Climate and Sustainability at the Research Institute for Work and Society, University of Leuven, PhD in Social Science from KU Lueven, MA in Applied Economic Science from KU Leuven, European Master’s in Labor Science from the University College, London; Research Institute for Work and Society, University of Leuven, Master’s Degree in Comparative and International Politics from KU Leuven, Master’s Degree in Applied Economic Sciences from Universiteit Hasselt; Journal of Environmental Planning and Management, “The Use of Regulatory Taxation as a Policy Instrument for Sustainability Transitions: Old Wine in New Bottles or Unexplored Potential?” vol. 61]

1. Introduction

Environmental problems are of all times. Yet, over the past two decades, climate change, air pollution, natural resource depletion and biodiversity loss have reached the status of worldwide persistent threats (Foxon, Reed, and Stringer 2009). There is increasing consensus in the literature that common policy responses, which are in the main incremental, will not provide structural solutions to those problems (Elzen and Wieczorek 2005). Transition theory links those challenges to socio-technical systems, which fulfil a societal function using technical components, infrastructure, regulations and networks of organisations (Geels and Kemp 2000). A transition is a radical and structural change with economic, cultural, ecological and institutional developments taking place at different levels of the socio-technical system (Rotmans and Loorbach 2009).

An important discussion in transition literature concerns the question of whether transitions, niches and regimes can be governed, or even steered, in a (sustainable) direction. Most transition scholars see an active role for government, but not in the classical way as the top-down commander who can steer at will using its toolbox of instruments (Paredis 2013). Rather, government is seen as just one group of actors (Geels, Elzen, and Green 2004), who are part of the regime but simultaneously shape its adaptive capacity (Smith, Stirling, and Berkhout 2005). Government actors exert a substantial influence on the functioning of the socio-technical system as they often maintain and reproduce regime functions in an intensive manner (Smith, Stirling, and Berkhout 2005).

To address the complexity and long-term focus (one to two generations) of transitions, “existing policy instruments need to be combined with new approaches” (Elzen and Wieczorek 2005, 657). In addition to command-and-control (CAC) instruments and communicative instruments, economic instruments are used in environmental policy (Howlett and Ramesh 2003; Perman et al. 2003). Geels (2012) indicates, in the context of transport systems, that economic instruments can be used to enhance pressure on an unsustainable regime. Chappin (2011) applies simulation models to study the influence of carbon taxes on energy transitions. Although these studies point at the potential of taxation, the theoretical dynamics behind the impact of a tax on the transition process are not yet well understood, and available studies on the topic are scarce. This paper aims to contribute to the growing literature of transition governance by means of an exploratory analysis of the potential of taxation as an instrument to support sustainability transitions. We will do so by combining the literature on environmental taxation with the literature on sustainability transitions, and by identifying the conditions for a tax to have that potential. In our theoretical exploration, we will combine two heuristic frameworks from transition thinking, the multi-level perspective (MLP) and the multi-phase perspective (MPP), with the neoclassical theory of Pigouvian taxation, which is the basis of environmental taxation theory.

This paper is organised as follows. The MLP and MPP are explained in Section 2, along with other transition concepts. In Section 3, an overview is provided of the theoretical foundations of regulatory taxation. Section 4 shows the results of the combination of the theoretical strands of transitions and environmental taxation. Section 5 is dedicated to the limitations and barriers to the potential of environmental taxation, and in Section 6, we draw conclusions and provide suggestions for future research.

2. Transition theory: the MLP and the MPP

The MLP on sustainability transitions distinguishes between three levels (Geels 2004; Verbong and Geels 2007). At the macro level, the landscape represents the external environment of the system. Changes at the landscape level influence the socio-technical system (Markard and Truffer 2008). Examples of such developments are global warming, global economic growth, political crises or demographic evolutions (Geels 2002). At the meso level, the regime is the dominant form of functioning in the socio-technical system (Avelino and Rotmans 2009). The regime can be a dominant technology, institution, policy, practice or culture. At the micro level, niches present alternative (sustainable) technologies, institutions, policies, practices or cultures that cause disruptions in the functioning of the socio-technical system. By experimenting and growing stronger, niches can eventually overtake the role of the regime and install a new dynamic balance in the socio-technical system (Kemp and Loorbach 2006; Loorbach and Wijsman 2013). For example, learning effects from experiments with niche technologies such as photovoltaic energy and wind power in the energy system may make those technologies increasingly successful. After the growing phase, they may also become cheaper than regime technologies such as nuclear and fossil fuel power generation. Those niches exert pressure on the regime, which could, in combination with other pressures from the landscape, policies, market developments and cultures, lead to a replacement of nuclear and fossil fuel-based power by renewables, ending up in a new equilibrium that will be more sustainable than the previous one.

A transition presents a radical and fundamental change in the dominant structure, culture and practices of a socio-technical system (Loorbach and Rotmans 2006). The structure of the system consists of institutional, infrastructure, legal and economic provisions that are inherent to the functioning of the socio-technical system (de Haan 2010). Culture is regarded as the shared values, norms and perspectives, which may be cognitive, normative or ideological in nature, and which underlie the socio-technical system (de Haan and Rotmans 2011). Practices are the routines, habits and procedures operated by the actors in the system, which interact with the structure and the culture of the system.

The change that is required for a transition will not come about in a linear way. Rather, periods of rapid and slow (or no) change can alternate (de Haan and Rotmans 2011). This implies that there are multiple phases in a transition process. Loorbach (2007) describes four phases that together depict an ideal–typical transition process, the MPP. In the first phase, the pre-development phase, actors are engaged in experiments (Kemp and Loorbach 2006). During the take-off phase, the second phase, the regime will show signs of destabilisation and niches will get an opportunity to position themselves as a viable alternative (van der Brugge and Rotmans 2007). Rapid structural and cultural changes in the socio-technical system become visible in the acceleration phase (van der Brugge 2009). In the last phase, the stabilisation phase, a new sustainable regime is established (Avelino and Rotmans 2009).

Transitions are driven by various endogenous and exogenous developments. Exogenous developments are changes at the landscape level. Endogenous developments, on the other hand, are events occurring at the meso level (regimes) and micro level (niches). According to de Haan and Rotmans (2011), there are three groups of conditions for change: tensions, stress and pressure. Tensions are changes occurring at the landscape level threatening the position of the unsustainable regime. A regime that functions inadequately or inconsistently will experience stress, which can nurture the downfall of the regime. Regime pressure or selection pressure, finally, will appear when niches impose themselves on the regime's position by becoming viable alternatives or by making the regime's functioning obsolete. Regime pressure, along with the reactions of regime and niche actors, will create patterns of change (Frantzeskaki and de Haan 2009). When tensions dominate, a reconstellation pattern will appear. Stress and pressure will result in the patterns of, respectively, adaptation and empowerment. When certain patterns chain together, they create transition paths (de Haan 2010). Choices made in the past will affect the path along which transitions will move. Actors are confronted with path dependencies, which may turn into lock-ins. For example, the choice of the authorities of some countries to invest in nuclear power plants has created path dependencies in the energy systems of these countries, which function as lock-ins that prevent a breakthrough to an energy system based on renewable energy.

Two governance approaches within transition science indicate that belief in classical policy solutions is limited. The two most well-known governance models in transition literature are transition management (Loorbach 2007; Kemp and Loorbach 2006; Loorbach and Rotmans 2010) and strategic niche management (Hoogma 2000). Both these governance approaches emphasise the difficulties in steering socio-technical change. Strategic niche management sees the main role of government in process management, creating room for niche experimentation, making sure that the process is not dominated by certain actors, and in learning and facilitating other actors’ learning possibilities (Kemp, Schot, and Hoogma 1998). The other governance approach, transition management, departs from the same view, but presents a process management method for policy-makers wishing to influence burgeoning transition processes (Loorbach and Rotmans 2006). Transition management has been criticised, mainly because the term ‘management’ seems to suggest that it is possible to steer transitions by “deliberate intervention in pursuit of specific goals” in a top-down way (Shove and Walker 2007, 764). Although transition management scholars such as Loorbach and Rotmans develop a more nuanced perspective on the ‘steerability’ of a transition than the name ‘management’ suggests, they do assert that ‘goal-oriented transitions’, in which the policy goals guide the process, exist. This view is not shared by all transition scholars. For example, Dewulf et al. (2009) think that a multiplicity of theories is needed for addressing such complex issues as sustainability. Shove and Walker (2007) question the very starting point of transition management that it is possible to deliberately steer socio-technical system change in any direction.

Both strategic niche management and transition management focus on policies that are aimed at the level of the niches. However, they largely ignore that the destabilisation of incumbent regimes can equally be a valuable strategy, because this could speed up the upscaling of niche technologies (Kivimaa and Kern 2016). Policies discouraging certain niche technologies or practices can play a role here (Turnheim and Geels 2012). Taxation will be further examined as a regime destabilisation instrument, as the main subject of this paper. In addition, ‘policy mixes for creative destruction’ will be explored in Section 4.2.

3. Regulatory and environmental taxation

A basic idea in economics is that markets allocate resources in an efficient way. However, this thesis is only valid under the condition of the presence of well-defined and enforceable private property rights (Perman et al. 2003). If that condition is not met, the market is not capable of creating or maintaining a socially optimal or desirable situation, and market failures appear (Bator 1958). One example of a market failure is the existence of external costs or environmental externalities (Perman et al. 2003). Externalities are “benefits or costs generated as an unintended by-product of an economic1 activity that do not accrue to the parties involved in the activity and where no compensation takes place” (Owen 2004, 129). Pollution resulting from production activities is a typical example of a negative externality imposed on citizens, because the victims of the pollution have no legal rights to claim any compensation for the damage suffered. To resolve this market failure, governments can create property rights for ‘an unpolluted environment’ and give them to the victims, or even to the polluter. In the latter case, the polluter receives a ‘license to pollute’ a certain amount. Following the Coase theorem (Coase 1960), depending on the specific circumstances, this situation will lead to an equally efficient outcome as compared to victim property rights. However, from an equity point of view, the two solutions generate entirely different outcomes, as in the one case it is the polluter who pays, and in the other it is the victim (Perman et al. 2003). In theory, the polluter and the victims could bargain and agree on compensation for the damage based on the victim's or polluter's property rights, in which case government intervention becomes redundant (Coase 1960). In practice, however, the large number of victims and polluters and the costs of bargaining often prevent an optimal outcome of private bargaining. In that case, government regulation, through the use of CAC instruments, economic instruments or suasion, is needed (Perman et al. 2003). In this paper, we focus on the use of taxation as a regulatory2 policy instrument in response to existing market failures. Regulatory taxes aimed at environmental improvement are called environmental taxes.3 An alternative name is Pigouvian taxation, after the twentieth-century economist Arthur C. Pigou, who developed the idea to use taxation to tackle externalities (Pigou 1920). According to Pigou, an environmental tax equal to the marginal damage at the efficient pollution level maximises allocative efficiency and welfare. The theory of Pigouvian taxation belongs to the neoclassical economic perspective, which assumes that economic agents act in a rational way according to their individual preferences in such a way that their utility (or profit for companies) is maximised (rational choice theory). Moreover, neoclassical economics assumes that preferences are fixed, as an exogenous factor, which was the dominant assumption until the 1990s (Arnsperger and Varoufakis 2006). Later, some economists regarded preferences as fixed in the short run, but subject to change in the long run (Doyle 2004). Others completely dismissed the notion of fixed preferences stating that individual preferences change as a result of past outcomes, and sometimes even rapidly and systematically (Van Boven, Loewenstein, and Dunning 2003).

In a first-best world with no uncertainty, regulatory taxes are statically efficient because the emission reductions are achieved while using a minimum amount of resources (Sandmo 2000). They are dynamically efficient because taxpayers will be inclined to seek further reduction methods due to the fact that the undesirable behaviour remains taxed (Faure and Weishaar 2012). In this theoretically ideal situation, a tax always leads to a more efficient solution than a licence or other CAC type of instrument. However, if complexity or uncertainty is introduced, many authors criticise Pigou's theory on the optimal level of an externality tax. Although a complete review of this literature exceeds the scope of this paper, we present three of the most important critiques. First, Coase (1960) dismissed the idea that a tax equal to the marginal damage cost increases total welfare in all situations. When there is uncertainty about the marginal abatement cost curves of polluting firms, the comparison changes. Taxes keep the edge over CAC instruments when the (absolute value of the) slope of the marginal abatement cost curve is greater than the slope of the marginal damage curve. Conversely, when the marginal abatement cost curve is less steep than the marginal damage curve, CAC instruments are to be preferred to taxes (Perman et al. 2003; Baumol and Oates 1988). Second, Baumol and Oates (1988) add that it is often hard to calculate the monetary value of the marginal damage of the polluting activity, in which case a standard may also be the recommended instrument choice. And third, in case of monopoly or oligopoly, the optimal tax rate may vary from lower to higher than the marginal damage (Ebert and von dem Hagen 1998).

An important element in the discussion on the optimal tax rate is the price elasticity of demand, which is not static. The absolute value of demand elasticities tends to increase over time (Lipsey and Chrystal 2007; Pindyck and Rubinfeld 2009). The reason is that demand elasticity is, in fact, mainly determined by the availability of substitutes. Investment decisions are made with a long-term perspective, and in the long run, more options are available for developing new (clean) technologies than in the short run (OECD 2000). For example, Sterner (2007) estimated that the demand elasticity of petrol and diesel in the long run is about three times higher than in the short run.

In addition to determining the correct tax rate, other tax design elements need to be decided. First, the tax base, which is the object that is taxed (Sandmo 2000), needs to be chosen. This can be input products, output products, production factors (energy), production (processes, activities or techniques), consumption or emissions (Vollebergh 2008; Weber 2011). The most effective way of eliminating externalities is by choosing the externality itself (e.g. CO2 emissions) as the tax base (OECD 2010). In practice, emission-measuring problems often hinder direct taxation of emissions. Proxies, such as petrol sold as a transport fuel, then form alternative tax bases (Dias Soares 2011). Second, tax rates can be differentiated (Määttä 2006), in which case certain products, processes or groups of taxpayers are granted a lower tax rate or are exempt from the tax. Third, a tax can be implemented at one specific moment in time or in multiple phases whereby the tax rate is raised or reduced in each phase.

4.1. (In)compatibility arguments

The transition school sees public authorities as just one group of actors in a socio-technical system. They are an important actor, but they cannot steer a transition in a top-down way (Kemp, Rotmans, and Loorbach 2007). Traditional decision-making models, including neoclassical economics, are mostly rejected based on the following four arguments. First, traditional policy-making is deemed unfit for dealing with high-complexity, long-term, wicked societal problems, because the knowledge on ecological cause–effect relations is often limited and political compromises inevitably lead to incrementalism as opposed to structural system change (Rotmans, Loorbach, and Van derBrugge 2005; Kemp, Rotmans, and Loorbach 2007; Mathijs 2008). Second, the existing policies are the result of outdated legislation, routines and institutional relations and are characterised by path dependency and technological lock-in (Rotmans, Loorbach, and Van der Brugge 2005). Third, the view of neoclassical economics on the preferences of individuals is too static, while instead a transition would require changing preferences (Kemp, Rotmans, and Loorbach 2007). Finally, steering a transition towards sustainability involves a subjective interpretation of sustainability, which “should arise from a multi-actor process, involving a balanced diversity of stakeholders” (van der Brugge, Rotmans, and Loorbach 2005, 167). Geels (2012) describes transitions as co-evolutionary processes, which require the involvement of many social groups. Network management in decision-making would be a step forward, but even those policy networks are not necessarily concerned with the long term (Kemp, Rotmans, and Loorbach 2007).

Transition management is a governance approach based on transition theory, which proposes a bottom-up approach to steer a transition, based on multi-actor involvement. However, it does not offer a full-fledged alternative to traditional policy-making, as it is “not directly solution-oriented, but explorative and design-oriented” (Rotmans, Loorbach, and Van der Brugge 2005, 6). Therefore, some transition scholars revert to other academic fields, such as evolutionary economics to analyse sustainability transitions and related policy strategies. Inspired by the field of biology, this field focuses on three central concepts: diversity, selection and innovation. Models from evolutionary economics can cope with complexity; they deviate from neoclassical economic theories by acknowledging that economic agent behaviour is explained by bounded rationality (van den Bergh, Hofkes, and Oosterhuis 2006). People's rationality is bounded because of a lack of appropriate and reliable information, limited cognitive capacities and limited decision-making time (Kahneman 2003; Simon 1955). Evolutionary economics leaves more room for environmental taxation than most transition studies, although it emphasises the need for a combination of policy instruments or policy mixes (van den Bergh et al. 2006). The role of policy mixes for sustainability transitions is further treated in Section 4.2.

So, if the neoclassical policy instrument of environmental taxation is so hard to reconcile with the bottom-up governance principles of transition theory, is it still worthwhile to study the combination? Four arguments support an affirmative answer. First, as we demonstrated in Section 3, the impact of environmental taxation is much higher in the long run than in the short run, which gives this instrument an interesting appeal considering the fundamental long-term change transition theory describes. Second, when the economy is (threatening to get) stuck in a technology that is not serving the long-run transition goal, a regulatory tax on that technology may unlock (further) lock-in, thus avoiding an important obstacle for a sustainability transition (den Butter and Hofkes 2006). Third, policy attention tends to go to supporting niches but much less to destabilising the dominant regime, which is politically more difficult. However, according to Kivimaa and Kern (2016), niche support policies will need to go hand-in-hand with regime destabilisation policies aimed at internalising externalities. A tax on the dominant regime technology is particularly suitable for that purpose (Geels and Schot 2007). Fourth, the bounded rationality concept embraced by transition theory still incorporates a level of rationality, implying that a price signal may still have an effect.

We conclude that there is no consensus on the use of regulatory taxes to enhance sustainability transitions. Some scholars see a role for taxation, but rather as one part of a more comprehensive policy mix (Geels 2006; Kemp, Schot, and Hoogma 1998; Markard and Truffer 2008).

### 1NC---OFF

T Courts

#### ‘Law’ requires legislative action

Dr. Mohammed Saif-Alden Wattad 8, Post-Doctoral Minerva Fellow at the Max-Planck Institute for Foreign and International Criminal Law Studies in Freiburg, “The Torturing Debate on Torture”, Northern Illinois University Law Review, 29 N. Ill. U. L. Rev. 1, Fall 2008, Lexis

6 See MOHAMMED SAIF-ALDEN WATTAD, THE MEANING OF CRIMINAL LAW: THREE TENETS ON AMERICAN & COMPARATIVE CONSTITUTIONAL ASPECTS OF SUBSTANTIVE CRIMINAL LAW 44 (2008) (explaining that the term "law" refers to the laws enacted by legislative bodies [i.e. statutes, constitutions, and treaties] and is to be distinguished from the term "Law," which refers to the higher concept of the "good and just law" binding on all human beings [i.e. the moral or religious law]; if the "law" contradicts the "Law," the latter must prevail).

#### The plan is non-legislative

#### Voting issue---removes mechanistic tether from the topic and nukes courts and agency CP as a functional limits

### 1NC---OFF

Oil DA

#### Oil is back – steady recovery revives export-economies but it’s fueled by high speculative demand

Hewson 12/31/21 [Michael Hewson CHIEF MARKET ANALYST. "Oil price recovery buys BP and Shell time on renewables transition" https://www.cmcmarkets.com/en/news-and-analysis/oil-price-recovery-buys-bp-and-shell-time-on-renewables-transition]

If 2020 was the year the oil and gas industry almost imploded, then 2021 has been the year that has seen an almost Lazarus like comeback, although the big oil companies still face the same problems they had heading into the pandemic.

The collapse in prices that we saw in 2020 may well have been pandemic related, but it certainly wasn’t helped by the price war between Saudi Arabia and Russia that broke out just prior to the lockdowns. This additional factor helped exacerbated the sell-off in prices that saw US futures prices go briefly negative, as well as prompting the collapse in a whole host of US shale businesses, and the cancellation of a number of new pipelines.

In a belated effort to contain the meltdown in prices, as well as protect their own balance sheets OPEC scrambled to support prices by slashing oil production output to as low as 22.5m barrels a day in June 2020, and well below the levels of 32.9m barrels a day that were being pumped out in October 2018, as brent crude prices bottomed at about $15 a barrel during April 2020

Since that day, Russia also saw its output decline in 2020 from a peak of just over 11.3m barrels a day, to a low of just below 9m, before undergoing a steady recovery to levels just above 10m now, according to the EIA.

Having been horribly burned in the early part of 2020 it would appear that neither OPEC or Russia wants to repeat the mistake that saw the oversupply and price collapse that we saw 20 months ago, as refinery and oil storage capacity almost ran out.

With oil prices now back above $80 a barrel they now appear to be compensating for that mistake in the opposite direction, with a reluctance to overly relax their hands on the tiller when it comes to restoring the output that was cut back in response to last year’s sudden demand stop.

Currently OPEC is increasing output by 400k barrels a day on an incremental basis, month on month, with daily output now back close to 30m barrels a day, with amidst concerns that they are going too slowly as inventory levels run low.

US crude oil production also underwent a sharp slowdown slipping from 12.8m barrels a day to a low of 9.7m in May 2020. Output is now back at around 11.1m barrels a day according to the EIA.

While the price and demand collapse dented the balance sheets of the oil producing countries it also did immense damage to the balance sheets of the big oil major companies, losing as they did a combined $76bn between them. Around $70bn of that amount was as a result of write-downs and impairments on unviable or stranded assets, however the challenge for the likes of Exxon Mobil, BP and Royal Dutch Shell remains in how they transition towards a renewable future without hammering their margins.

Since those dark days in 2020 when we saw the share prices of the big major companies lose over 40% of their market cap, we’ve seen a fairly decent recovery, although most of the same questions remain.

As we can see from the above graphic, we’ve seen a decent rebound in the share price of the oil majors although it is notable that both BP and Royal Dutch Shell have lagged despite the surge in not only the oil price, but also in natural gas prices as well, which have hit record highs in Europe, and 7-year highs in the US.

This is disappointing especially when you consider that we’ve rebounded from share price levels last seen in the 1990’s, and that we’ve seen both BP and Royal Dutch Shell restart their dividends as well as share buybacks.

The oil and gas sector has been one of the FTSE100 outperformers this year as can be seen from the chart below:

So how have BP and Shell managed their recovery process this year? It is certainly welcome that the rebound in oil and gas prices has helped boost the balance sheets of both businesses.

In 2020 BP was eventually forced to bow to the inevitable and cut its dividend to 5.25c a share, as well as announcing swingeing job cuts

Now as we look back on the last 12 months one has to assess whether BP and Shell are doing enough to help with the transition towards renewables without hammering the very margins that allow them to return loads of cash to their shareholders.

Both companies are already coming under pressure from an increasingly boisterous green lobby, as well as ESG investors to be more environmentally friendly, and become carbon neutral by the end of the decade.

If we look at how BP has done this year, there has been progress on the balance sheet, as well as the debt levels, with debt now down to $31.97bn, in the latest Q3 numbers, down from $32.7bn in H1, and well below the target of $35bn set at the start of this year.

Even so, the business still has some way to go before it gets to a place where its reliance on crude oil and natural gas becomes less important, with capex still low relative to its peers at $9.2bn year to date.

The company also increased its dividend to 5.46c a share, as well as announcing a $1.4bn share buyback from its H1 surplus cash flow, while also saying that with oil prices at $60 there was scope to deliver buybacks of $1bn a quarter, and to have capacity to increase the dividend by 4%.

While this is all good news for shareholders in the short term, and the rest of this year likely to be a decent one when it comes to the current level of oil and natural gas prices, a fact acknowledged in BP’s Q4 outlook, with the gas regions expected to contribute strongly on higher demand, the jury remains out on how long the business can enjoy the levels of cashflow fossil fuels afford them.

Demand is likely to hold up into the winter months, however management needs to have a plan other than returning cash to shareholders, especially with the green lobby breathing down its neck to cut emissions faster.

#### Successful climate policy necessitates exporter revenue collapse

Manley et al. 17 David Manley - National Resource Governance Institute, James Cust - The World Bank, and Giorgia Cecchinato – London School of Economics, “Stranded Nations? The Climate Policy Implications for Fossil Fuel-Rich Developing Countries,” Oxford Centre for the Analysis of Resource Rich Economies (<https://www.economics.ox.ac.uk/images/Documents/OxCarre_Policy_Papers/OxCarrePP201634.pdf>)

\*FFRDCs = fossil fuel rich developing countries

THE WORLD’S CARBON BUDGET AND STRANDED RESERVES Fossil fuels may be plentiful from a geological point of view, but if the world burns all available fossil fuels the impact on the climate will be severe. Emerging research suggests that the world should aim to restrict the accumulated carbon and other greenhouse gases emitted between 2011 and 2050 to 1,100 Gigatonnes of carbon dioxide equivalent (McGlade and Ekins, 2014; Allen et al. 2009; Allen et al. 2015, Meinhausen et al. 2009). This limit is referred to as the world’s ‘carbon budget’. Breaking this budget significantly risks deteriorating global environmental and social conditions and ‘runaway’ climate change—in which natural positive feedback loops contribute to ever greater climate change effects. In comparison, the estimated combustible carbon dioxide content of the world’s reserves3 of oil, gas, and coal in 2014 was 2,900 gigatonnes (McGlade and Ekins 2014). Therefore, to avoid using up the world’s carbon budget and causing extreme climate change, two thirds of existing fossil fuel reserves must remain undeveloped. Keeping two thirds of reserves in the ground necessitates a significant reduction in the world’s use of fossil fuels. This, in turn, necessitates a long-term decline in the demand for fossil fuels, which could occur if governments impose carbon taxes or similar policies4 ; if there is a broad transition to alternative energy supplies, such as nuclear or renewables; or if economic activity becomes significantly more efficient in using energy. Reserves may also remain undeveloped if governments impose policies to limit the market supply of fossil fuel resources. 5 A fall in fossil fuel demand, other things equal, will lead to a fall in fossil fuel prices. This might lead to existing reserves remaining undeveloped or ’stranded‘. Meanwhile projects that remain commercially viable will be less valuable. This in turn may diminish the rents and therefore tax revenues fossil fuel extraction can generate for producing countries. To understand this, consider an example from the global oil market. The price received for a barrel of oil is roughly the same for all projects after accounting for relatively small differences in the quality of oil (such as viscosity) and transport costs. However, costs will differ considerably across location and geology. Figure 2 shows a representative global supply curve that ranks all oil projects from least to most expensive in terms of unit costs of production. For any given market price, lower cost projects, on the left part of the supply curve, will have a higher asset value per barrel than high cost projects. If the producer price falls, say in response to a climate policy, some projects with costs higher than the prevailing price will become stranded, while some value of all remaining operating projects will be foregone. Asset stranding and significant falls in values in the fossil fuel industry are not new, the recent commodity price slump has stranded many projects already and fossil fuel companies have seen the value of their assets reduced by many millions of dollars. However, the scale of such an outcome under, for example, an effective global climate policy would be entirely new. It would also imply a permanence not normally considered during commodity price slumps. For example, figure 3 shows estimates of the proportion of reserves already discovered that could become permanently stranded if the world keeps to its carbon budget. THE LIKELIHOOD OF CARBON MARKET RISK Whether governments can implement effective climate policies to reduce global fossil fuel consumption or whether alternative energy sources gain sufficient market share is highly uncertain. This paper does not directly address this uncertainty but assumes that the probability is greater than zero. Further, even if the probability is low, the impact on fossil-fuel rich countries may be very large for the reasons discussed. This has some corollary to the so-called ‘fat-tailed risk’ or the ‘precautionary principle’ of climate damages—where the probability of an impact is low, but the impact itself is high, necessitating precautionary actions (Weitzman 2011). Given these conditions fossil-fuel rich countries should carefully consider how their policy choices might be modified by carbon market risk and what type of, and how urgent, such precautionary actions should be. We will address these policies in the final part of this paper. The likelihood of a permanent fall in fossil fuel demand, or ‘carbon market risk’ rest on four factors. First, governments of carbon emitting countries could impose policies that keep emissions within the global carbon budget. This could take the form of demand-side policies, such as consumer taxes, or supply-side measures such as producer taxes or quantity restrictions, or some mix of these policies. The Paris COP21 made some advance towards countries imposing climate policies but it is unclear how the result of these negotiations will influence policy. Second, the market share of renewables, nuclear and other alternatives to fossil fuels could increase substantially. Solar and wind power capacity has increased exponentially during the last decade, although starting from a small base in comparison to fossil fuel-derived energy. Currently 13 percent of global primary energy supply is from renewables. Projected shares of renewable energy to total energy in 2030 in this share range from 14 percent—by Exxon—to 43 percent—by Geotechnical and Environment Associates (Meister Consultants Group 2015). The International Energy Agency, an often quoted authority on the subject, forecasts that renewables will still account for only 15 percent of global energy supply by 2040 (IEA 2015). However, the IEA has consistently underestimated renewables growth in the past, and so can be considered relatively pessimistic (Metayer et al. 2015). Third, energy efficiency measures could improve to reduce future energy demand. There are signs that this will happen. The world economy is gradually ‘decarbonising’—greenhouse gas emissions per dollar of GDP are falling. From 2000 to 2014, the carbon intensity of economic activity has fallen by 1.3 percent each year on average, although total greenhouse gas emissions are still rising as the global economy grew 3.7 percent a year on average over the same period (PWC 2015). This decarbonisation trend is set to continue. The carbon intensity of the Chinese economy, already the largest greenhouse gas emitter in the world, fell by two percent in this period, and 6.7 percent in 2013 to 2014. In addition, Green and Stern (2015) forecast that Chinese carbon emissions will peak by 2025. A fourth factor is the success or failure of carbon capture and storage (CCS) methods—including both initiatives to expand ‘carbon sinks’ such as forests, and technologies that directly prevent carbon emission from entering the atmosphere. If these develop, there is less need to restrict fossil fuel production for climate change purposes: the carbon and other greenhouse gases can be removed from the atmosphere and stored. However, CCS faces three problems: first, aside from forests, man-made CCS methods are not currently commercially viable; second, retrofitting CCS technologies to transport, power stations and other carbon emitters appears prohibitively expensive; and third, there is currently few viable methods to safely store carbon without sufficiently reducing the risks of carbon leaking into the atmosphere after being ‘captured (Helm 2015). FROM STRANDED ASSETS TO STRANDED NATIONS: THREE CHALLENGES The risk of stranded assets for fossil fuel investors is receiving increasing attention and concern from researchers and analysts, in particular the work by Carbon Tracker (see Leaton 2013). If stranded assets are a concern for investors, we argue they should be an even bigger concern for many fossil fuel-rich developing countries. We focus on fossil fuel-rich developing countries (FFRDCs), which we define as those countries: 1) whose value of known fossil fuel reserves is at least 25 percent of their total wealth (Produced, Intangible, Foreign and Natural assets)6 OR the value of fossil fuel production is at least 10 percent of GDP; AND 2) whose GNI per capita is less than USD 12,736 (Middle, Low middle or Low income country definition according to World Bank classification). Figure 4 maps these FFRDCs; the appendix describes how we calculated fossil fuel values. For these FFRDCs, the realisation of carbon market risk—the widespread adoption of carbon policies, rise in alternative energy use or the decarbonisation of the world economy—resulting in a permanent fall in the producer price of fossil fuels presents three challenges. CHALLENGE 1: FFRDCS ARE HIGHLY EXPOSED TO CARBON MARKET RISK According to one estimate, of the USD 25 trillion of fossil fuel value at risk, fossil fuel-rich governments face 80 percent of the risk (Nelson 2014). A fall in fossil fuel prices for producers significantly reduces the rents available from fossil fuel extraction on existing investments, and makes further development of reserves less profitable, potentially stranding much of their fossil fuel reserves and related assets. This reduces government revenues collected from fossil fuel extraction and non-fiscal benefits to the domestic economy. A decline in government revenues in particular restricts the ability of governments to support economic development—although strong public financial management practices can help governments, in the short term, to shield their budgets to abrupt changes to government revenues. Fossil fuel-rich developing countries (FFRDCs) currently hold a significantly proportion of their national wealth in the form of fossil fuel reserves and related assets (figure 5) and their fossil fuel wealth is more at risk of a permanent decline in prices than non-FFRDCs (figure 7). The possibility of a permanent fall in fossil fuel use exposes these countries to the risk of losing this portion of national wealth.7 Figure 5 shows that FFRDCs ranked according to the value of fossil fuel reserves to GDP. Their median ratio of fossil fuel reserves to GDP is 3.66, compared with a median for non-FFRCs of 0.58. Note that prospective countries that are potentially rich in fossil fuels but with few developed projects and currently low production rates—Tanzania, Uganda, Guatemala, among others—do not fall within our definition of ‘fossil fuel-rich developing countries’. However, the analysis and policy implications in this paper are highly relevant for these countries as they create policies that will govern their sectors over the next few decades. Important factors in valuing FFRDCs’ reserves are the assumptions on fossil fuel prices, costs and the social discount rate. We have chosen to use prices realised in 2015 which are low by historical standards, and so produce a relatively optimistic -for FFRDCs- estimate of the value at risk. We analyse the value of production from reserves, rather than rent, so ignore costs of exploration, development and production. In addition, we have chosen a social discount rate of four percent, as used by the World Bank to estimate wealth values in World Bank (2011). Figure 7 shows the effect of a simulated decline in prices for the whole set of fossil fuel-rich developing countries, comparing the value of reserves given constant prices and the value of reserves given a steady decline in prices of two percent year-on-year. This price decline is assumed purely to illustrate the effect of a declining price path. In practice, the price decline may be higher or lower than this, and is unlikely to be a smooth decline.8 The assumption of a smooth decline in prices abstracts away from the likely path of prices. The combination of climate change policies and the rising market share of alternative energy sources may result in an abrupt and permanent fall in prices at some point in the future. For further discussion of our modelling of a price decline, please refer to the Appendix. The value-at-risk column in figure 7 shows the difference in the value of reserves assuming current prices are maintained, and the value of reserves assuming a year-on-year decline of two percent. The difference is largely determined by the rate at which countries can deplete their reserves, which we assume to be equal to the current production rate in each country. Countries with lower reserveto-production ratios are likely able to extract their resources faster than those with high reserve-toproduction ratios and avoid more of the effect of a fall in future values. Venezuela, for example, has large reserves and low production rates, so could see a fifth of the value of its reserves cut under the assumed fall in prices. CHALLENGE 2: FFRDCS COULD BE LESS ABLE TO DIVERSIFY THEIR CARBON MARKET RISK Not only are FFRDCs exposed to a possible permanent fall in fossil fuel use, but—compared with fossil fuel companies—FFRDCs are less able to diversify their exposure (Mitchell et al. 2015). This suggests that the arguments made of the dangers of stranded assets for fossil fuel companies are even more relevant for fossil fuel-rich developing countries. The ability to diversify or reduce their exposure to carbon market risk depends on two factors. First, the time and cost of converting their fossil fuel related assets into other non-related assets, such as cash—known in the financial sense as the asset’s liquidity. Second, the ability to hold a diversified portfolio of assets. In terms of market liquidity, companies can relatively easily divest from fossil fuel related assets into assets less exposed to carbon market risk. While it is likely that as more companies seek to divest liquidity will fall, but with sufficient time, an orderly transition can occur. Companies own the extraction rights to relatively few booked reserves, with relatively high production rates. For example, in 2013, the reserve-to-production ratios for all oil and gas companies were 12.8 years and 13.9 years respectively (EY 2013). Therefore, companies can, in principle, stop replacing their reserves and run down their existing reserves over the next 13 to 14 years. Although, given that most oil companies currently seek to maintain or increase their reserves, this is unlikely to happen immediately. In comparison to companies, FFRDCs hold fossil fuel assets that are less financially liquid. For FFRDCs, fossil fuel assets can typically only be converted at the rate based on the time taken to develop and produce from an extraction project. Using past reserve-to-production ratios as an indicator of the speed at which countries can convert their subsoil assets into cash, figure 8 shows that most countries must wait many decades (a median of 45 years) to liquidate their fossil fuel wealth, unless they can find ways to increase their rates of production. For those countries that enter development agreements with private sector companies, the depletion of reserves will be equal between countries and companies—the same reserve is being depleted. What accounts for difference in reserve-to-production ratios is the national ownership and production of reserves led by state-owned enterprises in many FFRDCs. For instance, 18 of the 23 countries in figure 8 have national oil companies. 9 In addition to being able to liquidate their fossil fuel assets quicker than FFRDCs, companies also own or manage a more diversified portfolio of fossil fuel assets, for example across a variety of different countries and with different cost profiles; in contrast to countries whose fossil fuel reserves are geographically bound. Further, few resource rich countries have successfully diversified their economies and holding foreign assets has been limited by the rate of depletion and ability to hold revenues as savings (Venables 2016). Sovereign wealth funds (SWFs), in which funds are invested in foreign assets, are one way for a government to hold a wider range of non-fossil fuel linked assets. However, making funds available for this purpose can be difficult given government expenditure needs within the country, and can increase the risk of inappropriate use of these funds (Bauer 2014). Further, the assets of sovereign wealth funds owned by FFRDC governments represent only three percent of their fossil fuel reserves on average (see figure 9). CHALLENGE 3: FFRDCS MAY PURSUE POLICIES THAT INCREASE EXPOSURE TO CARBON MARKET RISK In addition to being exposed and limited in their ability to diversify from carbon market risk, some of the economic policies common to fossil fuel-rich countries may increase FFRDCs’ exposure. First, National Oil Companies (NOCs), common in oil-rich countries, involve the investment of state capital into fossil fuel assets. If the expected life of these assets is long enough that declining oil, gas or coal prices will impact returns, or a government cannot liquidate these assets at a reasonable value, then governments, by investing in an NOC, may be increasing the exposure of national wealth and public assets to carbon market risk. This exposure increases for NOCs that operate reserves abroad in the same manner as other oil companies are exposed to carbon market risk (see above). Figure 10 shows the significant values of state ownership in NOCs in FFRDCs [fossil fuel rich developing countries] (for which there is data). Second, some governments seek to capture value by encouraging the domestic private sector to participate in oil, gas, and coal supply chains, often known as promoting ‘local content’. This aims to increase the share of the proceeds from extraction retained by the domestic economy. In addition, some local content policies aim to develop skills of local workers and advance business practices that spread to other sectors in the economy not directly related to extraction. However, whatever the objectives, such policies to promote local content may increase a country’s exposure to the carbon market risk by increasing the total share of a country’s assets (either foregone public revenues, or a share of the nation’s human or physical capital) that would be exposed to a fall in fossil fuel demand. If the public, physical and human capital investment in local content delivers high returns—both in the financial and social sense—in the earlier rather than later years, or if the skills and business developed to supply fossil industries can be applied to other sectors, the carbon market risk is reduced. However, if local content takes many years to develop, foregoes significant tax revenues, or has limited value outside the fossil fuel sector, these policies may increase countries’ exposure. Third, fossil fuel rich countries have tended to develop economies that are relatively carbonintensive. Figure 11 shows that petroleum and coal producers (highlighted in red and blue respectively) emit a larger amount of carbon per dollar of GDP than non-fossil fuel producers). A chief policy that has led to this carbon intensive development is the tendency for fossil fuel producers to subsidise fuel consumption (Friedrichs and Inderwildi 2013). This is a concern for countries wishing to reduce global carbon emissions, but also a concern for fossil fuel-rich countries seeking to reduce exposure to the carbon market risk. These countries could suffer in two ways. First, if their trading partners (such as the European Union) impose a carbon consumption tax: a policy in which the consumers of products are taxed according to the carbon content of the product, rather than a tax imposed on carbon emitters (Helm 2015). Second, they would suffer if climate finance initiatives reward those countries that do reduce fossil fuel consumption or emissions.

#### Sustained low oil prices decimate Middle East and Russian economy

Dettmer 20, citing Julien Barnes-Dacey, European Council on Foreign Relations and David Jalilvand, managing director of Berlin-based Orient Matters (Jamie, “Plunge in Oil Prices Could Shake Up Middle East, Russia ,” *VoA*, <https://www.voanews.com/economy-business/plunge-oil-prices-could-shake-middle-east-russia>)

The collapse in oil prices has created a bleak outlook for a number of companies and also could lead to dire political consequences for governments in the Middle East and Russia, whose budgets are already strained and who depend on fossil fuel revenue, say Western diplomats and political analysts. If oil prices do not recover soon, analysts warn, even strong central powers risk destabilization. The drop in prices comes at a difficult time for many governments in the Middle East. According to Julien Barnes-Dacey of the European Council on Foreign Relations, the coronavirus is “just one crisis on top of multiple crises — economic, political, conflict — and it raises the question: ‘Is this just one other element that pushes the region over the edge,’ particularly if you put it beside the collapse in oil prices, which has gutted the finances of Saudi Arabia and Iraq.” Their one hope is that economic recovery is swift after the pandemic ends and demand for oil mounts quickly, outstripping supply and sending prices soaring. But working through the stockpiles will take time, and demand will likely be subdued as the world works through a global recession. “Demand will remain subdued for an extended period,” the independent Rystad Energy said. “The price plunge will result in a huge loss of revenue for oil and gas producers,” said David Jalilvand, managing director of Berlin-based Orient Matters. “Most of them have already been accumulating fiscal deficits, which are now set to widen substantially,” he noted in an online commentary before oil prices turned negative. The collapse will add to “a significant economic deterioration right across the Middle East and may well aggravate already mounting geopolitical tensions in the Gulf,” Jalilvand warned. Saudi Arabia and the United Arab Emirates may be able to tap into cash reserves and borrow from international capital markets to cushion the blow in the short term, but others, like Iran, already squeezed by U.S. sanctions, and Iraq, won’t have that option, he added. Iraq and Iran Oil revenue generated around 95% of the Iraqi government’s budget last year. A budgetary crisis will make it difficult for it to pay the salaries of public servants and the army, as well as Shi’ite militias. It will also compound the difficulties Iraq was having in providing basic public services such as power and health care, analysts say. Even before the coronavirus appeared, the country was immersed in political crisis. Cuts in social spending will only aggravate political stability. Iran’s gross domestic product contracted last year by around 9.5%, and runaway inflation of 35% has eroded the purchasing power of ordinary Iranians. While only 30% of the government’s budget comes from oil revenue, Tehran has little financial room to maneuver and will also have difficulty paying for social spending — risking further unrest in a country that has experienced rising public anger. Saudi Arabia Other Middle East countries could see major political ramifications, including Saudi Arabia, where Crown Prince Mohammed bin Salman is looking to consolidate his hold on power. The preeminent Gulf kingdom has a widening fiscal deficit and shrinking reserves, and Salman’s plans for economic transformation risk being upended by budget cuts, as government revenue falls because of the pandemic and plummeting energy prices. In recent months, there has been mounting behind-the-scenes criticism of Salman from members of the royal family who have been marginalized in his rise to power. Last month, there were unconfirmed reports that Salman thwarted an attempted palace coup. Russia Russia also faces high political risks. The price plunge is “sapping the lifeblood of the Russian economy practically overnight,” said Eugene Rumer, a former U.S. national intelligence officer who is now a senior fellow at the Carnegie Endowment for International Peace. Russian newspaper Vedomosti reported Tuesday that a barrel of Russia’s Urals oil was trading at $8.48 a barrel, the lowest price since 1998. Two-thirds of Russia’s export earnings and 40% of its budget revenue is generated by oil sales. The Ministry of Finance announced earlier this year that Russia’s finances can withstand prices as low as $25 a barrel for up to 10 years by drawing on a $150 billion National Wealth Fund to compensate for shortfalls in the government’s budget. Some observers suspect this is an over-optimistic assessment and doesn’t consider the promises Putin made earlier this year in his annual State of the Union address to raise living standards, which have stagnated for the past half-decade. “The current budget is calculated at an oil price of $42 per barrel, and that, combined with foreign currency reserves of $570 billion, could indeed provide a cushion — but only in the short term,” said Margarita Assenova of the Jamestown Foundation. In the past few months before the coronavirus appeared, discontent appeared to be mounting across the country, with an increase in protests over living conditions. “It is becoming increasingly clear that if oil prices do not recover, President Vladimir Putin is unlikely to deliver on his promise to increase social spending,” Assenova said. And that will not help the Russian leader “secure his position as de facto president for life” after starting changes to the Russian constitution.

#### Russian economic decline causes conflicts globally that escalate to nuclear war

Dr. Benjamin Ståhl 15, CEO of the Blue Institute, PhD in Business Studies and Economics from Uppsala University, MA in International Relations from the University of Kent, and Johan Wiktorin, Founder and CEO of the Intelligence Company Brqthrough, Licensed Master of Competitive Intelligence and Former Member of the Swedish Armed Forces, “What’s At Stake?: A Geopolitical Perspective on the Swedish Economic Exposure in Northeast Europe”, Swedish Growth Barometer, 7/1/2015, https://blueinst.com/wp-content/uploads/2019/07/whats-at-stake\_geopolitical-perspective.pdf

Scenario 1: Disintegration

If the Russian economy continues to deteriorate and the regime continue to distance themselves from the West, the centre may not be capable to maintain legitimacy and keep the periphery together. Already, some regions and counties are highly indebted. In other parts, ethnic Russians are a minority. Regions in eastern Russia, rich in raw materials, may look to China for funding. It is, however, probable that Beijing will not want to undermine the stability in Russia.

Closer to the region in focus in this report, Kaliningrad is an area that could distance itself from the Kremlin. Economic problems and security concerns form a background that could lead to a political uprising. A “Kaliningrad-Maidan” development is at the heart of this scenario. Triggers could also come from outside Kaliningrad, in or in the immediate surrounding of the Russian Federation, or from other factors such as severe pollution.

The other countries in the region would in all probability remain cool in this situation, considering the county’s military importance for the Russian government. However, a mutiny like the ones in Kroonstad in June 1917, March 1921 or on the frigate Storozjevoj in November 1975 cannot be excluded.

Economic and political tensions in Europe could weaken the EU and worsen the development at the same time. A Greek withdrawal from the EU, triggered by its exit from the Eurozone, could set such a movement in motion. A Podemos-led government in Spain could undermine confidence for the single market, at a time when Europe also faces the consequences of a highly unstable North Africa, with a large flow of migrants.

Attempts by Russia to influence certain members in the EU, such as Hungary and Cyprus, could sow further discord in the EU. At the most severe levels of disintegration, France could adopt policies effectively blocking EU and NATO response in a time of increased tensions. Britain may opt out of the union altogether, or be forced out if their demands for special status is rejected by the other member states.

In all varieties of disintegration, uncertainty concerning the control over the nuclear arsenals will increase. The US will become involved both diplomatically and financially in order to bring clarity and establish control over the arsenals. Should Russia, in that situation, ask for military support for this, it is highly probable that the US would acquiesce: such operations in other parts of the world were the object of joint US-Russian exercises just a few years ago.

Scenario 2: Ultra-nationalism

If Russian domestic and international policy continues to become more radicalised, it might take ever more drastic forms. As the economy deteriorates, wages fall and shortages become common, a focus on nostalgic nationalism, using belligerent rhetoric and demonstrations of military power, could be used to deflect growing discontentment.

A logical target would be to “protect” zones which are perceived as Russian, e.g. where there are Russian ethnic minorities or even just Russian-speaking areas. Such rhetoric was and is used in the Ukraine.

The coming years will tell what the Russian ambitions are in the Ukraine. Offensives to secure and expand their supply lines, and weakening those of the Ukraine, are probable, and more ambitious plans, such as the opening of new directions in Kharkiv or Odessa, are possible. As a distraction, conflicts in Moldavia can be fuelled.

If the West, primarily the US, UK and Poland, support Ukraine with military means, the risk increases for further escalation of the conflict. Remaining passive, on the other hand, runs the risk that Russia perceives that it could act against other targets.

A second country that could be the target of Russian nationalism is Belarus. Judging by president Putin’s justification of the annexation of Crimea, Belarus would similarly be a legitimate candidate for “re-inclusion” in Russia.

There are indications that the regime in Belarus are worried about such a development and acting to thwart it. In late 2014, Lukashenko appointed a new government, and has increased the emphasis on “Belorussian”. The fragmented (and thoroughly infiltrated) opposition has declared that it will not field candidates in elections this autumn, since they deem the threat of president Putin to be greater than of Lukashenko himself.

Belarus has also passed laws permitting prosecution of non-regular armed troops, as a consequence of the Russian method employed in the annexation of Crimea. In the economic sphere, Russia has complained that Belarus is profiting from sanctions against Russia.

Any attempts from Russia to enter Belarus’ with military means would probably not be met by any effective resistance from the Belorussian security apparatus. The opportunities for Russia are in some ways more favourable here than in Ukraine, due to the close cooperation between the countries’ armies and intelligence services. Passive resistance cannot be ruled out but would not mean much in a short-term.

However, tensions with other former Soviet Union republics, with the EU and with NATO would surely increase. Polish and Lithuanian forces would probably mobilize to counteract spillover effects. EU policy would be substantially revised. Belorussian citizens would attempt to flee, primarily to neighbouring Poland, Lithuania and Latvia.

The Russian government would also threaten the Baltic states, in order to undermine their economies and try to influence policy in these countries. Estonia, Latvia and Lithuania would be in a precarious situation. While they need to strengthen their civil and military defence, they must retain credibility with their allies and not be perceived as to exaggerate the Russian threat. The higher the tensions, the more sensitive the world is to psychological influence.

Russia would, in this scenario, also fan nationalism in other parts of Europe through political and financial support. West Balkan is particularly vulnerable, as the EU and the US have invested considerable political capital in the region with only mixed success. Bosnia, Kosovo and Macedonia have stagnated in their political and economic development with high levels of unemployment, political polarisation and even the establishing of Islamic fundamentalist cells: a fertile ground for nationalist movements.

Finally, Russian ultra-nationalism would also be directed inwards, with an escalated persecution of the domestic political opposition, independent media, and nationalisation of foreign assets. This will be combined with attacks on minority groups, especially on Jews.

This scenario could happen separately or as a precursor to the final, and most dangerous, scenario.

Scenario 3: Test of strength

In this scenario, Russia would attempt to break NATO through challenging of one or more of the Baltic states. The objective would be to demonstrate to alliance members that NATO’s response is too late and too weak.

A precondition for success is a distraction through a crisis by an intermediator, which would tie down especially American attention and resources. The distraction could come in many forms, e.g. by partnering with North Korea, fanning war in the Middle East, or even hidden support for terrorists.

If the current polarisation in US domestic politics continues, any reaction will be obstructed and delayed. An especially vulnerable window of opportunity is in the period between the presidential elections in November 2016 and the installation of the new president in January 2017, which could create a legitimacy problem for the American political system when it comes to the possibilities of directly confronting Russia quickly.

An attack on any Baltic state would directly affect Swedish territory and air space. In the worst-case scenario, it will happen immediately before open conflict with NATO.

The Baltic states each offer different opportunities for Russia, but they all have in common that they lack any strategic depth, which means that an open invasion would be accomplished in a few days, unless support from other alliance members is forthcoming.

Estonia, which is the most powerful of the three, both economically and military, poses as a potential threat to the trade over St Petersburg. To control the maritime traffic through the Gulf of Finland is an important motive for Russia to influence Estonian politics. The population of Estonia, with 25 percent ethnic Russians, could be used to legimize action and as grounds for destabilisation, especially around the border town Narva where more than 90% of the population is ethnic Russian.

Latvia is the most vulnerable of the three states. The economy is weaker; the Russian minority is about the same as in Estonia; and Russian organised crime has a strong hold. Especially the eastern parts of the country are vulnerable to Russian influence.

Lithuania only have about six percent ethnic Russians and a stronger military tradition. On the other hand, Lithuania offers access to Kaliningrad. Lithuania’s attempts to decrease their dependence on energy from Russia has annoyed the Russian regime, as is evident in the harassments by the Russian navy of the cabling operation which will connect the Lithuanian grid to Sweden. There are also some tensions surrounding the Polish minorities in the country which Russia could exploit.

How fast Sweden will become involved depends on the extent of open, armed actions against one or all of the Baltic States.

If a confrontation occurs with non-regular or paramilitary means, maintaining dominance over Swedish territory and territorial waters will be in focus. The same will be the case for Finland, but Finnish action could be influenced by Russian fabrication of tensions in Karelia, that Helsinki could be blamed for.

NATO would try to respond in a controlled manner, i.e. prioritizing transports by air and sea. This would mean greatly increased traffic in and over the Baltic Sea. Tensions will rise drastically, with increased risks of miscalculations on both sides. Sweden and Finland are expected to act together with the rest of the EU and the US. If no direct military threat emerges against Sweden, then Sweden cannot count on any enforcements from the rest of the world apart from mutual information exchange.

The instance that the citizens in the Baltic states perceive a risk of a Russian incursion, the probability is high that a flow of refugees will commence. From Lithuania, the biggest flow will be to Poland while Latvian will flee to Sweden, mainly Gotland. Refugees from Estonia can be expected to flee towards Finland or Sweden depending on where in the country they live and where they have relations or connections.

In the worst-case scenario, Swedish and Finnish territory will become an arena for hostilities. As Russian readiness exercises have shown, airborne and marine infantry could rapidly and with surprise occupy parts of Gotland and Åland. A possible option is also to mine the Danish Straits in connection with this.

By supplies of surface-to-air and anti-ship missiles, Russian forces can temporarily extend their air and coastal defence in the Baltic Sea, protecting an incursion by land into the Baltic states. NATO would be faced with a fait accompli. The invasion does not need to happen in all three states nor include the entire territory of a country. The only thing that is needed is a demonstration of NATO’s inability to defend alliance members. This would establish a new security order.

Depending on the level of conflict that Russia would be willing to risk, air and navy bases in Sweden and Finland could be struck with missiles from the ground, air and sea. It is, however, likely that the governments would be issued an ultimatum to remain neutral, with only a few hours to comply.

Public announcement of the ultimatum would put immense pressure on the political system and weaken resistance. Such diplomatic tactics could be reinforced by forced cyber attacks on the electricity and telecommunication networks. During the coldest months of the year, the vulnerability would be the highest.

At the same time, Sweden would be expected to support their Western partners’ need for transports into the theatre of action. If Russia would close the Danish Straits, any military support to the Baltic states would need to move over Swedish territory; such as air support Norwegian air bases or aircraft carriers in the Norwegian Sea. There would also be demands to clear of mines in Oresund, and possibly for allowing equipment and troop transports to harbours on the east coast for further transport across the Baltic Sea. The Swedish to such demands would have consequences for generations to come.

If Gotland would not be occupied by Russian forces, NATO would demand to set up bases on the island. The smallest indication of acquiescing to such demands would have the Russians racing to the island.

Furthermore, Russia would coordinate activities in the far north, with submarines of all kinds and possibly even direct action in northern Finland and even in northern Sweden, in order to expand Russian air defence.

Faced with the risk of direct confrontations between Russian and American forces, Russia could mount land-based as well as amphibian operations in the north of Norway and on Svalbard, to improve the defence of Murmansk. Following a similar strategy, occupying parts of Bornholm would make it more difficult for NATO to support their members. This is probably not necessary, but it is a possible option.

In most people’s minds, there is a sharp line between the Baltic states’ eastern borders and Russia, the crossing of which is unconceivable. By first gaining the control over Gotland and Åland, the Russian General Army Staff could circumvent a mental Maginot line, in the same way as Germany attacked France through Benelux in May 1940.

Russian success in this scenario hinges on speed and the ability to contain the conflict. The first message to Washington will entail the understanding that this is not a direct conflict between the US. For Russia, the uncertainty is therefore how US interests are perceived from an American perspective.

For the US, it is not just the credibility of NATO that is at stake but also the unity of the EU. This has global connotations since allies (and enemies) in the Middle East and Asia will also form assumptions regarding the willingness and ability of the US to act in order to protect their allies. The risk is obviously that Russia miscalculates and underestimates the difference between, for instance, the departing presidential administration perceptions of US security interests on the one hand with the wider US security establishment’s perception of these on the other.

During the whole process, the threat of nuclear strikes would hover over all decision makers, which increases the degree of uncertainty. Nuclear tests in the period before a test of strength cannot be ruled out, especially since Russian emphasis on nuclear deterrence could lose credibility over time. Direct threats of using the nuclear weapons is, however, completely excluded in this scenario.

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Antitrust PIC

#### The United States federal government should:

#### regulate anticompetitive business practices by the private sector that are currently exempted by the filed rate doctrine;

#### incentivize renewable energy deployment and grid integration;

#### bail out the housing market in the case of failure;

#### adopt an policy of No First Use; and

#### enact government programs to benefit rural America.

#### Regulation solves without ‘antitrust’ or FTC involvement

Dr. Howard Shelanski 18, Ph.D. in Economics from University of California, Berkeley, Professor of Law at Georgetown University and Partner at Davis Polk & Wardwell LLP, JD from the UC Berkeley School of Law, BA from Haverford College, Former Clerk for Judge Stephen F. Williams of the U.S. Court of Appeals for the D.C. Circuit and Justice Antonin Scalia of the United States Supreme Court, Former Administrator of the White House Office of Information and Regulatory Affairs and Director of the Bureau of Economics at the Federal Trade Commission, Former Chief Economist of the Federal Communications Commission and Senior Economist for the President’s Council of Economic Advisers at the White House, “Antitrust and Deregulation”, The Yale Law Journal, Volume 127, Issue 7, 127 Yale L.J., May 2018, https://digitalcommons.law.yale.edu/ylj/vol127/iss7/5/

A. Antitrust and Regulation as Policy Alternatives

A variety of institutions can govern economic competition. Decentralized, capitalist economies generally rely on markets themselves to provide the incentives and discipline necessary to keep prices low, output high, and innovation moving forward. 8 But sometimes market forces alone cannot ensure efficiency and economic welfare--for example, when the market structure has changed due to mergers or the rise of a dominant firm, or when the market is an oligopoly susceptible to parallel conduct or collusion. In such cases, governance of competition by a nonmarket institution might be warranted. Because concentrated markets or even monopolies can arise for good reasons related to efficiency, innovation, and consumer preference, the governance of competition more often involves vigilance than liability or injunctions. Then-Judge Stephen Breyer, long [\*1926] a leading scholar of antitrust and regulation, described the best situation as being an unregulated, competitive market in which "antitrust may help maintain competition." 9

Antitrust law aims to prevent the improper creation and exploitation of market power on a case-by-case basis while avoiding the punishment of commercial success justly earned through "skill, foresight and industry." 10 Thus, competition authorities like the FTC and the DOJ's Antitrust Division review mergers, investigate single-firm conduct, and prosecute collusion. 11 Private plaintiffs can pursue civil antitrust liability through suits in the federal courts. 12 To win their claims, enforcement agencies and private plaintiffs bear the burden of showing that the effect of a firm's activity is "substantially to lessen competition, or to tend to create a monopoly," 13 or to constitute a "contract, combination, . . . or conspiracy" in restraint of trade, 14 or to "monopolize, or attempt to monopolize" any line of business. 15

Antitrust is not, however, the only institution through which government addresses competition concerns and market failures. Congress can give regulatory agencies authority to intervene where they see the need to address competition and market structure--and Congress has often done so. With such statutory authority, "[i]n effect, the agency becomes a limited-jurisdiction enforcer of antitrust principles." 16 For example, the Department of Transportation (DOT) has jurisdiction to approve transfers of routes between airlines carriers, giving it a role in reviewing airline mergers. 17 The 1992 Cable Act gave the FCC authority [\*1927] to limit the share of the national cable market that a single operator could serve, thereby giving the agency some control over the industry's market structure. 18 The FCC has long regulated market entry and, through its control over license transfers, reviewed mergers and acquisitions in several sectors of the telecommunications industry. More recently, the FCC issued, 19 and then repealed, 20 "network neutrality" regulations intended to preserve ease of entry and a level playing field for digital services. The Food and Drug Administration (FDA), Securities and Exchange Commission (SEC), Department of Energy, and numerous other federal agencies have various powers that directly affect competition. 21 State regulation can be important as well in governing competition, particularly in the insurance and healthcare industries. 22

In contrast to the case-by-case approach of antitrust, regulation typically imposes ex ante prohibitions or requirements on business conduct. The Telecommunications Act of 1996, for example, required incumbent local telephone companies to grant new competitors access to parts of their networks and prohibited incumbents from refusing to interconnect calls from their customers to customers of competing networks. 23 With the rule in place, the FCC bore no burden of proving that a specific instance of network access was necessary for competition, or that a specific denial of interconnection would harm competition. In contrast [\*1928] to antitrust, where the burden of proving liability is on the agency, under a regulatory regime the burden of seeking a waiver from regulation or challenging an agency's enforcement decision is usually on the regulated party.

Antitrust and regulation therefore present alternative approaches to governing competition and addressing market failures. 24 The government can review individual mergers under the antitrust laws, as it does in most markets, or it can set rules that impose clear, ex ante limits on the extent of concentration, as the FCC did for media ownership under the Communications Act. 25 Government can investigate under the antitrust laws whether a firm has monopoly power that it has "willful[ly]" acquired or maintained other than "as a consequence of a superior product, business acumen, or historic accident." 26 Alternatively, with authority from Congress an agency can regulate how much of a market a single firm can serve, as the FCC tried to do with cable companies, 27 or require firms to dispose of key assets in order to promote competition in a relevant market, as the DOT has done with airline slots. 28

#### Financial support solves renewables and the grid

Hunt ’21 [Sarah; November 24; CEO of the Joseph Rainey Center for Public Policy; Bloomberg Law, “U.S. Energy Markets Can Slash Emissions with Support,” https://news.bloomberglaw.com/environment-and-energy/u-s-energy-markets-can-slash-emissions-with-support]

Expanding competitive power markets in the U.S. would have climate benefits, says Sarah E. Hunt, CEO of the Joseph Rainey Center for Public Policy. Embracing a competitive model and its environmental benefits would help improve the world’s ability to protect the environment while balancing efficiency, sustainability, and energy costs, she contends.

The UN Climate Change Conference (COP 26) in Glasgow drew the world’s attention to climate change, highlighted clean energy alternatives to fossil fuels, and further clarified the need for the U.S. to maintain its leadership position in clean energy technology.

One of the strategies the parties to the United Nations Framework Convention on Climate Change ought to give more consideration in the future is the benefits of increased adoption of competitive wholesale energy markets.

This approach to emissions reduction has the broad political appeal required to tackle the global problem of climate change. Glasgow, for example, was host to the first-ever Global Conservative Climate Summit, where over 160 free-market leaders from 60 countries signed the pro-markets International Declaration on Market Environmentalism.

U.S. Energy Innovators Can Set an Example

The U.S. is a world leader in carbon emissions reductions thanks to the ingenuity of American energy innovators. American renewables are now inexpensive and efficient. Power generation using fossil fuels, like natural gas, has become cleaner by incorporating techniques and technologies that produce fewer emissions.

The U.S. must continue to set an example for other countries by encouraging renewable development, innovating new and better technologies, and striving to achieve an optimal balance between emissions reductions, affordability, and efficiency.

#### Bailouts solves housing

Boyaggi ’20 [Patrick; April 21; Co-Founder and CEO of Own Up and is a licensed loan officer, MBA from Northwestern; “The Impending Housing Crisis and Why the US Government Will Need to Bailout the Mortgage Industry...Again,” https://resources.ownup.com/the-impending-housing-crisis-and-why-the-us-government-will-need-to-bail-out-the-mortgage-industry-again]

In the first scenario, the government will spend billions of dollars to prop up loan servicers who do not have the capital to front payments on behalf of borrowers. There are several different ways they can go about this. First, they can bail them out at no cost, claiming it’s not their fault for being undercapitalized. This would be very costly to the American people and would be hard to accomplish politically. Second, they can loan the servicers money, requiring them to pay back the loans with interest. This is similar to what was done for banks in the Great Recession. Third, they can nationalize the servicers, which would forever change the future of homeownership in America.

#### Government support can bridge the rural-urban divide.

Eisenberg ’21 [Ann, Jessica Shoemaker, and Lisa Pruitt; January 21; Law Professor at the University of South Carolina; Law Professor at the University of Nebraska; Law Professor at UC-Davis; U of SC, “5 ways Biden can help rural America thrive and bridge the rural-urban divide,” https://sc.edu/uofsc/posts/2021/01/01\_conversation\_rural\_urban.php]

So, how can the federal government help?

Based on our years of research into rural issues, here are five federal initiatives that would go a long way toward empowering distressed rural communities to improve their destinies, while also helping bridge the urban/rural divide.

1. Get high-speed internet to the rest of rural America

The COVID-19 era has made more acute something rural communities were already familiar with: High-speed internet is the gateway to everything. Education, work, health care, information access and even a social life depend directly on broadband.

Yet 22.3% of rural residents and 27.7% of tribal lands residents lacked access to high-speed internet as of 2018, compared with 1.5% of urban residents.

The Trump administration undermined progress on the digital divide in 2018 by reversing an Obama-era rule that categorized broadband as a public utility, like electricity. When broadband was regulated as a utility, the government could ensure fairer access even in regions that were less profitable for service providers. The reversal left rural communities more vulnerable to the whims of competitive markets.

Although President Joe Biden has signaled support for rural broadband expansion, it’s not yet clear what the Federal Communications Commission might do under his leadership. Recategorizing broadband as a public utility could help close the digital divide.

2. Help local governments avoid going broke

It’s easy to take for granted the everyday things local governments do, like trash pickup, building code enforcement and overseeing public health. So, what happens when a local government goes broke?

A lot of rural local governments are dealing with an invisible crisis of fiscal collapse. Regions that have lost traditional livelihoods in manufacturing, mining, timber and agriculture are stuck in a downward cycle: Jobs loss and population decline mean less tax revenue to keep local government running.

Federal institutions could help by expanding capacity-building programs, like Community Development Block Grants and Rural Economic Development Loans and Grants that let communities invest in long-term assets like main street improvements and housing.

Rural activists are also calling for a federal office of rural prosperity or economic transitions that could provide leadership on the widespread need to reverse declining rural communities’ fates.

3. Rein in big agriculture

Only 6% of rural people still live in counties with economies that are farming dependent.

Decades of policies favoring consolidation of agriculture have emptied out large swaths of rural landscapes. The top 8% of farms in America now own more than 70% of American farmland, and the rural people who remain increasingly bear the brunt of decisions made in urban agribusiness boardrooms.

Rural communities get less and less of the wealth. Those in counties with industrialized agricultural are more likely to have unsafe drinking water, lower incomes and greater economic inequality.

What many rural people want from agricultural policy is increased antitrust enforcement to break up agricultural monopolies, improved conditions for agricultural workers, conservation policies that actually protect rural health, and a food policy that addresses rural hunger, which outpaces food insecurity in urban areas.

Access to affordable land is another huge issue. Beginning farmers cite that as their biggest obstacle. Federal support for these new farmers, like that imagined in the proposed Justice for Black Farmers Act or in other property-law reforms, could help rebuild an agriculture system that is diversified, sustainable and rooted in close connections to rural communities.

Biden’s plan to bring former Secretary of Agriculture Tom Vilsack back in the same role he held in the Obama administration has cast doubt on whether Biden is really committed to change. Vilsack built a suspect record on racial equity and has spent the past four years as a marketing executive for big dairy, leading many to worry his leadership will result in “agribusiness as usual.”

4. Pursue broad racial justice in rural America

One in five rural residents are people of color, and they are two to three times more likely to be poor than rural whites. Diverse rural residents are also significantly more likely to live in impoverished areas that have been described as “rural ghettos.”

More than 98% of U.S. agricultural land is owned by white people, while over 83% of farmworkers are Hispanic.

Criminal justice and law enforcement reforms occurring in cities are less likely to reach small or remote communities, leaving rural minorities vulnerable to discrimination and vigilantism, with limited avenues for redress.

At a minimum, the federal government can enhance workplace protections for farm laborers, strengthen protections of ancestral lands and tribal sovereignty and provide leadership for improving rural access to justice.

5. Focus on the basics

People who live in distressed rural communities have important place-based connections. In many cases, the idea of “just move someplace else” is a myth.

The greatest historic progress on rural poverty followed large-scale federal intervention via Franklin Roosevelt’s New Deal and Lyndon Johnson’s War on Poverty. Although these reforms were implemented in ways that were racially unjust, they offer models for ameliorating rural poverty.

They created public jobs programs that addressed important social needs like conservation and school building repair; established relationships between universities and communities for agricultural and economic progress; provided federal funding for K-12 schools and made higher education more affordable; and expanded the social safety net to address hunger and other health needs.

A new federal antipoverty program – which urban communities also need – could go a long way to improving rural quality of life. The 2009 American Recovery and Reinvestment Act targeted many of these issues. But urban communities’ quicker and stronger recovery from the Great Recession than rural ones shows that this program neglected key rural challenges.

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FTC DA

#### FTC is ramping up enforcement of dark patterns.

Bryan ’11-2 [Kristin L.; November 2; Attorney at Squire Patton Boggs LLP; Mondaq, “BREAKING: FTC Announces It Will Ramp Up Enforcement Against "Dark Patterns" Directed At Consumers,” https://www.mondaq.com/unitedstates/data-protection/1126702/breaking-ftc-announces-it-will-ramp-up-enforcement-against-dark-patterns-directed-at-consumers]

This month, CPW's Kyle Fath, Kristin Bryan, Christina Lamoureux & Elizabeth Helpling explained how data privacy and cybersecurity were Federal Trade Commission ("FTC") priorities. As they wrote, there were "three key areas of interest to consumer privacy that are now in the FTC's spotlight, as well as their relation to state privacy legislation and their anticipated impact to civil litigation." One area of interest they identified was deceptive and manipulative conduct on the Internet (including so-called "dark patterns"). Today, the FTC announced that it was going to ramp up enforcement against illegal dark patterns that trick consumers into subscriptions. Read on to learn more and what it means going forward.

First, some background. The term "dark patterns" collectively applies manipulative techniques that can impair consumer autonomy and create traps for online shoppers (for instance, think of multi-click unsubscription options). As CPW previously explained, "[e]arlier this year, the FTC hosted a workshop called "Bringing Dark Patterns to Light," and sought comments from experts and the public to evaluate how dark patterns impact customers." The genesis for this workshop was the FTC's concern with harms caused by dark patterns, and how dark patterns may take advantage of certain groups of vulnerable consumers.

Notably, the FTC is not alone in its attention to this issue as California's Attorney General previously announced regulations that banned dark patterns and required disclosure to consumers of the right to opt-out of the sale of personal information collected through online cookies. Dark patterns has also been targeted in civil litigation. This year, the weight-loss app Noom faced a class action alleging deceptive acts through Noom's cancellation policy, automatic renewal schemes, and marketing to consumers.

Building off these prior developments, today, the FTC announced a new enforcement policy statement "warning companies against deploying illegal dark patterns that trick or trap consumers into subscription services." As the FTC cautioned, "[t]he agency is ramping up its enforcement in response to a rising number of complaints about the financial harms caused by deceptive sign up tactics, including unauthorized charges or ongoing billing that is impossible cancel."

As summarized in the FTC's press release announcing this development, businesses going forward must follow three key requirements in this area or run the risk of an enforcement action (including potential civil penalties):

#### The plan trades off.

Nylen ’20 [Leah; December 10; Antitrust journalist; Politico, “FTC suffering a cash crunch as it prepares to battle Facebook,” <https://www.politico.com/news/2020/12/10/ftc-cash-facebook-lawsuit-444468>]

The agency that just launched a landmark antitrust suit to break up Facebook is so strapped for cash that its leaders have discussed shrinking their staff and warned against taking on more cases.

In a series of emails to all Federal Trade Commission staff, obtained by POLITICO, Executive Director David Robbins said the agency would face a period of “belt tightening” to cut costs — and that filing fewer cases and trimming litigation expenses must be on the table.

“[W]e will either need to bring fewer expert intensive cases or significantly decrease our litigation costs (e.g. experts, transcripts, litigation support contractors, etc.),” Robbins said in an Oct. 29 email.

The emails offer an increasingly dire portrait of the money woes facing the FTC, which has launched a record amount of litigation in the past year even as the pandemic has caused a sharp reduction in the corporate merger filing fees that normally supply about half its budget. The crunch also raises the possibility that the FTC may not have the cash it needs to win its case against Facebook, which is gearing up for an expensive fight, or to take on additional companies like Amazon.

#### Dark patterns undermine health informatics.

Capurro and Velloso ’21 [Daniel and Eduardo; 2021; Senior Lecturer in Digital Health, Computing and Information Systems, University of Melbourne AND Senior Lecturer in Human-Computer Interaction and DECRA Fellow at the University of Melbourne; Arxiv, “Dark Patterns, Electronic Medical Records, and the Opioid Epidemic,” <https://arxiv.org/pdf/2105.08870.pdf>]

The amount of information required to make sound clinical decisions is enormous and continuously growing [1, 2]. The combination of patient attributes, laboratory results, imaging—along with patient values and preferences—makes this process very complex [3]. Further, the availability of novel genetic and molecular assays that test for hundreds or thousands of genes or proteins and the emergence of previously unknown diseases make the task impossible without the support of external systems to aid clinicians and patients in sound decision making. The complexity of such decisions is one of the reasons explaining why patients only receive around half of the recommended health interventions [4, 5]—a situation with disastrous consequences for their health and well-being.

Electronic Medical Records (EMRs) have emerged in the past twenty years as comprehensive information systems used to collect and synthesize patient data, and to provide decision support for health professionals. The category of devices and artifacts used to facilitate clinical decision making are collectively known as clinical decision support systems (CDSSs). CDSSs can facilitate the documentation of relevant clinical information, alert clinicians about abnormal laboratory results, suggest relevant clinical pathways, summarize patient variables, and many other forms of decision support. Although CDSSs can be implemented through non-digital methods, such as paper reminders [6], most CDSSs are embedded in Electronic Medical Records. Given the diversity of clinical problems, interventions, and possible outcomes, evidence supporting the use of CDSSs is heterogeneous, but there is a growing number of patient and process outcomes that have been shown to be improved through the use of CDSSs. As an example, a recent overview of systematic reviews on the use of CDSS to improve outcomes in patients with diabetes found that 83% of all included studies showed positive impacts on processes of care and 1/3 of them demonstrated benefits in managing blood pressure, blood glucose, and even a reduction in mortality [7]. The accumulating evidence has made CDSSs an attractive method to influence clinical decision making and to change clinician’s behaviour.

However, at the same time that the digitisation of CDSSs has enhanced the speed, accuracy, and scalability of clinical decision making, it has also increased the risk of making the decision process more opaque and of reducing the agency of clinicians. This risk is amplified by recent advances in artificial intelligence and machine learning, which despite offering promising improvements in decision making performance, might not allow for inspection of how the recommendations were reached. This context, combined with competing interests from pharmaceutical companies and medical device manufacturers, creates fertile grounds for the proliferation of dark interface design patterns in CDSSs. We consider dark patterns to be common interface design solutions leveraging cognitive biases and heuristics to trick users into making decisions that are more aligned to third party interests than to their own. In this paper we discuss a case of dark patterns influencing patient treatment through the modification of a CDSS embedded in a commercial electronic health record.

#### Extinction.

Su ’21 [Zhaohui; 2021; Center on Smart and Connected Health Technologies, Mays Cancer Center, School of Nursing, UT Health San Antonio; The Hong Kong Polytechnic University, “Addressing Biodisaster X Threats with Artificial Intelligence and 6G Technologies: Literature Review and Critical Insights,” <https://arxiv.org/pdf/2105.08870.pdf>]

A disaster can be defined as “a serious disruption of the functioning of a community or society involving widespread human, material, economic, or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources” [47]. Based on the contributing causes, disasters are usually categorized as natural (eg, earthquakes, infectious disease-inducing epidemics, or pandemics of natural origin) and anthropogenic (eg, armed conflicts, nuclear accidents, or the release of pathogenic genetically modified organisms from laboratory settings). In the context of this study, biodisasters are defined as disasters that occur as a result of infectious pathogens with bioweapon potential, which are unleashed by state or nonstate actors accidentally and intentionally (eg, the Japanese government’s controversial decision to dump Fukushima’s contaminated water into the boundless and borderless ocean shared by all life forms on earth, including humans and sharks [48]). In the context of biodisasters, a state actor often takes the form of a nation that deliberately and systematically designs and develops infectious pathogens with its national interest in mind. In contrast, a nonstate actor is an individual or group acting independently to obtain or manufacture a pathogen either owing to misguidance or malice. Of note, although existing multilateral agreements prohibit the production and use of bioweapons by state actors (termed biowarfare) [49], the presence of signed agreements does not imply that accidental or intentional development and release of pathogens by state actors will not occur.

The concept of “bioterrorism,” defined as the deliberate release of pathogens that could cause illnesses and deaths in society, is not the focus of this study because “bioterrorism” entails both deliberation and malice (eg, to elicit terror to the public) [50]; antecedents may not necessarily apply to Biodisaster X threats. Insights from behavioral science [51-53] and evidence regarding individual-caused mass casualty events (eg, indiscriminate mass shootings) [54-56] suggest that individual actors’ behaviors, potentially leading to the onset of Biodisaster X, may or may not include conscious deliberation to harm. In other words, while it is possible that individual actors’ malicious actions might cause some biodisasters, it is also possible that some individual-caused biodisasters are accidental.

Furthermore, the term bioterrorism is limited, in that “terror” is the main outcome. We believe that for Biodisaster X, which could upend lives, livelihoods, and economies, “disaster” is a more appropriate description that sheds light on the scale and severity of its consequences and is more diverse than “terror.” Drawing insight from real-world examples, similar to the prevalent ransomware hacks, it is possible that state or individual actors could develop and utilize infectious pathogens as “ransomgens” for financial gain rather than merely aiming to generate terror in society. Therefore, under the current research context, we adopted the term “biodisaster” instead of “bioterrorism.” Furthermore, considering that various studies have discussed approaches to address state actor–initiated biodisasters [57-61], this study focuses on biodisasters that are infectious in nature, caused by individual actors, and can result in catastrophic human and economic consequences.

Biodisaster X vs Disease X

The risk of biodisasters, such as Biodisaster X, is increasing in likelihood: advances in technology, particularly the availability and maturity of biotechnology, have grown considerably in recent years. Inadvertently, these advances may resemble those of Oppenheimer [62] in facilitating the release of destructive factors. One example of the misuse of biotechnology is a microbiologist, vaccinologist, and senior biodefense researcher who worked at the United States Army Medical Research Institute of Infectious Diseases, who allegedly engineered the 2001 anthrax attacks [63-65]. While the scale of the 2001 anthrax attacks was minor, it demonstrated how easily biodisasters can occur and how unprepared society was for these events. As seen in the lack of adequate preparation and coherent responses to infectious disease–induced pandemics, including COVID-19 [66-69], Biodisaster X’s effects may be compounded to the same, if not greater, degree by incompetence across international, national, and regional agencies and organizations.

The concept of Biodisaster X can be best understood in contrast with Disease X. In terms of similarities, both Biodisaster X and Disease X are driven by pathogens unknown to humans and have the potential to cause crippling effects on society. Furthermore, based on previous inadequacies in response to emergency events including pandemics [66-74], the world at large may be ill-prepared for both Biodisaster X and Disease X. In terms of unique attributes, compared to Disease X, Biodisaster X is more likely to have the following characteristics: (1) having a pathogen directly affiliated to a laboratory; (2) having distinctive and engineered attributes tailored by the capabilities and intentions of the developer; and (3) the origin, development, and history can be definitively ascertained upon identification of the developer, which is not possible for naturally occurring pathogens (eg, the 1918 influenza pandemic), where there is always uncertainty regarding the origin and evolutionary history of the disaster [75-77].

The Imperative of Preparing for Biodisaster X

Some of the deadliest pandemics—the most recent ones ranging from AIDS, severe acute respiratory syndrome, Middle East respiratory syndrome, Ebola, and COVID-19—all have zoonotic origins [78]. Studies have further shown that for viruses that can transmit from animals to humans, especially those that can infect a diverse range of host species, the transmission speeds are substantially amplified once human-to-human transmission is established, and the diseases can quickly evolve into global pandemics [79]. Consequently, once a pathogen is transmissible within a population, there is a low access threshold: an individual actor can “obtain” these deadly pathogens without the need for advanced laboratory skills or extensive financial resources. However, costs to physical and mental health may reveal a counternarrative.

Based on available evidence, it is difficult to determine whether an individual can be a malicious “patient zero”; an individual who intentionally contracts a novel virus intending to cause infectious disease outbreaks in a society [80]. It is not impossible to purposely study and capture known or unknown deadly pathogens that can trigger infectious diseases; microbial surveys are commonly conducted to identify novel pathogens before they pose a threat to public health [81-84]. In theory, there could be individual actors, with adequate knowledge or experience (similar to the microbiologist allegedly behind the 2011 anthrax attacks [63-65]), who may take the same actions but with different motives, ranging from scientific curiosity to ill-guided intentions. Considering the rich biodiversity of wildlife, along with the large number of “missing viruses” and “missing zoonoses” that remain unidentified [85], close contacts with latent deadly pathogens are nearly impossible to control, which in turn, renders it challenging to locate or identify individual actors who might utilize them. Advances in synthetic biology may further compound the situation, especially considering the scholarly endeavors using pathogens in laboratory settings, which could amount to the level of real-world pandemics (eg, laboratory-cultured viruses such as smallpox [86-88]). The likelihood of Biodisaster X increases in proportion to these factors.

Overall, considering the species diversity of wildlife, the unknown factors related to the scale and severity of viruses in animals, which have the latent potential to infect humans, and the varying degrees of competency of community health centers in detecting infectious disease outbreaks in a bottom-up manner, it could be tremendously difficult for health experts and government officials to monitor potentially emerging Biodisaster X threats. However, not all hope is lost. Technology-based solutions, especially those utilizing AI and 6G technologies, can help address these issues.

The Need for Advanced Technology Solutions for Monitoring and Managing Biodisaster X

The Need for Technology-Based Solutions

Once Biodisaster X becomes a reality, human contact will drive transmission and become the primary fuel for exacerbating infections and deaths caused by the disaster. As seen during the COVID-19 pandemic, owing to virus spread and subsequent public health policies (eg, lockdowns), many critical societal functions could be substantially disrupted. The potential to control and contain human and economic consequences of Biodisaster X, such as the functionality of the health care systems (eg, infected health care professionals) [89-91], may also become critically undermined. In these circumstances, technology-based solutions could be the key to addressing these crises, as they are different from conventional solutions; they are not highly dependent on physical interactions and transportation. Overall, technology-based solutions require limited human resources (eg, with the ability to operate without human input), can be delivered independent of physical human contact (eg, web-based and remote deployment), and are immune to infectious diseases (eg, can function in contaminated environments). Furthermore, technology-based solutions are less vulnerable to issues ranging from physical fatigue to mental health burdens, which are health challenges that frontline workers often face amid emergency events.

The Need for Advanced Technologies

To effectively predict, control, and manage Biodisaster X, which is an event with a low probability (ie, difficult to detect preemptively) and a high impact (ie, difficult to control and contain), advanced technologies are needed. While many emerging technologies can address the dangers and damages associated with Biodisaster X [92,93], 2 families of advanced technology-based solutions show particular promise, namely AI techniques and 6G technologies.

Unique Capabilities of AI

AI is generally considered synonymous with “thinking machines” [94], or techniques that can facilitate “a computer to do things which, when done by people, are said to involve intelligence” [95]. With AI technologies, machines can identify patterns too intricate for humans to identify and process quickly. AI techniques are widely used in areas such as natural language processing, speech recognition, machine vision, targeted marketing, and health care, including efforts to combat COVID-19 [96-99]. While technologies such as virtual reality, smart sensors, drones, and robotics could play a positive role in supporting health care professionals to cope with the pandemic [100-102], AI technologies are arguably most instrumental in addressing some of the most prominent issues health experts and government officials are faced with, ranging from pandemic surveillance to COVID-19 drug and vaccine development [103-106].

AI and machine learning techniques are particularly valuable in their ability to identify trends and patterns across large amounts of data promptly and cost-effectively; for example, in identifying or searching for specific patterns. With natural language processing, for instance, data can be extracted retrospectively from clinical records or prospectively in real time and statistically processed for insights, which, in turn, can supplement existing structured data to enrich actionable information [86]. During the COVID-19 pandemic, natural language processing models have been used to analyze publicly available information such as tweets, tweet timestamps, and geolocation data, to identify and map potential COVID-19 cases cost-effectively, without utilizing testing devices or other medical resources that involve health care professional [107].

Overall, most, if not all, AI techniques are irreplaceable in regard to administering complex tasks such as extracting useful information from large data sets. Moreover, with the continuously increasing speed of its technological advancements and applications, AI technologies are often utilized as core components in other emerging technologies [108]. Smart sensors that perform advanced tasks, such as effectively identifying and recognizing captured motions and images, often need to integrate deep learning technologies (a subgroup of AI) [109-111]. These combined insights suggest that AI techniques have great potential in monitoring and managing Biodisaster X threats.

## Adv---Rates

### 1NC---AT: Grid

#### No grid impact

Larson 18 Selena Larson, Cyber threat intelligence analyst at Dragos, Inc. [Threats to Electric Grid are Real; Widespread Blackouts are Not, 8-6-2018, https://dragos.com/blog/industry-news/threats-to-electric-grid-are-real-widespread-blackouts-are-not/]//BPS

The US electric grid is not about to go down. Though it’s understandable if someone believed that. Over the last few weeks, numerous media reports suggest state-backed hackers have infiltrated the US electric grid and are capable of manipulating the flow of electricity on a grand scale and cause chaos. Threats against industrial sectors including electric utilities, oil and gas, and manufacturing are growing, and it’s reasonable for people to be concerned. But to say hackers have invaded the US electric grid and are prepared to cause blackouts is false. The initial reporting stemmed from a public Department of Homeland Security (DHS) presentation in July on Russian hacking activity targeting US electric utilities. This presentation contained previously-reported information on a group known as Dragonfly by Symantec and which Dragos associates to activity labeled DYMALLOY and ALLANITE. These groups focus on information gathering from industrial control system (ICS) networks and have not demonstrated disruptive or damaging capabilities. While some news reports cite 2015 and 2016 blackouts in Ukraine as evidence of hackers’ disruptive capabilities, DYMALLOY nor ALLANITE were involved in those incidents and it is inaccurate to suggest the DHS’s public presentation and those destructive behaviors are linked. Adversaries have not placed “cyber implants” into the electric grid to cause blackouts; but they are infiltrating business networks – and in some cases, ICS networks – in an effort to steal information and intelligence to potentially gain access to operational systems. Overall, the activity is concerning and represents the prerequisites towards a potential future disruptive event – but evidence to date does not support the claim that such an attack is imminent. The US electric grid is resilient and segmented, and although it makes an interesting plot to an action movie, one or two strains of malware targeting operational networks would not cause widespread blackouts. A destructive incident at one site would require highly-tailored tools and operations and would not effectively scale. Essentially, localized impacts are possible, and asset owners and operators should work to defend their networks from intrusions such as those described by DHS. But scaling up from isolated events to widespread impacts is highly unlikely.

### 1NC---AT: Energy Wars

#### No resource wars

Bayramov 17 Agha Bayramov, international relations PhD candidate at the University of Groningen. [Review: Dubious nexus between natural resources and conflict. Journal of Eurasian Studies, 9(1), p. 72-81, https://www.rug.nl/research/portal/files/63407252/1\_s2.0\_S187936651730026X\_main.pdf]//BPS

Second, less research has scrutinized political and economic costs of resources wars, namely occupation cost, international cost and investment costs (e.g. Meierding, 2016). The existing works give a misleading impression that resource incomes can cover easily invasion, investment and international costs of wars. Third, the existing works consider approximately most resource states to be more or less equal entities. Although such states may have equal rights from juridical perspective, they share too many diverse features to be considered equal entities in other empirical terms. For example, while Azerbaijan and Saudi Arabia have rich natural resources, they are dissimilar in a number of other important ways. However, both qualitative and quantitative analyses neglect this factor while explaining the resource-conflict nexus. Therefore, it is unwise to lump different case studies together in the same category without considering the particular characteristics of the region or country in question. Moreover, wide part of the existing works adopts a national-level approach by portraying abundancy, scarcity and conflict at the unitary state-level. Nevertheless, natural resources are distributed inconsistently over a nation’s territory. In other words, only particular places, namely cities or urban areas are affected by the abundancy or scarcity of resources. Hence, conflict more likely develops in areas which are excluded from resource wealth and development. However, the present works neglect the distinctive characteristics between resource rich cities and nonresource cities by putting them into country level analysis.

### 1NC---AT: Warming

#### Warming doesn’t cause extinction---new studies.

Nordhaus 20 Ted Nordhaus, an American author, environmental policy expert, and the director of research at The Breakthrough Institute, citing new climate change forecasts. [Ignore the Fake Climate Debate, 1-23-2020, https://www.wsj.com/articles/ignore-the-fake-climate-debate-11579795816]//BPS

Beyond the headlines and social media, where Greta Thunberg, Donald Trump and the online armies of climate “alarmists” and “deniers” do battle, there is a real climate debate bubbling along in scientific journals, conferences and, occasionally, even in the halls of Congress. It gets a lot less attention than the boisterous and fake debate that dominates our public discourse, but it is much more relevant to how the world might actually address the problem. In the real climate debate, no one denies the relationship between human emissions of greenhouse gases and a warming climate. Instead, the disagreement comes down to different views of climate risk in the face of multiple, cascading uncertainties. On one side of the debate are optimists, who believe that, with improving technology and greater affluence, our societies will prove quite adaptable to a changing climate. On the other side are pessimists, who are more concerned about the risks associated with rapid, large-scale and poorly understood transformations of the climate system. But most pessimists do not believe that runaway climate change or a hothouse earth are plausible scenarios, much less that human extinction is imminent. And most optimists recognize a need for policies to address climate change, even if they don’t support the radical measures that Ms. Thunberg and others have demanded. In the fake climate debate, both sides agree that economic growth and reduced emissions vary inversely; it’s a zero-sum game. In the real debate, the relationship is much more complicated. Long-term economic growth is associated with both rising per capita energy consumption and slower population growth. For this reason, as the world continues to get richer, higher per capita energy consumption is likely to be offset by a lower population. A richer world will also likely be more technologically advanced, which means that energy consumption should be less carbon-intensive than it would be in a poorer, less technologically advanced future. In fact, a number of the high-emissions scenarios produced by the United Nations Intergovernmental Panel on Climate Change involve futures in which the world is relatively poor and populous and less technologically advanced. Affluent, developed societies are also much better equipped to respond to climate extremes and natural disasters. That’s why natural disasters kill and displace many more people in poor societies than in rich ones. It’s not just seawalls and flood channels that make us resilient; it’s air conditioning and refrigeration, modern transportation and communications networks, early warning systems, first responders and public health bureaucracies. New research published in the journal Global Environmental Change finds that global economic growth over the last decade has reduced climate mortality by a factor of five, with the greatest benefits documented in the poorest nations. In low-lying Bangladesh, 300,000 people died in Cyclone Bhola in 1970, when 80% of the population lived in extreme poverty. In 2019, with less than 20% of the population living in extreme poverty, Cyclone Fani killed just five people. “Poor nations are most vulnerable to a changing climate. The fastest way to reduce that vulnerability is through economic development.” So while it is true that poor nations are most vulnerable to a changing climate, it is also true that the fastest way to reduce that vulnerability is through economic development, which requires infrastructure and industrialization. Those activities, in turn, require cement, steel, process heat and chemical inputs, all of which are impossible to produce today without fossil fuels. For this and other reasons, the world is unlikely to cut emissions fast enough to stabilize global temperatures at less than 2 degrees above pre-industrial levels, the long-standing international target, much less 1.5 degrees, as many activists now demand. But recent forecasts also suggest that many of the worst-case climate scenarios produced in the last decade, which assumed unbounded economic growth and fossil-fuel development, are also very unlikely. There is still substantial uncertainty about how sensitive global temperatures will be to higher emissions over the long-term. But the best estimates now suggest that the world is on track for 3 degrees of warming by the end of this century, not 4 or 5 degrees as was once feared. That is due in part to slower economic growth in the wake of the global financial crisis, but also to decades of technology policy and energy-modernization efforts. “We have better and cleaner technologies available today because policy-makers in the U.S. and elsewhere set out to develop those technologies.” The energy intensity of the global economy continues to fall. Lower-carbon natural gas has displaced coal as the primary source of new fossil energy. The falling cost of wind and solar energy has begun to have an effect on the growth of fossil fuels. Even nuclear energy has made a modest comeback in Asia.

## Adv---State Action

### 1NC---AT: Housing

#### No chance of a housing crash.

Lisa ’12-21 [Andrew; 2021; reporter; Yahoo News, “Will the Housing Market Finally Crash in 2022?” https://www.yahoo.com/now/housing-market-finally-crash-2022-140005361.html]

If the pessimist inside you wants to believe that 2022 will bring an implosion to rival anything the Great Recession doled out, you won’t have to look far to find a doom-and-gloom housing market analysis that confirms your worst suspicions. The reality, however, will probably be much less dramatic.

Current Growth is Not Sustainable, But a Crash Is Unlikely

Moving into the homestretch of 2021, Fannie Mae predicts that home prices will rise by just 7.9% between the fourth quarter of this year and the same time next year at the end of 2022 — “just” being a subjective term. Although annual growth of nearly 8% might seem trivial in light of 2021’s historic gains, 7.9% is nearly double the average historical growth rate. Since 1987, according to the Federal Reserve Bank of St. Louis, home prices have grown by an average of 4.1% per year. In short, the many buyers who were priced out of the market in 2021 should temper their expectations if they were hoping that the bubble would pop and turn the tables in favor of buyers next year. The more likely scenario is that the market will cool, but only to a point that’s less scorching hot but still historically impressive in terms of price appreciation. Although prices won’t fall, they will almost certainly increase by less — much less — than they did during the market’s historic 2021 run.

Forces Are in Play to Ease Prices Down Gently

Two conflicting storylines are teaming up to make a sudden crash unlikely in 2022. The first is rising mortgage rates. COVID-19 brought historically low-interest rates that made it cheaper to borrow money than it had ever been before. Buyers across the country knew that such a chance would likely never come again and raced to lock in loans. Those record-low rates, however, have already started inching up and continue to climb. Fannie Mae predicts the average 30-year fixed mortgage rate will jump next year to 3.3%. With the cheap-money incentive drying up, demand — and therefore prices — should plummet, bringing to fruition the crash that so many fire-and-brimstone pundits have predicted for 2022. But there’s another dynamic at play that is mitigating the price-smothering effect of rising interest rates: Even if rates continue to rise, there’s simply not enough supply for demand to crash. Fannie Mae’s 2022 outlook noted a “severe shortage of homes for sale,” which are “limiting interest rate effects on home sales and home prices of housing inventory.” Not only is supply so tight that prices will still appreciate even with a drop in demand, but historically speaking, 3.3% mortgage rates are still very low and quite enticing. The ingredients for a sudden housing market crash are not in place, but it does appear that conditions are ripe for demand and prices to ease down gently throughout next year.

#### Housing isn’t key

Dougherty ’19 [Conor; February 19; economics reporter; the New York Times, “Housing Is Already in a Slump. So It (Probably) Can’t Cause a Recession,” https://www.nytimes.com/2019/02/19/business/economy/housing-recession.html]

Inside that bit of trivia lie some fundamental insights into housing’s outsize role in the business cycle, along with clues to suggest that the economy is on firmer footing than the increasingly pessimistic forecasts make it seem. The gist is this: The United States may or may not enter a recession this year, but if it does, housing is unlikely to be the cause, because it never really recovered in the first place.

“Housing is not in a position to lead this thing down,” said Edward Leamer, an economics professor at the University of California, Los Angeles.

### 1NC---AT: Econ

#### Antitrust expansion creates an abrupt shift and doctrinal instability in antitrust that spills over throughout the economy

Dr. William Rogerson 20, Charles E. and Emma H. Morrison Professor of Economics at Northwestern University, Ph.D. in Social Sciences from the California Institute of Technology, and Dr. Howard Shelanski, Ph.D. in Economics from University of California, Berkeley, Professor of Law at Georgetown University and Partner at Davis Polk & Wardwell LLP, JD from the UC Berkeley School of Law, BA from Haverford College, Former Clerk for Judge Stephen F. Williams of the U.S. Court of Appeals for the D.C. Circuit and Justice Antonin Scalia of the United States Supreme Court, Former Administrator of the White House Office of Information and Regulatory Affairs and Director of the Bureau of Economics at the Federal Trade Commission, Former Chief Economist of the Federal Communications Commission and Senior Economist for the President’s Council of Economic Advisers at the White House, “Antitrust Enforcement, Regulation, and Digital Platforms”, University of Pennsylvania Law Review, 168 U. Pa. L. Rev. 1911, June 2020, Lexis

I. GOING BEYOND ADJUDICATION FOR ANTITRUST ENFORCEMENT

Antitrust statutes are primarily enforced in court, usually through the adjudication of specific cases or settlement against the backdrop of court-made antitrust doctrine. Indeed, despite statutory authority for the FTC to issue competition rules, and despite the technical complexity of many antitrust cases, antitrust enforcement and policy in the United States has evolved primarily through precedent developed by generalist courts, not specialized agencies. 18To be sure, the Department of Justice and the FTC influence policy through the investigations they pursue and the consent decrees they reach with parties. The FTC itself adjudicates some cases, although it does so largely according to law developed in the federal courts, to which parties can appeal any FTC decision. 19Academics and other commentators have also affected the evolution of antitrust in the United States, from supporting an economic, notably price-focused framework for U.S. competition policy to sparking a rethinking of that framework in contemporary debates. As the courts have absorbed such learning, antitrust doctrine has evolved over the decades through the push and pull of precedent across the United States judicial circuits, with the Supreme Court periodically stepping in to correct, clarify, or resolve differences among the lower federal courts. Commentators often cite antitrust as a rare example of "federal common law" in the U.S. system. 20

The adjudicatory model for implementing antitrust enforcement has several key attributes, which in turn have both advantages and disadvantages. We put aside for now the question of who is adjudicating--whether it be an expert tribunal or a court of general jurisdiction, for example--and focus on three characteristics of antitrust adjudication itself.

A. Case-by-Case, Fact-Specific Approach

Complexity of underlying issues aside, adjudication is well suited to settings in which applicability of the law is contingent on case-specific facts. With the exception of the limited conduct that the antitrust laws prohibit per se, courts review most business activities through a rule of reason, under which some conduct that is illegal in one set of circumstances is allowable in [\*1918] another. 21The inquiry into liability goes beyond whether particular conduct in fact occurred (which is the extent of the inquiry into conduct that is illegal per se) and extends into a balancing of the conduct's likely effects on competition. 22The more that liability is contingent on such case-specific facts, the more difficult it is to determine liability in advance of the conduct's having taken place. Adjudication typically occurs when conduct either is imminent or has already occurred, at which point the relevant facts as to the effects of the conduct are, in principle, more readily measured. 23Such "ex post" mechanisms of enforcement can reduce the risk of over-enforcement when compared to alternative approaches, like some forms of regulation, that spell out more comprehensively in advance what conduct is illegal. 24Reducing false positives, however, may or may not be a virtue--that calculation depends on the extent to which particular adjudicative institutions and processes under-enforce by allowing harmful conduct or transactions to slip through the liability screen.

B. Slow, Usually Predictable Doctrinal Development

A second attribute of the American adjudicatory process for antitrust is stability. While antitrust doctrine has occasionally swerved abruptly over the past century, the common-law process through which antitrust law has developed usually provides clear notice that a change is coming. As a recent example, the Supreme Court's shift in *Leegin Creative Leather Products, Inc. v. PSKS. Inc*. 25from per se liability to a rule of reason for resale price maintenance likely caught few observers by surprise. 26

Antitrust adjudication's stability, like its suitability for fact-dependent situations, is potentially double-edged. Antitrust jurisprudence can be slow to adjust to changes in economic learning or changes in the underlying economy that alter the effects of a particular kind of business conduct. For [\*1919] example, nearly thirty years ago the Supreme Court in Brooke Group v. Brown & Williamson Tobacco Corp. 27required that plaintiffs claiming predatory pricing show not only prices below some measure of incremental cost, but also that the defendant could recoup its losses. 28No plaintiff has prevailed in a predatory pricing case in a U.S. federal court since. 29That outcome might not be of concern were it the case that the Supreme Court's test accurately captures the incidence of predatory pricing. 30Economic research demonstrates, however, that predatory conduct does occur and does not depend on either below-cost pricing or recoupment. 31Predation is just one area in which court-made doctrine appears out of step with relevant economic facts and knowledge. To be sure, other forces could accelerate the common-law process of doctrinal development. For example, Congress could legislate changes to the scope, presumptions, and other parameters of antitrust law in ways that would immediately alter precedent and bind the courts going forward. 32 In practice, however, such intervention is rare and unlikely, making significant lags in doctrine a reality of antitrust adjudication in the courts.

C. Market-Driven Case Selection

In the United States, most adjudicative bodies do not select the cases that come before them. To be sure, courts have jurisdictional limitations that prevent them from hearing certain kinds of cases, and doctrines exist that allow courts to reject weak or poorly conceived complaints. Beyond those mechanisms, however, independent parties decide when and whether to pursue litigation as method of relief. One potential virtue of this separation between decisionmaking and case selection is that the market can drive the focus of judicial attention. Assuming the most widespread and most troublesome anticompetitive conduct will receive the greatest investment of litigation resources, that conduct will in turn receive the most adjudication and doctrinal development.

[\*1920] Unfortunately, the separation between adjudication and case selection will not necessarily lead to an efficient match between judicial attention and the most pressing antitrust violations. In practice, even conduct that is clearly prohibited can persist when offenders think detection is difficult; one only has to look at the consistently high number of civil and criminal price fixing cases that wind up in court, even though that conduct has clearly been illegal per se for nearly a century. 33The most widespread anticompetitive conduct might not therefore be the conduct most in need of doctrinal development--it can be just the opposite, as the persistence of cartels demonstrates. 34Moreover, if the courts develop doctrine that needs revisiting, but that deters the government or private plaintiffs from filing cases, 35then the market for judicial attention to antitrust conduct will not work well dynamically; once doctrine is settled, there may be no mechanism outside of legislation or regulatory intervention to drive doctrinal change. We return to this issue below.

D. Generalists versus Industry Experts

Returning to an issue we put aside earlier, who is doing the adjudication can matter for substantive outcomes. In U.S. antitrust law, that adjudication has occurred, at least ultimately, in generalist federal courts. That institutional locus might well make sense given the wide variety of conduct, industries, and factual circumstances that antitrust cases present. However, as specific industries come to pose particular challenges for antitrust enforcement, the case for more specialized enforcement decisionmakers becomes stronger. Traditionally, where detailed, industry-specific knowledge is required to make sound competition policy decisions, Congress has assigned authority over those decisions, at least in part, to industry-specific regulatory agencies. Thus, the Securities and Exchange Commission has authority over competitive conduct in key financial sectors. 36The FCC has parallel authority with the Department of Justice (DOJ) over telecommunications mergers and sole authority to establish terms for competitive entry into various telecommunications markets. 37State [\*1921] regulators govern entry into hospital markets through Certifications of Public Need. 38The federal courts have increasingly safeguarded the domain of industry specific regulators over competition issues even when agency decisions might be in tension with antitrust law. 39

As antitrust enforcement focuses on distinct challenges posed by a particular industry, whether digital platforms, pharmaceuticals, or something else, expert and specialized knowledge becomes even more essential to making good enforcement decisions. Under current law and enforcement frameworks, there is no systematic way to bring such specialization into the ultimate adjudication of antitrust cases in industries not already covered by specific, competition-related, regulatory statutes. To be sure, the FTC and DOJ have divisions that specialize in various industrial sectors in which they have considerable expertise. Those divisions bring that expertise into their review of conduct and transactions, but neither the FTC nor DOJ has ultimate adjudicative authority over the cases they choose to litigate. The DOJ must go to federal court to seek enforcement. The FTC can opt for an administrative enforcement mechanism with the Commission itself sitting in appellate review of initial adjudication by an administrative law judge. The Commission's decision is, however, subject to review by federal appellate courts, which have not hesitated to reverse the agency's decisions. 40 The result is that, even when agencies have brought specific industry expertise into antitrust enforcement, doctrinal application and resolution still proceeds through the common-law process of adjudication by generalist judges.

E. Tradeoffs Inherent in the Adjudicatory Approach to Antitrust

As the foregoing discussion suggests, the ex post case-by-case approach, slow doctrinal evolution, and case selection mechanism of antitrust adjudication have potential advantages and disadvantages. The tradeoffs become particularly clear through the interaction of those three characteristics.

[\*1922] Adjudication may mitigate the rate of false positives or false negatives obtained through enforcement, as proceeding case-by-case is less likely to bring about those results than are general rules that impose limits on business conduct in advance, regardless of specific circumstances. Broad ex ante specifications could prohibit beneficial or harmless conduct, and narrow ex ante specifications could fail to prevent anticompetitive practices. As a decisionmaking process moves from strict ex ante prescription to pure case-by-case adjudication, particular facts and circumstances increasingly predominate over generic categorization of conduct. 41In principle, the movement along that spectrum enables the decisionmaker to avoid under-inclusiveness or over-inclusiveness of categorical rules. 42

The extent to which an adjudicator actually succeeds in reducing enforcement errors in either direction depends on the doctrine and precedent through which it evaluates the case-specific evidence. Doctrine and precedent will determine how a court allocates burdens, prioritizes facts, and weighs presumptions in evaluating the legality of conduct. If precedent provides mistaken guidance on those factors, case-specific adjudication might do no better a job than ex ante prohibitions in avoiding errors or bias toward either under or over-enforcement. For this reason, the evolutionary pace of doctrinal development through antitrust adjudication is very important. Where that evolution has been toward convergence with state-of-the-art analysis and evidence as to the effects of conduct, doctrinal stability is a virtue. Reasonable people disagree over the Supreme Court's movement from per se illegality to rule of reason treatment of vertical price restraints, as Justice Breyer's dissent in Leegin demonstrates. 43 The decision in that case nonetheless drew on a body of legal and economic analysis that, over decades, had continually narrowed the application of per se rules to vertical conduct and led logically (even if some might argue incorrectly) to the majority's conclusion. 44Many commentators might therefore say Leegin is a good example of where the evolution of doctrine through adjudication worked well: stakeholders had notice and the doctrine moved in an internally consistent direction. While it is debatable whether the per se rule against restraints on [\*1923] intra-brand competition has in recent years led to over-enforcement, there is a good case that it had done so in the past, 45so that the doctrine plausibly moved in an error-reducing direction.

However, where doctrine gets on the wrong track, the application of precedent will perpetuate rather than reduce enforcement errors. In the case of predation, for example, there is a good argument that, in the light of current economic knowledge, the Brooke Group decision has led to underenforcement. 46The potential case-by-case advantages of adjudication are lost where judicial precedent renders important facts and circumstances irrelevant. In such cases, the relatively slow process of doctrinal correction through common law evolution is harmful to sound antitrust enforcement.

The discussion above shows that the error-reducing potential of a case-by-case, adjudicatory approach to antitrust enforcement depends heavily on the actual doctrine courts apply and on the process by which that doctrine evolves. Similarly, whether case selection in an adjudicatory approach in fact directs judicial attention to the conduct that most warrants oversight depends on existing doctrine and precedent. It may well be that the conduct doing the most harm is also the conduct for which the courts impose the highest burdens of proof on plaintiffs. The deterrent effect of those burdens likely leads to fewer cases than the conduct's actual effects warrant. 47Similarly, doctrine that too readily imposes liability could have the opposite effect: lower barriers for plaintiffs would lead to too many cases and more devotion of judicial resources than the conduct deserves. 48Like error-reduction, the distribution of antitrust cases brought for adjudication depends heavily on the state of the doctrine and on the ability of the common law process to correct course where necessary.

The potential disadvantages of antitrust adjudication by generalist courts raise the question of whether a different approach might be preferable, specifically with regard to digital platforms. Digital platforms present relatively novel challenges. Considering the tenuous fit between some [\*1924] potential theories of harm and current antitrust doctrine, the complexity of the underlying technical issues in antitrust cases, and the interrelatedness of those issues and adjacent policy goals, a more informed, comprehensive approach coordinated by an expert regulatory agency might foster more advantages than does the exclusive resort to traditional antitrust adjudication. However, before we turn to the form such regulation might take, we briefly identify some general principles for such regulation.

#### US recessions don’t cause conflict

Dr. Stephen M. Walt 20, Robert and Renée Belfer Professor of International Relations at Harvard University, PhD in International Relations (with Distinction) from Stanford University, MA in Political Science from the University of California, Berkeley, “Will a Global Depression Trigger Another World War?”, Foreign Policy, 5/13/2020, https://foreignpolicy.com/2020/05/13/coronavirus-pandemic-depression-economy-world-war/

On balance, however, I do not think that even the extraordinary economic conditions we are witnessing today are going to have much impact on the likelihood of war. Why? First of all, if depressions were a powerful cause of war, there would be a lot more of the latter. To take one example, the United States has suffered 40 or more recessions since the country was founded, yet it has fought perhaps 20 interstate wars, most of them unrelated to the state of the economy. To paraphrase the economist Paul Samuelson’s famous quip about the stock market, if recessions were a powerful cause of war, they would have predicted “nine out of the last five (or fewer).”

Second, states do not start wars unless they believe they will win a quick and relatively cheap victory. As John Mearsheimer showed in his classic book Conventional Deterrence, national leaders avoid war when they are convinced it will be long, bloody, costly, and uncertain. To choose war, political leaders have to convince themselves they can either win a quick, cheap, and decisive victory or achieve some limited objective at low cost. Europe went to war in 1914 with each side believing it would win a rapid and easy victory, and Nazi Germany developed the strategy of blitzkrieg in order to subdue its foes as quickly and cheaply as possible. Iraq attacked Iran in 1980 because Saddam believed the Islamic Republic was in disarray and would be easy to defeat, and George W. Bush invaded Iraq in 2003 convinced the war would be short, successful, and pay for itself.

The fact that each of these leaders miscalculated badly does not alter the main point: No matter what a country’s economic condition might be, its leaders will not go to war unless they think they can do so quickly, cheaply, and with a reasonable probability of success.

### 1NC---AT: Populism

#### Spillovers solve partisan polarization and populisms

Gerken ’15 [Heather; Spring; Professor of Law at Yale; Democracy, “Living Under Someone Else’s Law,” no. 36]

SPILLOVERS AND THE HABITS OF CITIZENSHIP

Spillovers matter even at democracy’s most granular level: the habits of everyday citizens. Political enclaves are an easy solution for political elites, but they’re also too easy for the rest of us. When we sort ourselves into comfortable right- or left-thinking communities, it’s all but inevitable that we’ll ignore those with different views. Enclaves encase us in a protective policy-making bubble, shielded from laws with which we disagree. Opportunities for democratic engagement are reduced. More importantly, incentives for democratic engagement are weakened.

Spillovers enlist everyday citizens in the practice of pluralism. At the very least, they prevent us from being oblivious. Indeed, spillovers ensure that those least likely to be receptive to an idea—those nestled in enclaves with the opposite policy—confront that idea directly. The progressives who decry social conservatism might actually have to read the Texas school board’s preferred texts and reflect on why other Americans think these issues are important. Opponents of same-sex marriage might find themselves living next door to a same-sex couple who got married in another state. People who insist that environmental regulations cost consumers too much might find themselves driving inexpensive cars that meet California’s low-emissions standards.

Spillovers also help us identify where compromise can be found. In politics, we usually ask voters what they want rather than what they can live with. But the second is a far more important question. Spillovers elicit the answer to that question by forcing us to live under someone else’s law. We must drive a more fuel-efficient car. Or teach from a textbook more conservative than we’d prefer. Or live next to someone who owns guns that would be difficult to purchase in-state.

These real-world experiences matter. It’s always easy to oppose something in the abstract, but reality tends to be more complicated. In many instances, spillovers will convince us that the policy isn’t as bad as we thought.

Sometimes engaging directly with a policy will cement our view that it’s a mistake, and that matters as well. In our highly polarized system, it sometimes seems like we disagree about everything. Spillovers help us sort out annoying differences that prompt little more than a collective shrug from genuinely deep disagreements that require our collective attention. They help us distinguish the policies we’d reject in a poll and those we’d actually work to overturn. Spillovers can thus tell us a great deal more than polling or voting about whether a modus vivendi can be had. In other words, in an era defined by polarization, spillovers can be a powerful mechanism to mitigate the “big sort”-ing of America.

#### Populism is no threat

Akkerman 17 Tjitske Akkerman, Political Science Professor at the University of Amsterdam, the Netherlands. [Populism is overrated – if there is a threat to democracy, it’s from authoritarian nationalism, July 31st, https://blogs.lse.ac.uk/europpblog/2017/07/31/populism-is-overrated-if-there-is-a-threat-to-democracy-its-from-authoritarian-nationalism/]//BPS

Populism is perhaps the most overrated concept today. The presumption that populism is threatening to destabilise democratic regimes in Europe abound in the media as well as in academia. Populism is, as Cas Mudde has argued, not anti-democratic but against liberal democracy. It endorses the ideal of a majoritarian or popular democracy, based on the general will of the people. Yet, this potential threat to liberal democracies is merely hypothetical. There is a current wave of populism in Europe and there is pressure on liberal freedoms in many European countries, but is populism a significant cause of the current pressures on liberal democracies? To identify threats (or correctives if you like) to liberal democracies it is important to assess the impact of populism instead of assuming it. Research indicates that populist parties have had little impact on democratic institutional reform in Western Europe so far. With predominantly proportional electoral systems and coalition governments in which populist parties are most often still junior partners, significant opposition of courts, parliaments and civil societies, liberal democracies in Western Europe overall provide resilient contexts. However, this still leaves open the possibility that populism has been a major force behind the establishment of illiberal regimes in Hungary, Poland or Latin America, and that it may still grow into such a force in Western Europe. My arguments to question the potential impact of populism on liberal democracies are more general. First, populism is not a core ideology of political parties or movements in Europe. Neither populist parties nor their voters tend to give much weight to issues of democratic reform. Dissatisfaction with politics is a marginal reason for voters in Western Europe to vote for radical right-wing parties, and dissatisfaction does not play a role at all as a motivation to electorally support left-wing populist parties. Like their voters, populist parties do not give much salience to issues of democratic reform. For radical right-wing populist parties, for instance, proposals to introduce direct forms of democracy or to reform the judiciary tend to be instrumental to anti-immigration policies and security issues. Nationalism and authoritarianism are much more important ideological sources for these parties than populism. For left-wing populist parties, it is still to be seen whether they aim to reform liberal democracies into popular democracies. Second, not all populist parties are against liberal democracy. Some parties are merely rhetorically populist. The Dutch Socialist Party (SP), for instance, is widely regarded as a populist party. Surely, the party often contrasts the good people to corrupt elites like bankers, but the SP is also committed to a liberal democracy. This is in contrast to Geert Wilders’ radical right-wing Party for Freedom (PVV) that is not only rhetorically populist, but also shows little commitment to liberal democracy. Third, the pressure on liberal democracies is not restricted to populist parties. Policy proposals and legislative initiatives that are in tension with or defy fundamental freedoms are also coming from mainstream parties. Systematic comparative research is still lacking, but a case study of the Netherlands makes clear that policies that are in conflict with the rule of law are not restricted to populist parties.

# 2NC

## CP---Taxes

### Solvency---2NC

#### It can be tailored to specific practices AND solves by forcing companies to internalize the costs of lost competition.

Lemley ’21 [Mark and Andrew McCreary; January 2021; William H. Neukom Professor of Law and Stanford Law School, Partner at Durie Tangri LLP; J.D./M.B.A. Candidate, Stanford Law School and Stanford Graduate School of Business; Boston University Law Review, “Exit Strategy,” vol. 101]

1. Tax Transactions

One way to discourage anticompetitive mergers and to encourage companies to continue operating is to vary the tax treatment of those two options. 359

Right now, liquidity events are generally not taxed directly. When companies go public, they generate enormous amounts of money by selling stock, and that influx of cash isn't taxed at all. 360That might make sense; we want people to create and fund public companies. The same thing happens when companies merge. They usually do so by exchanging stock, again avoiding taxation when various conditions are met. 361But here the social value of giving them a tax exemption is less clear. Merging can be a good thing that creates savings or synergies within the merging companies. But it poses enough of a threat to competition that we require costly antitrust review for mergers of a certain size. 362If we think that incumbent acquisitions are worse for society than IPOs, one way to push people towards IPOs may be a Pigouvian tax on acquisitions. 363 We might tailor the tax to particular sectors or acquisitions and base it on an adequate proxy of an acquisition's likely social cost. 364

The problem may be worse than the equal tax treatment of options that are not equally good for society. Right now, mergers that threaten to reduce social welfare by decreasing market competition not only are not taxed but may also sometimes obtain tax breaks that separately managed firms cannot. This incentivizes mergers, including anticompetitive ones. 365Some of these breaks are achieved through structures that, on paper, are available to firms reorganizing for an IPO but that, in practice, may be most easily attained by firms reorganizing through merger. 366Performance-related subsidies might be most readily exploited through acquisition. 367And agreements once formed at arm's length can be set so that revenues accrue where taxed the least and expenses where they result in the greatest tax deductions. 368This doesn't encourage the acquisition of direct competitors, but it may drive the acquisition of companies that provide complements. And mergers offer other tax benefits as well. 369

Tax incentives matter to exit decisions. Startups become increasingly sensitive to tax issues the more they generate revenue and the later they are in their lifecycle. 370And past tax reforms appear to have changed merger activity. 371Right now, however, far from rewarding firms that resist incumbent acquisition - the mergers that may reduce competition and cause social harm - the tax system equally or in some cases especially rewards these exits.

We should closely consider ways we might tax mergers to force companies to internalize the cost that the merger imposes on society. 372A firm that sells out does not bring the same benefits to society as a firm that continues to compete. We might consider not only changes to tax law designed to entice individual GPs and founders involved with companies to continue to operate the firm, which we touched on above 373but also others to directly discourage companies from merging with incumbents. This kind of tax could be aimed at mergers by particular firms in particular sectors. And its basis could be set to capture the social harm likely to result. We propose a few approaches here to prompt discussion.

A one-time merger tax on the combined market value of merging companies could discourage acquisition, especially acquisition by large rivals, by raising the cost to the acquiring firm - complementing antitrust laws to discourage anticompetitive mergers. Taxing the combined value of the merging firms rather than the value of the acquired firm alone would make it more costly to merge as firms get bigger. 374That may be desirable as a matter of social policy in general, offering a market-based alternative to antitrust law as a means of promoting competition. And it would be a particularly good way to tackle the exit strategy problem because it would encourage startups that decide not to keep operating to merge with small rather than large firms. 375

#### Substituting taxes creates an identical effect but solves better by avoiding legal blowback.

Gruodis ’17 [Povilas; June 8; Ph.D. and Lecturer at Vilnius University Faculty of Law, Attorney, JD in Law from Vilnius University; Doctoral Dissertation at Vilnius University, “Tax Norms as a Regulatory Tool of Credit Institutions’ Activities,” <http://talpykla.elaba.lt/elaba-fedora/objects/elaba:22914651/datastreams/MAIN/content>]

3. Regulatory tax laws are a suitable measure for regulation of the credit institutions. While making decisions on certain behaviour model in the credit institutions, the economic arguments usually prevail, and the activity of the credit institutions is relatively insignificantly affected by morals – values. The regulatory impact of the tax laws on the credit institutions is justified by regulation of economic conditions of decision making rather than classifying a certain behaviour as legal or illegal, therefore, the tax laws allow a legislator to regulate the decision making process itself. Certain behaviour model is forbidden by imperative administrative orders by making it illegal with the help of the laws, however, the causes (economic motives) of the illegal behaviour model are not always eliminated, and this weakens the regulatory impact of the administrative orders and reduces their effectiveness. Regulation of the credit institutions by the tax laws, unlike traditional method of legal permissions or prohibitions, allows ensuring the significantly lower extent of forced nature of legal regulation and decreasing the risk of possible legal conflicts.

4. The tax laws might be used both as individual measure for regulation of the credit institutions and as additional measure for regulation of the credit institutions together with the current legal regulation of the credit institutions. Regulation of the credit institutions by the tax laws might significantly improve the possibilities of a legislator to regulate the risky activity of the credit institutions and to ensure the stability of financial sector. The regulatory impact of the tax laws can be better directed towards all activity elements of the credit institutions than the administrative orders, prevailing in regulation of the credit institutions. More accurate regulation allows ensuring constant and easier effect on the financial condition of the credit institutions, and enables to improve the solvency, liquidity and panic resistance indicators. In case of regulating the activity of the credit institutions, the tax laws allows achieving the same regulatory effect as the administrative orders, however, by keeping the variety of the credit institutions and more freedom than in case of regulating the activity of the credit institutions by legal prohibitions and permissions, therefore, the tax laws should be considered as proportional measure of regulation of the credit institutions. What is more, the price of possible error, made by a legislator, will be significantly lower because of the features of the regulatory impact of the tax laws than in case of regulating the same relationships by prohibitions and permissions.

### Solvency---Follow-On---2NC

#### 2. Institutions---it builds broader administrative apparatus with full awareness of businesses---that unlocks the full range of mechanisms, including prohibitions.

Mehrotra ’10 [Ajay; 2010; Professor of Law at the Northwestern Pritzker School of Law, and an Affiliated Professor of History at Northwestern University, PhD, University of Chicago, JD, Georgetown University; Theoretical Inquiries in Law, “The Public Control of Corporate Power: Revisiting the 1909 U.S. Corporate Tax from a Comparative Perspective,” vol. 11]

Prominent among the standard institutional explanations is the historical interaction of politics and business. As a variety of scholars have demonstrated, American statecraft has long been distinguished by its antagonism towards big business. The early arrival of American managerial capitalism in the mid and late 1800s preceded and in some ways compelled the development of the modern regulatory and administrative state. As a result, a unique American divide between private enterprise and public administration began to develop.22 Although antitrust law is generally the policy arena that scholars have explored to substantiate this claim,23 the tensions between American government and big business can also be clearly seen in the evolution of U.S. subnational corporate tax policy and transnational comparisons of corporate tax laws and concepts.

A primary focus on political and economic institutions, however, only explicates part of the story. Institutions do not just suddenly appear. They are created and composed of individuals and groups with specific interests, ideas, and cultural beliefs. And, perhaps more importantly, institutions change and develop over time as they interact with other groups and institutions, and respond to changing historical conditions. Thus, while it is vitally important to examine how institutional frameworks mediate political interests, social ideas, and cultural beliefs, these interests, ideas, and beliefs in turn also shape institutional frameworks.24 Put differently, political, social, and cultural factors are endogenous to institutional explanations of the American approach to taxing business corporations. In the context of the comparative history of corporate tax policy, this means that attending to the historically-determined political interests, social ideas, and cultural beliefs may help explain the American obsession with disciplining large-scale business corporations through the use of punitive tax laws and policies.25

Before turning to the comparative analysis, this Article begins in Part I with a brief summary of the 1909 corporate excise tax, succinctly recapitulating the conventional accounts about the beginnings of American corporate taxation. Part II turns to the subnational story to explain how and why leading American states and commonwealths attempted to tax corporate property under their respective general property taxes; how they searched for alternative corporate taxes; and how even newly-created state income taxes were applied to business corporations. This analysis shows that state-level lawmakers purposefully used tax policy in a punitive manner not only to make corporations more transparent, but also to check the growing power and authority of corporate capital.

Part III is devoted to briefly exploring transnational comparisons between the United States, England, and Germany. It focuses on how differences in the organizational structures of big businesses in the three countries led to variations in political economy that were ultimately expressed in the legal ideas and cultural attitudes toward corporate capitalism. These variations, in turn, shaped the differences in corporate tax laws and policies. Part III begins by contrasting the U.S with Britain. In the latter country, a form of family managerial capitalism and an intertwined public/private sector pervaded British ideas and beliefs to the point that it was often assumed that corporations were simply aggregations of individuals. Consequently, English lawmakers were loath to adopt the American system of corporate taxation, which they did only briefly in the early 1920s and again in the late twentieth century. Part III also investigates Germany, and more particularly the Prussian experience with corporate taxation, to explicate how differing commercial organizational capabilities, business-government relations, and beliefs about corporations interacted with the pressures of fiscal federalism to shape corporate tax policy. Finally, the Article concludes by considering the possible long-term implications of the U.S.’s unique historical role in corporate taxation.

I. REGULATION VERSUS REMITTANCE: THE STANDARD ACCOUNTS OF THE ORIGINS OF THE 1909 CORPORATE TAX

The Tariff Act of 1909 contained a national tax on the legal privilege of doing business in corporate form. More specifically, the law required "every corporation, joint stock company or association, organized for profit and having a capital stock represented by shares" to pay a "special excise tax with respect to the carrying on of doing business."26 The tax was set at an annual flat rate of one percent on net income above $5,000, and even applied to all foreign corporations engaged in business in the United States.27 The multiple legislative rationales behind the 1909 tax have provided modern scholars with sufficient evidence to ascribe different meanings to the origins of the American regime of corporate taxation. Whereas some scholars have focused on the regulatory aspects of the law, others have emphasized how the mechanics of the measure suggest that the tax was aimed mainly at shareholder, not corporate, wealth and power.28

The 1909 tax was not, however, the first national levy on business corporations. From the Civil War to the Spanish-American War, national lawmakers in the late nineteenth century experimented with several temporary corporate taxes. Yet none of these early measures seemed specifically designed to capture the taxpaying ability of corporations qua corporations. The Civil War income tax, for example, applied to business profits, but mainly as an indirect means to tax individual shareholders.29 Similarly, the short-lived 1894 income tax, which was declared unconstitutional the following year,30 imposed a two percent tax on the net income of all corporations, but because dividends from taxable corporations were excluded from shareholder income and because the levy was also imposed on undistributed corporate income, the law was essentially a crude form of withholding—a remittance method for taxing shareholder wealth.31

The 1898 excise tax on the sugar— and oil-producing industries, enacted in response to the funding needs of the Spanish-American War,32 was perhaps the first instance of a national levy imposed on "the occupation or privilege of doing business" in specific industries.33 Yet, in its final form the law operated as a blatant, rifle-shot provision aimed at taxing the gross profits of the American Sugar Refining Company and the Standard Oil Company.34 Thus, even this temporary wartime tax, which was upheld by the U.S. Supreme Court,35 provides ample evidence for the dueling interpretations of the roots of American corporate taxation. On the one hand, the statute’s legislative history and its general application to all sugar and oil refinery businesses, not just corporations, suggest that lawmakers were not singling out corporations as regulatory targets, but rather that they were using the excise levy as a proxy to tax the owners of sugar and oil companies, and hence generate the revenue necessary to prosecute a war.36 On the other hand, if the ultimate targets of the tax were specifically Standard Oil and American Sugar, two of the largest and most powerful industrial corporations in America at the time,37 then perhaps the 1898 excise tax was a forerunner of the legislative attempt to control the wealth and power of corporate capital. Moreover, since the 1898 law did not contain disclosure requirements, lawmakers seemed less concerned about transparency as a form of public control, and more interested in using the levy to curb the growing profits of specific corporations.38 The early versions of American national taxation thus provide mixed guidance on whether the beginnings of U.S. corporate taxation were rooted in regulatory desires or attempts to remit more effectively a shareholder-level tax.

The political and legal context of the 1909 tax itself, similarly, does little to settle the regulation/remittance debate. Like the 1898 tax, the 1909 levy was structured as an excise tax mainly to comply with the constitutional restrictions established by the Court’s invalidation of the 1894 income tax and its support for the 1898 excise tax on sugar and oil production.39 The legislative debates and political rhetoric underpinning the 1909 tax also demonstrate that key lawmakers held conflicting views about the new corporate tax—conflicting views that lend credence to each side of the competing standard historical interpretations.40

The differing interpretations of the 1909 tax can even be seen within single key pronouncements on the need for corporate taxation. Consider, for instance, President William Howard Taft’s June 16th message to Congress recommending the 1909 corporate tax and a constitutional amendment permitting an income tax without apportionment.41 By all accounts, Taft’s leadership and his June congressional message played a pivotal role in the passage of the corporate tax.42 In his message, Taft provided a variety of justifications for the new revenue bill. Citing to a "rapidly increasing deficit," the president called for tariff revision and the adoption of "new kinds of taxation" to help "secure an adequate income" for the growing federal government.43 More specifically, Taft supported the corporate tax both for administrative reasons, as a possible proxy for taxing shareholders, and as a regulatory tool to publicize and expose the abuses of growing corporate power, and thus to control it. For administrative reasons, Taft supported the tax because it imposed "a burden at the source of income at a time when the corporation is well able to pay and when collection is easy."44 As modern scholars have noted, the focus on sources of income and collection ease implies that Taft believed the levy could be an effective indirect means to tax shareholder wealth.45

Other parts of Taft’s message convey a different rationale, one that emphasizes the need for regulatory control of corporations as separate legal entities. At the outset, Taft explained that the levy "is an excise tax upon the privilege of doing business as an artificial entity," and hence "not a direct tax on property." He continued that "another merit of this tax is the federal supervision which must be exercised to make the law effective over the annual accounts and business transactions of all corporations." Taft acknowledged that the corporate form "has been of the utmost utility in the business world," but he also reminded Congress that "substantially all of the abuses and all of the evils which have aroused the public to the necessity of reform were made possible by the use of this very faculty."46

With American society still reeling from a financial panic linked to abuses in the banking industry and an earlier series of corporate scandals in the insurance industry,47 Taft’s address underscored the regulatory potential of a corporate tax. Indeed, the President spelled out how the tax in a "perfectly legitimate and effective" way could help the government, stockholders, and the greater public gain "knowledge of the real business transactions and the gains and profits of every corporation in the country." By making the inner dealings of big businesses more transparent, the corporate tax, Taft insisted, would be a "long step toward that supervisory control of corporations which may prevent a further abuse of power."48 Taft’s sustained emphasis on the public disclosure aspects of the law supports the interpretation of the 1909 corporate tax as a regulatory device.

Like Taft’s message, the congressional debates surrounding the 1909 law evidence multiple justifications for the corporate tax.49 Moreover, the broader legal discourse about the shifting views of corporate personality and the unknown incidence of corporate taxes seemed to provide contending camps with additional, though contradictory, justifications for their respective positions. As the Columbia University philosopher John Dewey noted in 1926, the differing theories of what constituted a corporation were infinitely flexible, reflecting the contingency of abstract concepts. "Each theory,"Dewey succinctly explained, "has been used to serve . . . opposing ends."50

Ultimately, the search for a singular, or even a dominant, explanation for the emergence of the 1909 corporate tax may be not only elusive, but perhaps even counterproductive. After all, tax laws — like nearly all legislation — frequently appeal to a variety of constituencies for a multiplicity of reasons. Just as Baptists and bootleggers could develop a peculiar alliance to support American prohibition, so too populist regulators and rational administrators could come together to back the 1909 corporate tax.51 Lawmakers who harbored hostility towards large-scale business corporations and who viewed these economic organizations as independent legal entities could support the corporate tax as a means toward disciplining capital. At the same time, those who believed that corporations were mere conduits that helped generate economic prosperity could still back the corporate levy as an effective way to collect badly needed revenue from some of the country’s wealthiest individuals. Simply put, regulating corporate power and remitting tax revenue were not necessarily mutually exclusive aims.

#### 3. Lobbying---it removes the war chest from the key political barriers to enforcement.

Jarsulic ’19 [Marc, Ethan Gurwitz, and Andrew Schwartz; April 3; Ph.D. in Economics from the University of Pennsylvania, J.D. at the University of Michigan, Senior Fellow, Chief Economist, and Vice President for Economic Policy at the Center for American Progress; JD Candidate at Harvard Law School, Former Policy Analyst for Economic Policy at the Center for American Progress; Senior Policy Analyst for Economic Policy at the Center for American Progress; CAP, “Toward a Robust Competition Policy,” https://www.americanprogress.org/issues/economy/reports/2019/04/03/467613/toward-robust-competition-policy/]

When barriers remain, a monopoly tax can help level the competitive playing field.

Because it may not be possible to reduce barriers for all firms and across all industries—and because changes in fundamental policies, such as antitrust and intellectual property rules, may be difficult and time-consuming to implement—the report also proposes a monopoly tax to reduce the flow of rents to large firms.

Instituting a monopoly tax would have three effects. While such a tax would not directly aid new firm entry, it would reduce the flow of economic rents, making these revenues available for public purposes without harming efficiency. It would also discourage further efforts to enhance market power through actions such as mergers and acquisitions. Moreover, a monopoly tax would diminish the ability of firms with market power to use their outsize returns to influence political and regulatory outcomes.

### Solvency---Offense---2NC

It solves better than the plan:

#### Antitrust is glacial---enforcement takes decades, rendering the initial rule meaningless.

Chopra ’20 [Rohit and Lina Khan; March 2020; Commissioner of the Federal Trade Commission; Academic Fellow at Columbia Law School, Counsel to the Subcommittee on Antitrust, Commercial, and Administrative Law, US House Committee on the Judiciary and Former Legal Fellow at the Federal Trade Commission; University of Chicago Law Review, “The Case for ‘Unfair Methods of Competition’ Rulemaking,” vol. 87]

The current approach to antitrust also makes enforcement highly costly and protracted. In 2012, the American Bar Association (ABA) published the report of a task force that sought to "study ways to control the costs of antitrust litigation and enforcement." 9The task force, the authors explained, was "a response to concerns" about both "the costs imposed on businesses by the American system of antitrust enforcement" and "the length of time required to resolve antitrust issues both in litigation and in enforcement proceedings." 10 Out-of-control costs undermine effective antitrust enforcement by agencies and private litigants, but [\*361] may advantage actors who profit from anticompetitive practices and can treat litigation as a routine cost of business.

Professor Michael Baye and Former Commissioner Joshua Wright have noted that generalist judges may be ill-equipped to independently analyze and assess evidence presented by economic experts. 11 Because determining the legality of most conduct now involves complex economic analysis, courts have effectively "delegate[d] both factfinding and rulemaking to courtroom economists," making courtroom economics "not just inevitable but often dispositive." 12In fact, paid expert testimony now is often "the 'whole game' in an antitrust dispute." 13

Paid experts are a major expense. Some experts charge over $1,300 an hour, earning more than senior partners at major law firms. 14Over the last decade, expenditures on expert costs by public enforcers have ballooned. 15In a system that incentivizes firms to spend top dollar on economists who can use ever-increasing complexity to spin a favorable tale, the eye-popping costs for economic experts can put the government and new market entrants at a significant disadvantage. 16

Another component of the burden is that antitrust trials are extremely slow and prolonged. 17The Supreme Court has criticized antitrust cases for involving "interminable litigation" 18and the "inevitably costly and protracted discovery phase," 19 yielding an antitrust system that is "hopelessly beyond effective judicial supervision." 20That it can easily take a decade to bring an antitrust case to full judgment means that by the time a judge orders a remedy, market circumstances are likely to have outpaced it. 21The same 2012 ABA report suggested that lengthy, costly litigation may be contributing to reduced government-enforcement efforts over time relative to the expansion of the US economy. 22

#### Taxes are dynamic and adaptable, optimizing for evolving market conditions.

Libson ’21 [Adi and Gideon Parchomovsky; February 2021; Assistant Professor at the Bar-Ilan University Faculty of Law; Robert G. Fuller, Jr. Professor of Law at the University of Pennsylvania Law School and Professor of Law at the Hebrew University Faculty of Law; Texas Law Review, “Reversing the Fortunes of Active Funds,” vol. 99]

Our proposal offers three potential advantages over competing mechanisms aimed at bolstering engagements by shareholders. First, tax incentives constitute a far more effective tool for encouraging the growth of active funds and active participation in corporate matters than legislation or regulation that forces passive funds to become active. If a passive fund has no interest in assuming an active role in the management of a company, it is highly doubtful that legal mandates forcing engagement would achieve their desired goal of meaningful engagements. Worse yet, mandatory measures would necessitate significant expenditures on monitoring and enforcement. Tax benefits, by contrast, allow each category of funds, active and passive, to act as it prefers, while maintaining a stable market equilibrium between the two groups. Furthermore, tax instruments are flexible and dynamic. Unlike binary regulatory mechanisms, a tax benefit can be keyed to multiple performance indicators and can be adjusted to fit the changing magnitude of the positive externalities generated by sophisticated investors. 17

Footnote 17:

Louis Kaplow & Steven Shavell, On the Superiority of Corrective Taxes to Quantity Regulation, 4 Am. L. & Econ. Rev. 1, 7-10 (2002) (emphasizing that the price element of taxes provides the government with vital information that can be utilized to optimize the tax instrument). The price element of taxes can also serve as a mechanism for revealing information to the parties. See, e.g., Brian Galle, Tax, Command ... or Nudge?: Evaluating the New Regulation, 92 Texas L. Rev. 837, 848 (2014) (explaining that prices reveal information about the subjective valuations of parties).

End of Footnote 17.

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

#### The perm makes taxes and prohibitions co-dependent, denying a special status for regulatory taxation.

Kobylnik ’21 [Dmytro; January 4; PhD in Law, Associate Professor, Associate Professor of the Department of Financial Law of Yaroslav Mudryi National Law University; Law and Innovative Society, “The Impact of Tax Policy on the Implementation of the Regulatory Function of Tax Law,” <http://apir.org.ua/en/archives/1425>, translated via Google Translate]

Conclusions and prospects for the development. As we have shown, tax policy has its own meaning, it is organically linked to tax law, which by implementing the regulatory function implements the vectors indicated by the policy. Given the profound transformation of public relations that has taken place in our country in recent years, tax policy should be given a special role as a strong foundation for ensuring the effectiveness of tax and legal regulation.

Formulation of the problem. The social value, role and purpose of tax law are revealed in its functions as the main directions of its impact on public life. At the same time, the value potential of law is revealed by both general social and special legal functions. Scientists in the first group of functions through which law in general, and tax law in particular, influence the public consciousness, forming values, creating a certain dimension of social interaction, in which possible, appropriate and forbidden find their clear delineation in human actions, include the following : humanistic, organizational / organizational-managerial, epistemological / cognitive, informational / communicative, educational, orienting, evaluative / evaluative, security, economic, political, cultural [17, p. 32, 33]. As for the special legal functions of law, they usually include regulatory and protective. However, in their system, the prominent, defining place of these sciences give a regulatory function. So it is no coincidence that OS Emelyanov argues, reflecting on the functions of financial law, as follows: "expressed financial law in the form of regulations or financial planning acts, implemented in absolute or relative legal relations, or seeks to determine the legal status of participants in financial relations - in all these forms social purpose - to regulate public relations in the field of public finance "[1, p. 32]. The scientist sees specific features of this function, first of all, in the establishment of positive rules of conduct, organization of social relations, coordination of social relationships in the process of redistribution of social wealth [1,

p. 33]. At the same time, it is obvious that the implementation of the regulatory function of law is influenced by a number of factors, among which tax policy is important. Therefore, the purpose of the article is to characterize the impact of tax policy on the implementation of the regulatory function of tax law.

Analysis of recent research. Note that the question of the functions of tax law, tax policy and their interaction is not entirely new to the science of tax law, because to some extent resorted to their consideration OS Emelyanov, AA Kovalenko, MP Kucheryavenko, Yu. L. Smirnikov, VV Chaika and others. However, at present it cannot be said that they have received a proper scientific analysis, as the financial scientists did not resort to a comprehensive examination of them, but conducted fragmentary research. Thus, the purpose of the article is to consider the impact of tax policy on the implementation of the regulatory function of tax law.

Presenting main material. In the scientific literature it is noted that the content of the regulatory function of law is revealed through the separation of two aspects: static (establishment of legal norms) and dynamic (implementation of legal norms). In this regard, TM Radko argues that the regulatory function of law includes two components: regulatory-static function or the function of consolidation, stabilization of social relations and regulatory-dynamic, through which the law determines the future behavior of people [16, p. 31]. Other scientists say the same. Thus, Yu. L. Smirnikov notes that the regulatory function of financial law includes regulatory static and regulatory-dynamic subfunctions. Delimitation between them is due to the manifestation of two patterns of development of law - reflection in law and legal anticipatory reflection. From these positions, the regulatory-static function of financial law is manifested in the ability of financial law to reflect the essential properties of financial relations and to organize public relations in a particular period, which is expressed in the content of financial law. The regulatory and dynamic function of financial law provides an opportunity to predict the need for financial and legal influence on public relations, their transformation through public financial activities to ensure the public interest, finding the most effective means of legal influence based on monitoring financial legislation and its impact on society no relationship [18, p. 24].

As we can see, scholars characterizing the regulatory function of law emphasize the establishment of legal norms and the way of detecting the activity of law, calling the first aspect dynamic, and the second - static. At the same time, in our opinion, it is not entirely correct to call the corresponding phenomenon static or dynamic. First, the establishment of the rules of tax law, I and any law, is not a static phenomenon. Second, tax relationships, like any legal relationship, are hardly static in nature, but rather dynamic. They do not exist in statics as such, but are constantly in a certain motion, when in the presence of certain circumstances they arise, change and cease. Therefore, such a characteristic of the regulatory function is hardly logical.

However, there is no doubt that in any case, the tax law is able and intended precisely to regulate tax relations. "By enshrining in the sources of law the limits of the desired and permissible conduct for all subjects of law, grounds and types for the application of coercive measures to those of them that go beyond certain limits, the law (compared to other types of social norms) most effectively regulates social relations, giving them such features as organization, predictability, predictability, which ensures their stability and at the same time lays the foundation for development. This ultimately means awareness of its positive role for the individual, society, humanity in general [17, p. 32, 33].

The establishment of the norm of tax law is the most important kind of manifestation of the essence of tax law as a regulator of public relations. As VI Shcherbyna notes, the establishment of the rule of law is the definition of its content, the definition of real, adequate to social relations content of the rules of law as a guarantee of the viability of law [20, p. 55]. At the same time, the effective implementation of the considered function is possible under the condition of logical, consistent formulation of the prescriptions of tax and legal norms, which will ensure their effective implementation. Therefore, it is important to properly determine the content of the tax law, which largely depends on the tax policy that is implemented in the state. State tax policy is defined differently by scholars. For example, the activity of the state in the field of establishment, legal regulation and organization of collection of taxes and tax payments to the centralized funds of state resources [5], or systemic activities of public authorities and local governments to create and improve an effective mechanism for taxation. legal regulation aimed at mobilizing funds to public centralized funds to finance public expenditures and tasks and functions of the state, as well as based on balancing public and private tax interest [19, p. 85]. The state's tax policy covers the content of ideological, theoretical and activity-practical aspects of state management of the processes of functioning, improvement and development of the tax system of Ukraine. As a phenomenon of ideological and theoretical plan, it is a system of conceptually conscious ideas, goals, objectives, principles, programs that express the official position of the state on key issues of tax regulation and is the ideological and theoretical basis of tax activity in the state (tax policy in statics) . At the same time, tax policy is the activity of state and non-state institutions, citizens, which consists in developing, adjusting and implementing state legal strategy (tactics) in the field of tax regulation, creating conditions that ensure the state of legal protection of tax law subjects (tax politics in dynamics) [19, p. 86]. It is characteristic that scientists consider tax legislation to be the main, but not the only form of tax policy implementation [3, p. 57; 19, p. 90]. Therefore, we can talk about the corresponding dialectical dependence of tax and legal regulation and tax policy. This is manifested in two areas: (1) through the definition of the purpose, objectives, results of tax policy outlines the direction of regulation of tax relations, its subject, limits and methods, which establishes rules of conduct for taxpayers, ie the impact on lawmaking activities in the field of taxation, implementation of the regulatory function of tax law; (2) by determining the quality, effectiveness of tax legislation, assesses whether the tax policy has been fully implemented. This approach allows us to see deviations from the desired model of the tax system; establish the level of implementation of those provisions that you know strategically; identify shortcomings in both tax law and tax policy in general; to develop new approaches to ensuring the sustainable and efficient functioning of the state tax system.

Ensuring the formation and implementation of a unified state tax policy in our country is entrusted to the Ministry of Finance of Ukraine (paragraph 1 of the Regulation on the Ministry of Finance of Ukraine, approved by the Cabinet of Ministers of Ukraine dated August 20, 2014 № 375 [12]), as well as State Tax Service of Ukraine (paragraph 1 of the Regulation on the State Tax Service of Ukraine, approved by the resolution of the Cabinet of Ministers of Ukraine of March 6, 2019 № 227 [13]). The main tasks and directions of tax policy are defined in the Strategy for Reforming the Public Financial Management System for 2017-2020, which was approved by the order of the Cabinet of Ministers of Ukraine of February 8. 2017 № 142-r, which include: improving the quality and efficiency of administration of taxes and fees and the level of compliance with tax legislation; strengthening control over fiscal risks and implementing measures to minimize them, in particular with regard to state-owned enterprises, state guarantees and other contingent debt obligations, etc. [15].

Scholars rightly point out that the main contradiction of tax policy is to find a compromise between economic efficiency and social justice, the content of which long before the clear mathematical proofs of modern optimal taxation theory was formulated in the well-known aphorism of Jean-Baptiste Colbert: "Taxation goose so as to obtain the maximum number of feathers with a minimum of hissing. In modern scientific discourse, this contradiction should answer the question: what exactly should be formed tax system in terms of its composition of different taxes and elements of each individual tax, so that it provides funding for social needs and is the least harmful to economic growth [4, with. 7]. And in this context there are many problems, because on the agenda there are a number of issues, both regarding the establishment of a set of taxes and fees, their specific legal mechanisms, and control over the collection of taxes and fees, the powers of the tax administration and meetings, etc.

For example, let's look at a few aspects. Thus, one of the tasks in the Strategy for Reforming the Public Financial Management System for 2017–2020 is to increase the stability and predictability of the tax system. It is further noted that the Ministry of Finance will develop a Strategy for the development of the tax system in the medium term, which should be consistent with the strategy of economic development, reform of the budget process and the pension system. The control over the observance of the requirement to provide compensators of tax revenues or reduction of state budget expenditures in case of reduction of such revenues due to amendments to the tax legislation will be strengthened, as well as to ensure that changes to any elements of taxes and fees are not made later than six months before the start of the new budget period [15]. Taking into account the outlined direction of tax policy, this task should be implemented in tax and legal regulation. However, did it really happen? The answer is obvious, as at the end of 2020 the Strategy for the development of the tax system in the medium term has not been developed and approved. However, the report on the implementation of the action plan for the implementation of the Strategy for reforming the public financial management system for 2017–2020, approved by the order of the Cabinet of Ministers of Ukraine dated 24.05.2017 № 415-r, states that this aspect has been implemented [2]. The development of the mission and strategic goals of the State Tax Service until 2022, which was approved on December 10, can be attributed to the fulfillment of this task with a certain conditionality. 2019 by order № 205 of the State Tax Service of Ukraine [11]. However, as you can see, these are all such different regulations. As a result, we get unsystematic, frequent changes in tax legislation, because it is unlikely that a logical transformation of tax legislation can be achieved without a clear strategy, which indicates the state's chosen course for the future, aimed at solving tax issues. Therefore, the implementation of tax policy in this context has a negative impact on the implementation of the regulatory function of tax law.

#### 2. REDUNDANCE---overlapping prohibitions and taxes will be uncoordinated and duplicative.

Logue ’10 [Kyle; June 2010; Wade H. McCree Jr. Collegiate Professor of Law at the University of Michigan Law School, JD from Yale Law School, BA from Auburn University; Cardozo Law Review, “Coordinating Sanctions in Tort,” vol. 31]

Take the quintessential example of a negative externality - some activity that spews CO<2> into the atmosphere thereby contributing to the global problem of climate change. If a fully cost-internalizing Pigovian tax (say, a carbon-based tax of the sort that many commentators have recently proposed) were imposed on domestic companies by the U.S. government, there obviously need not (and, from an efficiency perspective, should not) be a state-level carbon-based tax on the same polluters for the same carbon emissions. Nor should there be any overlapping command-and-control regulations or any other sort of regulation (including tort liability) designed to regulate the same conduct. It - the external harm caused by CO<2> emission - has, by assumption, already been fully regulated. Redundant regulation represents unnecessary administrative costs and potentially excessive deterrence. The same analysis can be applied to torts. Consider automobile accidents or product-related injuries or medical malpractice harms. All are potentially affected, at least in theory, by the same problem of overlapping, uncoordinated, and thus possibly redundant sanctions; this means either over-deterrence or duplicative and therefore excessive administrative costs, or both. Again, the literature has largely neglected this subject. 7

#### Negative effects of the interaction will be blamed on taxes---that prevents mainstreaming.

Sorrell ‘5 [Steven and Jos Sijm; April 15; Professor of Energy Policy in the Science Policy Research Unit at the Centre on Innovation and Energy Demand, PhD from the University of Exeter; Ph.D., Netherlands Organisation for Applied Scientific Research; ECN-RX-05-130 Technical Report, “Carbon Trading in the Policy Mix,” https://www.osti.gov/etdeweb/biblio/20767429]

The interactions summarized in Table 1 lead to a series of examples of double regulation and double counting (Sorrell, 2003c). Unless resolved, these interactions could lead to substantial economic impacts for the affected groups, and/or threaten the overall environmental integrity of the policy mix. For example:

* organizations eligible for the energy tax will also face electricity price increases as a consequence of the generators participating in the EU ETS. Under a number of simplifying assumptions, 8 an EU ETS allowance price of €€7/ tCO2 could increase average electricity prices by some 0.7c€€ /kWh, which is approximately equivalent to the current level of the tax.
* the UK trading scheme allows a project to be awarded carbon credits for improving downstream electricity efficiency. But this action also ‘frees up’ allowances held by the electricity generators participating in the EU ETS. If the project credits are subsequently traded into the EU ETS, the cap will be breached and the environmental integrity of the scheme will be undermined.

To avoid these problems, the existing UK policy mix will need to be rationalized. But such changes are likely to create administrative costs for both government and industry. They are also likely to encounter resistance from a range of sources—particularly since none of the above instruments is more than 3 years old.

In the UK, as elsewhere, policy instruments resist replacement even when a more viable alternative is available. This inertia may derive from a number of sources. For example: a legislative framework will have been established which may be difficult to change; regulatory institutions will have been established, or responsibilities assigned to existing institutions; procedures and standards will have been established for functions such as monitoring, reporting, and verification; a network of private organizations will have become involved in implementation; and the target groups themselves will have invested substantial time and money in gaining familiarity with the policy instruments and putting the appropriate procedures in place. All these activities are separate from investment in abatement, but each will cultivate vested interests and encourage resistance to change. As a result, there is a strong possibility that many of these instruments will continue after the ETS has been introduced, whether or not this is helpful to overall government objectives. In the case of the UK, the government is reviewing the policy mix in the light of the EU ETS and is anticipated to make some small changes—such as exempting EU ETS participants from a portion of the energy tax. But a major overhaul of the policy mix does not appear likely, at least not before 2008. This means that policy interaction could have a determinate impact on the success of the EU ETS in the UK.

V. Summary and Conclusions

Policy interaction has been neglected within the economics literature, but is of central importance in determining the success of individual instruments and of the overall policy mix. This is particularly true within climate policy, where the introduction of a carbon ETS into an already overcrowded ‘policy space’ poses a particularly difficult challenge. In theory, cap-and-trade schemes should provide assurance of meeting an overall emissions target at least cost. It follows that, if we assume a perfect economy with no market failures, any instruments which directly or indirectly interact with a carbon ETS will raise overall abatement costs while providing no additional contribution to emission reductions. Hence, once a cap is in place, the rationale for introducing or retaining such instruments must rely upon either their contribution to overcoming market failures other than carbon externalities, or in delivering social objectives other than efficiency. Their contribution to emission reductions can no longer form part of their rationale.

#### 3. CONFUSION---it nukes solvency AND the effectiveness of later tax application.

Tickell ’11 [Oliver; 2011; Editor of The Ecologist, Campaigner on Health and Environment Issues; Kyoto 2: How to Manage the Global Greenhouse, Google Books]

This complex mix of taxes, levies, obligations and subsidies sends out confused signals, creates unintended interactions and opportunities for double or treble counting. In particular no consistent ‘carbon price’ emerges, and the carbon prices reflected by these different mechanisms cover a wide range, between £216/tC02 for fuel duty (on the admittedly unsustainable assumption that 100 per cent of the fuel duty reflects climate change costs) and around £100/tCO2 for the Renewables Obligation, down to -£50/tCO2 (that is, a £50 ‘carbon subsidy’) through the reduced rate of VAT on domestic fuel and electricity.

As Steven Sorrell and Jos Slim comment,

The complex, elaborate and interdependent mix of climate policies developed in the UK provides a particularly rich example of the challenges to be faced. [...] The net result may be a mix of overlapping, interacting, and conflicting instruments which lack any overall coherence. In short, a policy mix may easily become a policy mess.70

#### 4. COST BASIS---prohibition eliminates the tax’s regulatory target, so it can’t be evaluated for future use.

Tsindeliani ’19 [Imeda; November 4; PhD in Law, Associate Professor, Head of the Department of Financial Law at the Russian State University of Justice; Utopía y Praxis Latinoamericana, “Main Elements of Taxation in the Conditions of the Development of Digital Economy, “ vol. 24]

Therefore, due to the fact that this issue has not been sufficiently studied in the science of financial and tax law, it is difficult to make a clear distinction between the meanings of the concepts "object of taxation" and "tax object." At the same time, one should agree that the presence in the legal doctrine of the category "tax object" along with the object of taxation is necessary. In this connection, in this article the terms "object of taxation" and "tax object" are considered as synonyms. If you turn to property taxes, for example, to the tax on the property of individuals, then residential houses, apartments, rooms, car places, etc. with ownership of these objects are the object of taxation. In this context, it is rightly noted that the right of ownership, which is the basis of personal rights and freedoms, also serves the public interest of taxation. The object of land tax is land plots that are both in the ownership right and owned by taxpayers on the right of permanent (unlimited) use or the right of lifetime inheritable possession. If there is a right of gratuitous use of the land plot or its lease, which by definition are characterized by a much less stable legal relationship with the taxpayer, then the object of this tax is absent (Cockfield: 2002).

It is obvious that the tax base is regarded as a cost, quantitative, or physical characteristic of the object of taxation, which is determined for each tax independently. One cannot but agree with the opinion of scientists that the tax base is one of the tools of the State's tax policy, and this, in turn, allows the regulatory function of the tax to be realized.

The main function of the tax base, as A.V. Demin considers, is to express the object of taxation quantitatively, i.e., measure it. For this, it is necessary to select a parameter that will be used as the basis for measuring the object of taxation. However, the tax base is not just a parameter. It is a parameter expressed in certain tax units, i.e. the tax base is the size (value) of the object of taxation in units of taxation. Since the tax base and the procedure for determining they are established for each tax separately, the task of the legislator is to select from the set of possible parameters of the object of taxation the most optimal and then determine the procedure for calculating the tax base in relation to a specific tax. It is rather often, such parameters coincide for different taxes, but the tax bases are always calculated differently (Babin & Vakaryuk: 2018).

Most often, in practice, a cost (money) parameter is used. The value (monetary) parameter has VAT. Physical parameters represent a variety of physical characteristics, including area, volume, power, mass, etc. Water and transport taxes are an example (Babin & Vakaryuk: 2018, pp. 21-40). Today, the definition of the tax base for personal property tax based on the cadastral value of real estate remains one of the topical issues.

It is also disputable to establish a date with which the cadastral value, revised according to the results of the contest, is valid. In accordance with Article 403 of the Tax Code, in the event of the change of the cadastral value of the property object, according to the decision of Commission on consideration of disputes on results of definition of cadastral cost or judgment of any court, a new information about the cadastral value is taken into account when determining the tax base, starting with the tax period in which the relevant application has been submitted. Given the fact that the taxpayer actually learns about the tax base and tax liability upon receipt of a tax notice (i.e., in the new fiscal period), this provision requires adjustments (Shestak & Volevodz: 2019). The tax base is determined with the help of the methods that include: direct, indirect, conditional, lump-sum. For example, to calculate the profit tax, a direct method is used, which means measuring the tax base based on objectively existing and documented indicators.

The process of levying taxes will be effective only when the tax base accurately characterizes and determines the object of taxation. At the same time, the dependence between financial indicators and tax liabilities should be taken into account. The reliability, completeness of the collected and processed by the tax authorities with the help of digital technologies will allow improving the applicable tax forms in future. In order to ensure this process, it is necessary to harmonize tax and accounting legislation. On the one hand, the methodological approach to calculating the tax base based on accounting data requires the formation of accounting data with a greater degree of objectivity. On the other hand, the tax legislation must take into account the specifics of the formation of accounting indicators when choosing the limitations and norms that determine the method of calculating the tax base. In conditions of development of digital economy it will allow ordering algorithms of data processing and access to such data.

#### 5. POLITICAL SUPPORT---the perm deflates the political foundation of progressive taxation.

Crane ’16 [Daniel; July 2016; Associate Dean for Faculty and Research and Frederick Paul Furth, Sr. Professor of Law at the University of Michigan; Cornell Law Review, “Antitrust and Wealth Inequality,” vol. 101]

A further complication relates to the political effects of changes in the levels of market power and market concentration. Work in economics and political science suggests that the political demand for higher tax rates increases as market concentration increases. 156 If so, systematic enforcement of the antitrust laws to ensure competitive markets could, over time, translate into lower electoral demand for progressive income taxation and eventually translate into a reduction in marginal rates and lower incidences of redistribution through governmental taxation and spending. That, in turn, could have very significant regressive effects, since progressive taxation and income redistribution have much more direct progressive effects than antitrust enforcement has (if any).

In sum, the trust-busting prescription to cure wealth inequality is highly speculative, at best. Economy-wide, the wealth distribution effects of anticompetitive conduct and remediation through antitrust enforcement are too ambiguous, attenuated, and dynamically interactive to permit the sort of broad claims commonly advanced in the monopoly regressivity thesis.

#### 6. SHIRKING---the IRS will scale back if there’s also a prohibition. That guts the credibility of the tax.

Sacher ’19 [Seth and John Yun; Summer 2019; PhD in Economics from the University of Maryland; Professor at the Antonin Scalia Law School at George Mason University; George Mason Law Review, “Twelve Fallacies of the "Neo-Antitrust" Movement,” vol. 26]

IX. Fallacy Nine: Neo-Antitrust Proposals Can Be Efficiently Implemented Through the Existing Regulatory and Legal Framework

As noted above, expanding the scope of antitrust into new areas beyond the confines of the relevant market, or even beyond the economic field to concerns such as environmental quality, will have costs for competition agencies as their resources become stretched more thinly. However, to the extent such areas already are, or should be, the concern of other governmental bodies or other areas of law, a number of additional harms can result beyond those relevant to the competition agency itself.

The primary harm is simply waste, as multiple agencies actively study and intervene in the exact same things. Nevertheless, there are numerous other concerns. For example, "overdeterrence" can result if competition agencies get involved in areas that are the province of regulatory agencies, or handled through other means, such as contracting, as is often the case with privacy concerns. 148While proponents of neo-antitrust seem to be primarily concerned with issues of underdeterrence, the potential for overdeterrence is broadly recognized in both the legal and economic realms and the costs can be very real. 149

Overdeterrence is somewhat related to the issue of false positives, and both have similar effects. However, whereas false positives go more to the issue of the incorrect detection of a violation, overdeterrence goes more to the issue of the chilling effects from overly harsh punishment for a particular practice. It is also the case that by imposing a second level of review, which may be less accurate than the primary level, the likelihood of false positives is increased when competition agencies step into the areas already covered by regulators or other areas of the law.

Another key argument for limiting the role of competition agencies in non-competition issues is that other regulators may be led to believe that they can shirk their responsibilities. In a sense, this may mitigate some of the concerns with overdeterrence stated above. That is, if the regulator believes the competition agency will handle matters on its behalf, it may not start an investigation or impose a penalty. However, this is hardly an argument for allowing competition agencies to get involved in such matters because this essentially impairs the effectiveness of the regulatory regime. This can be particularly harmful in less developed nations with emergent antitrust and regulatory institutions. 150

On the other hand, with respect to detailed industry-specific knowledge, the regulatory agency may have informational advantages over the competition authority. (In the case of regulated industries, industry-specific knowledge often relates to a particular firm.) Thus, the competition agency will often not be adding to the expertise of the regulator and could also be undermining the legitimacy of both agencies. 151

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

#### ‘Prohibitions’ are an edict that forbids by law.

Mueller ’15 [Kimberly; February 25; Judge on the United States District Court California Eastern District; United States District Court for the Eastern District of California, “Peña v. Lindley,” Lexis]

The law does not, however, "prohibit[] the commercial sale of firearms." Marzzarella, 614 F.3d at 92 n.8; see also United States v. Barton, 633 F.3d 168, 175 (3d Cir. 2011) (noting Heller's distinction between "regulations" and "prohibitions"). Whereas the "imposi[tion] of conditions and qualifications on the commercial sale of arms" is "presumptively lawful," Heller, 554 U.S. at 627 n.26, the prohibition of commercial sale "would be untenable," Marzzarella, 614 F.3d at 92 n.8, because it would "effect[] a 'destruction of the [Second Amendment] right,'" Peruta, 742 F.3d at 1168 (quoting Heller, 554 U.S. at 629) (emphasis in original). As opposed to "conditions and qualifications," Heller, 554 U.S. at 627, "[a] 'prohibition' does more than merely alter or restrain a person's behavior; it is an edict, decree, or order which forbids, prevents, or excludes," Barton, 633 F.3d at 175 (internal quotation marks omitted); see also Jackson, 746 F.3d at 964 ("[A] ban is not merely regulatory; it prohibits . . . ." (internal quotation marks omitted, emphasis in original)). Thus, categorical prohibitions "go too far." Peruta, 742 F.3d at 1170. In Heller, for example, the Court invalidated the contested law, without subjecting it to constitutional scrutiny, because it was a "complete ban on handguns in the home . . . ." Id. at 1170 (citing Heller, 554 U.S. at 629). Similarly, in Peruta, the court summarily struck down the law in question because it was a "near-total prohibition on keeping [arms] . . . ." Id. In Silvester v. Harris, the subject of plaintiffs' second notice of supplemental authority, a fellow district judge found a ten-day waiting period to purchase a firearm an unconstitutional burden on the rights of those who already owned [\*34] firearms. 41 F. Supp. 3d 927, 2014 U.S. Dist. LEXIS 118284, 2014 WL 4209563, at \*28 (E.D. Cal. Aug. 25, 2014) (discussing longstanding presumptively lawful regulations as discussed in Heller, finding that waiting periods do not qualify, but noting laws "prohibiting the sale of certain types of firearms" may qualify).

#### Tax-based penalties are not a ‘prohibition.’

Gruodis ’16 [Povilas; June 3; Ph.D. and Lecturer at Vilnius University Faculty of Law, Attorney, JD in Law from Vilnius University; Social Transformations in Contemporary Society 2016, “Regulatory Function of the Tax Law: Methodological Origins and Specific Features,” ISSN: 2424-5631]

Abstract

It is common to think that the primary function of the tax law are fiscal which means that tax laws should be effective to collect budgetary income. Modern economics and modern tax law admit that tax law also has regulatory function which can be effectively used to regulate behavior. Every tax norm has strong regulatory impact which cannot be omitted. The regulatory function of the tax law is completely independent and cannot be originated from the fiscal function of the tax law. Tax laws can be very effective regulator and the fiscal function of the tax law is completely unnecessary for regulative purposes. The regulatory function and the regulatory impact of the tax norms are completely different from the regulatory function and regulatory impact of traditional “command and control” legal norms. In this research author analyzes the methodological origins and specific features of the regulatory function and the regulatory impact of the tax norms. As it is opposite to traditional “command and control” legal norms, tax norms can regulate behavior without setting any prohibitions or restrictions to taxpayers. That means that the regulatory function of the tax law are based on specific economically based self regulation mechanism which can be even more effective than traditional legal regulation based on sanctions and restrictions.

#### It's a disincentive but leaves the proscribed activity unprohibited.

Dagan ‘9 [Tsilly; Summer 2009; Faculty of Law at Bar Ilan University, LLM in Taxation from the New York University School of Law, LLB and JD from Tel Aviv University; Virginia Tax Review, “Itemizing Personhood,” vol. 29]

Tax liability produces powerful economic disincentives, which, in turn, entail behavioral consequences. If only commodified transactions are taxed whereas noncommodified activities go untaxed, people will have a marginal preference for the latter. Hence, perhaps paradoxically, tax law can provide an economic incentive for noncommodified activities by not taxing them. Likewise, tax law can create a disincentive for nonmarket activities by taxing them or disallowing expenses associated with them. Since taxation can encourage or discourage nonmarket activities, it can serve as a possible tool in any informed effort to commodify or decommodify certain aspects of our lives.

Unlike the "all or nothing approach" of either allowing or prohibiting exchanges, tax offers a more refined and sensitive tool for regulating commodification. Taxing only market goods, for example, affects commodification by making the relative price of market goods higher than the "price" 32 of the nonmarket benefits. Thus, tax adds a unique form of regulation - tinkering with market prices - to Radin's suggestions as to the various ways in which we might consider commodification a matter of degree. 33 Incentives and disincentives can also be generated by taking into account actual expenses that are paid to support noncommodified attributes (such as housing, childcare, and contributions to charitable associations). In other words, despite the fact that tax is well-anchored in the market realm (or, perhaps, due to this fact), the wide array of tax techniques can be used to create incentives for noncommodified interactions.

### Perm---AT: Other Antitrust

‘Other issues’ don’t solve:

#### 1. Specificity----the appeal of taxes cannot be proven in the abstract.

Raskolnikov ’13 [Alex; March 2013; Charles Evans Gerber Professor of Law, Columbia Law School; Cornell Law Review, “Accepting the Limits of Tax Law and Economics,” vol. 98]

The major appeal of this approach is quite obvious: in contrast with the standard optimal income tax theory, the details of the actual tax law and tax enforcement are very much in the picture. 111 If we can determine what should be a deductible business expense or a tax-free fringe benefit using Kaplow's method, we can evaluate any other tax rule as well. The same is true of the structure and magnitude of sanctions.

Yet Kaplow's approach is unlikely to help in evaluating the efficiency of actual tax provisions, let alone in reforming them with the aim of achieving the welfare-maximizing regime. The main problems are its level of generality, its information demands, and its indeterminacy.

Kaplow's approach, no doubt, is entirely consistent with welfare economics. In fact, economic analysis of any area of the law may be performed in the same way. Should a particular regulatory regime be strict liability or threshold-based? Should sanctions depend on acts or harms? Should there be something like the RCRA for managing hazardous waste and, if so, should it have the physical barrier requirement described above? To answer each question, we can plug the alternative specifications into the preferred SWF and choose the regime with the higher value. The entire law and economics enterprise may be supplanted by this approach.

The reason this has not happened is obvious: articulating more specific prescriptions has a very strong appeal. Legislators, judges, and administrators may understand the concept of externalities and transaction costs and even have intuitions about their likely magnitude in a particular setting. These policymakers may be fairly confident that in some situations an act-based regime is preferable to a harm-based regime because, for instance, many offenders will be judgment proof if the latter system is chosen. 112 Regulators may even have a reasonably good grasp of the tradeoffs involved in the basic cost-benefit analysis. But no decisionmaker would be moved by an appeal to resolve legal and policy questions by comparing the values of social welfare functions. 113

#### 2. Competition---including the plan’s prohibition trades off. Taxes compete for bandwidth with other instruments.

Farber ‘3 [Daniel, Sho Shato, and Brett McDonnell; 2003; McKnight Presidential Professor of Public Law, University of Minnesota; Professor of Law, Boalt Hall School of Law, University of California, Berkeley; Associate Professor of Law, University of Minnesota; Minnesota Law Review, “The Interface Between Intellectual Property Law and Antitrust Law: Why (and How) Fairness Matters at the IP/Antitrust Interface,” vol. 87]

The well-known problem with the second theorem is that lump-sum taxes and transfers are not achievable in the real world. Any actual system of taxing and transferring will affect the behavioral incentives of some persons, and hence lead to some degree of inefficiency. 22 This reopens the question as to whether other policy instruments should be used to promote distributive equity. The work of Kaplow and Shavell, however, suggests that even in the imperfect real world we should only use tax and transfer policy to achieve our distributive goals. 23 They argue that a broad wealth or income tax policy is a less inefficient way of redistributing than any other policy, because it is hard for persons to evade a broad tax policy, and hence such a policy is likely to have a weaker effect on behavior than other policies that achieve a similar distributive effect. 24 Moreover, using non-tax rules for distributive purposes has a double-distortionary effect. First, setting an antitrust rule that differs from the efficient rule has a direct impact on efficiency through its effect on behavior covered by that rule. Second, there is an indirect effect. In considering how much to work and earn, there will be less incentive to earn more because doing so will make one a target for the disadvantageous antitrust rule. 25 Hence, it is (second) best to use only tax policy to distribute wealth - tax policy will have some efficiency cost, but a lower cost than any other policy.

That argument is the current state of the art in law and economics. 26 Chris Sanchirico, however, has recently launched a powerful challenge. 27 Sanchirico uses theory of the second [\*1825] best arguments against Kaplow and Shavell. Suppose one starts from a state where one has used only tax policy to distribute wealth, and has used all other available policy instruments simply to promote efficiency, ignoring their distributive effects. Now, consider the following change. Relax the tax policy a bit to achieve a bit less redistribution, but also to reduce the inefficiency of the tax policy. The marginal decrease in inefficiency will be notable, as that was the only instrument used for redistribution, and hence its marginal efficiency cost is probably fairly large. Now, use some other policy instruments to gain back the lost redistribution. The marginal effect on efficiency of those changes will be zero, as all of the other policy instruments have been set to maximize efficiency alone, and hence the marginal effect of a small policy change on efficiency must be set at zero. Thus, one should be able to use the other policy instruments to achieve the same amount of redistribution with a lower efficiency cost than if one used only tax policy to redistribute. 28

Like all arguments, Sanchirico's needs some assumptions to work. There is an ongoing debate as to the likely practical effects of his argument. Kaplow and Shavell claim the practical effects are limited; 29 Sanchirico forcefully denies this. 30 Ultimately it is an empirical question. Empirical questions within the theory of the second best are notoriously difficult to answer. 31 Our sense is that Sanchirico gets the best of this debate so far, though only time will tell. Of course, the answers may be different for different jurisdictions. For instance, tax and transfer policies are less developed in the European Union; hence other areas of policy in the European Union may be legitimately more focused on distributive effects than is the case with U.S. policy. 32

There are other reasons that redistribution through tax and transfer policies may not work well. They may not be politically feasible. 33 Monetary transfers may get diverted to the wrong persons due to corruption. 34 One may care about characteristics other than income and wealth. 35

The implications for antitrust and intellectual property policy are that one cannot dismiss distributive effects as a policy concern simply by saying that taxation will answer any and all distributive concerns. 36 That does not mean, however, that there may not be arguments more particular to antitrust or intellectual property that dictate ignoring distributive effects. We turn now to such possible concerns.

3. Distribution in Antitrust and Intellectual Property

Economic analysts of antitrust often assume that the appropriate goal of policy is to maximize total surplus created within the product market under consideration. 37 Total surplus equals producer surplus plus consumer surplus. Producer surplus is the difference between how much revenue producers receive and how much it cost them to produce the good or service (i.e., it basically is profit). 38 Consumer surplus is the difference between how much consumers pay for the good or service and how much they would have been willing to pay for it.

The core distributive argument for favoring consumer surplus over producer surplus is that on average the recipients of consumer surplus are poorer than the recipients of producer surplus, and hence moving surplus from producers to consumers improves distributive equity. 39 Of course, this is at most true only on average. Some recipients of consumer surplus are richer than some recipients of producer surplus. Thus, an important empirical question becomes how strong is the correlation between consumer surplus and lower wealth. The stronger the correlation, the stronger the distributive argument for favoring consumer surplus. Also, the argument applies much more to markets for final consumer products. For intermediate products, where the consumers are other companies using the product as an input for their own production, this redistributive concern is unlikely to apply.

We thus need to look just a bit more closely at consumer surplus and producer surplus. Consider the former first. Less wealthy people will tend to consume a higher percentage of their income than more wealthy people. 40 Thus, a tax on consumption will tend to be more regressive than a tax on income, which in turn is more regressive than a tax on profits. Of course, in many particular industries consumers will be wealthier than the national average - the luxury yacht industry, for instance. But on average the correlation does hold, with moderate strength. 41

Producer surplus is divided among a variety of parties, the most important of which are employees and the providers of capital. In the U.S., employees receive about two-thirds of industrial revenue, and providers of capital receive about one-third. 42 Income and wealth distribution among employees probably resembles distribution among consumers, though this naturally varies among industries. Providers of capital, though, tend to be skewed to the wealthy. Even in the U.S., where about half of the population owns stock 43 (an extremely high proportion by international and historical standards), this skew is significant. It is basically the wealthy half of the population that owns shares, and among that half, share ownership is still heavily concentrated among the wealthier. 44 Bond ownership is even more heavily skewed towards the wealthy. 45

Thus, the correlation between wealth and consumer surplus versus producer surplus definitely exists, although it is imperfect. How attractive an instrument antitrust policy is for achieving redistribution depends in part on how inefficient tax policy is. This is an open question, but there is room for at least some concern over distributive fairness as a proper part of making antitrust policy. 46

### Solvency---AT: Say No---2NC

#### It’s understood by businesses as identical to a prohibition because the penalty for violating the plan is also ultimately financial. The response will be equivalent.

Rixen ’21 [Thomas and Brigitte Unger; July 2021; Ph.D. and Professor at the Otto Suhr Institute for Political Science at the Freie Universität Berlin; Chair of Public Sector Economics at the Utrecht University School of Economics; Regulation and Governance, “Taxation: A Regulatory Multilevel Governance Perspective,” p. 1-2]

Many introductory and foundational texts in the political and administrative sciences present taxation and regulation as distinct instruments of governance (e.g., Lowi 1972; Hood 1986; Knill & Tosun 2012). Regulation is understood as rules proscribing certain behaviors and sanctioning others. It is justified in terms of protecting the public interest and usually takes the form of laws, but may also include standards, principles and norms (cf. Levi-Faur 2011: pp. 4–6). In contrast, taxation works through the medium of money and shapes individual behavior through material incentives that leave actors leeway to act according to their individual cost–benefit calculations. While this distinction certainly makes sense, it collapses if one steps back to take a broader perspective. First, like regulation, taxation is based on laws, standards, principles, and norms. Tax law is backed by sanctions threats and (ultimately) state coercion. It is legitimized by reference to the public interest. Second, while the primary objective of taxes – with the important exception of environmental and sin or health taxes – may be to raise revenues, they discourage the taxed activity and thus shape individuals' or firms' behavior, that is, they have regulatory impacts (Barnett & Yandle 2004). Likewise, while the primary purpose of regulation is to proscribe certain behaviors, they can be understood as implicit taxes (Posner 1971). “From the standpoint of the affected individual or firm, all regulations are taxes and all taxes regulate” (Barnett & Yandle 2004, p. 217). Another reason why regulation and taxation are often seen as distinct is that regulation is conceived as a dynamic process, in which regulators and regulated are engaged in a continuous, personal interchange, whereas taxation is seen as a “static, stultified, coercive, and impersonal exchange” that consists merely in handing over money (Braithwaite 2007, p. 3). As Braithwaite and her colleagues have shown (Special issue of Law & Policy, vol. 29, issue 1, 2007), this juxtaposition has never held empirically. In contrast, tax systems at the national, regional, and global level are dynamic regulatory systems and they can and should be studied as that.

#### They’re value-maximizers who will instantly comply.

Riza ’13 [Limor; 2013; Senior Lecturer of Law, Faculty of Law at Ono Academic College; Houston Business and Tax Law Journal, “Should Tax Law Mind Minority and Monitor Majority: The Case of Undistributed Dividends and the Ability-To-Pay Principle,” vol. 13]

In the first alternative, the paper discussed the set of sections dealing with accumulated earnings. 217 One of the advantages of tax law is attributable to its importance in the decision-making process and in that respect, it is an efficient regulatory mechanism. 218 Tax considerations are fundamental to individuals and entities in making business decisions, and they generally react rather promptly to tax reforms. 219 Tax law is a fundamental consideration taken by taxpayers -- especially business persons -- before and in the course of their activities. 220 Thus, it is plausible to assume that the additional tax imposed on corporations for their accumulation shall induce entities to distribute their earnings. 221 Namely, corporations are induced to distribute dividends to all shareholders; otherwise, they are exposed to additional tax. 222 The accumulated earnings provision taxes corporations on undistributed earnings. 223 This can serve as a tool to minimize the conflict between minority and majority shareholders. Since agents are value maximizers and are part of their corporation, they are induced to reduce the corporation's tax burden. And since eventually corporate tax is borne by individuals (though, not necessarily shareholders), in a highly concentrated corporation a tax imposed on corporations has a larger effect on shareholders than in a corporation with dispersed ownership. As long as the majority shareholders' holdings in the corporation are substantial, they are motivated to escape this extra taxation levied on their corporation. 224 Thus, tax law and corporate law go hand in hand since agents have incentives to reduce their tax burden.

#### The result is a de facto prohibition.

Noked ’17 [Noam; November 2017; Assistant Professor in the Faculty of Law at The Chinese University of Hong Kong; William and Mary Business Law Review, “Can Taxes Mitigate Corporate Governance Inefficiencies?” vol. 9]

It is important to distinguish between corrective taxation that aims to internalize negative externalities, and tax penalties that are used to ensure compliance with a particular rule regardless of the externalities involved. 211 A sufficiently high tax penalty can be used to enforce a de facto ban or obligation. For example, the 30 percent withholding tax imposed on certain payments to non-participating foreign financial institutions under the Foreign Accounting Tax Compliance Act was adopted as a tax penalty to achieve the full cooperation of foreign financial institutions. 212 One consideration that might support using tax penalties rather than a ban is the political ability to legislate these penalties. Another consideration is institutional: which agency should enforce this rule? The IRS is likely to enforce the tax penalty, whereas the SEC is more likely to enforce a ban imposed on publicly traded firms. 213

It is possible that the intercorporate taxation in the United States is a tax penalty that operates as a de facto ban, although it still allows pyramidal structures where the benefits are large enough. A few years ago, Israel adopted a ban on a pyramidal structure with more than two levels. 214 A controlled firm can control no more than one other firm. 215 If the lower firm controls another firm, a court will appoint a trustee to sell the remaining firm. 216 The Israeli legislature considered and rejected following the American model of taxing the intercorporate dividends. 217 It is unclear which model is superior, though it seems that either a ban or a tax penalty that is high enough can achieve similar results.

A corrective tax on pyramidal structures should be set on the negative externality resulting from that structure. 218 The inefficiencies associated with pyramids increase where the gap between voting rights and cash flow rights are larger. 219 Therefore, corrective tax should increase in a similar manner. The current tax rules in the United States impose a higher tax on holdings lower than 20 percent, a lower tax on holdings between 20 and 80 percent, and no tax where the holdings exceed 80 percent. 220 This may serve as a very rough approximation of the negative externalities that increase where the controller's share is lower. One advantage of having these three categories is the simplicity of this rule. However, imposing a similar tax where the holding is 21 percent and where it is 79 percent cannot be justified on corrective grounds, as the externalities should be very different. In addition, imposing a higher tax on intercorporate dividends where there is no effective control--where the holding is lower than 20 percent--would be hard to explain as a corrective measure.

If the negative externality decreases with ownership, the tax on intercorporate dividends can track this relationship by adjusting the tax to the ownership rights. We should find the level of ownership which enables an effective control--for example, 30 percent--and the level of ownership which is high enough to provide sufficient incentives to the owner--for example, 80 percent. If the negative effects decrease linearly, the tax should follow this by decreasing from a high tax rate, where the ownership is 30 percent, to a zero tax rate, where the ownership is 80 percent.

One advantage of optimal corrective taxation over a ban or a tax penalty--that serves as a de facto ban--is that the former does not prevent efficient pyramids, where there is a value-maximizing reason to have a pyramidal structure. 221 However, assessing the accurate negative externalities associated with different pyramidal structures would be very hard. 222 A corrective tax which is too low would result in a social cost from having many inefficient pyramids, whereas a corrective tax which is too high would be a de facto ban. In addition, it may be more politically feasible to adopt a tax, including a tax penalty that is a de facto ban, rather than an outright ban. 223

### Theory: Process CPs---2NC

#### 3. Education---it’s antitrust-specific AND deep in the literature.

Rixen ’21 [Thomas and Brigitte Unger; July 2021; Ph.D. and Professor at the Otto Suhr Institute for Political Science at the Freie Universität Berlin; Chair of Public Sector Economics at the Utrecht University School of Economics; Regulation and Governance, “Taxation: A Regulatory Multilevel Governance Perspective,” p. 2-3]

Studying tax systems as regulatory systems, the contributions to this special issue analyze institutional changes of tax governance. Instead of contenting ourselves with showing that taxation can conceptually be understood as a form of regulation and vice versa, we show that some of the most important and widely discussed changes of regulatory governance are also present in tax governance. While traditionally taxation was characterized by national, hierarchical, direct, and public governance, it has become more international, less hierarchical, and more indirect through the inclusion of private intermediaries over the last four decades. As we will describe in more detail in the next section, national tax systems are increasingly couched in international rules promulgated by transgovernmental and transnational networks; it has become multi-level governance. National tax enforcement, facing complex international rules, relies on responsive and cooperative regulation vis-à-vis taxpayers. Due to the complexity of the international tax system, private actors such as accountants, law firms, and NGOs take an ever more active stance on issues of tax policy. Thus, in taxation we can observe the same trends as in other domains of regulation, which have often been summarized as a shift from government to governance and an increasing reliance on “new modes of governance” (e.g., Héritier & Lehmkuhl [2008](https://onlinelibrary.wiley.com/doi/full/10.1111/rego.12425#rego12425-bib-0036)).

This observation has methodological and theoretical implications for students of both regulation and taxation. Scholars of regulatory governance may rightfully point out that such parallel developments in both taxation and regulation may be expected since the main drivers of this development – globalization, liberalization, and increased complexity – are also present in the area of taxation. On the other hand, taxation, which can be considered the constitutive core of modern statehood, has always been viewed as a hard case for the emergence of these new modes of governance because states would be reluctant to share authority over taxation with other states or private actors (e.g., Genschel & Jachtenfuchs [2011](https://onlinelibrary.wiley.com/doi/full/10.1111/rego.12425#rego12425-bib-0026)). So far, the literature on new modes of governance has all too often focused on those areas where the phenomenon is very pronounced, such as in financial regulation (e.g., Büthe & Mattli [2011](https://onlinelibrary.wiley.com/doi/full/10.1111/rego.12425#rego12425-bib-0016)) internet governance (e.g., Bach [2010](https://onlinelibrary.wiley.com/doi/full/10.1111/rego.12425#rego12425-bib-0010)) or environmental regulation (e.g., Green [2013](https://onlinelibrary.wiley.com/doi/full/10.1111/rego.12425#rego12425-bib-0030)). Methodologically, this of course risks bias in explaining the emergence of such governance. Including taxation as a hard case in their empirical portfolio provides scholars of regulatory governance with an opportunity to test, refine, and improve upon existing accounts of the emergence and proliferation of new modes of governance. Tax scholars profit from combining both fields in terms of theory. They are provided with new paradigms, theories, and concepts to make sense of their field. Introducing concepts like responsive regulation, modes of governance, orchestration, hard and soft law, or regulatory arbitrage provides a fresh perspective and promises new insights on their topic. More broadly, the field of regulatory governance introduces institutionalist and organizational aspects that are often marginal in the fields of public finance, political economy, and law as the traditional disciplines for the study of taxation.

### Taxation---Impact---2NC

#### Adaptive taxation stabilizes demographic waves---nuke war AND turns every impact.

Iparraguirre ’19 [Jose; 2019; Chief Economist at Age UK and Professor of Applied Econometrics at the University of Moron, PhD in the Sociology of Demographic Change from the Universidad Nacional de Educación a Distancia; Economics and Aging: Volume II: Policy and Applied, p. 45-60]

For a given supply, the more inelastic the demand for a good, the smaller is the deadweight loss of imposing a tax. The ‘Ramsey rule’ states that more necessary goods should be taxed more heavily than goods with greater demand elasticities.11 This way the total excess burden caused by the introduction of the tax will be minimised: this tax structure would be economically efficient. ‘And extremely regressive!’, you may decry because the price-demand elasticity of a good is higher the more necessary the good, and it is the poor who tend to allocate a higher proportion of their income to ‘basic necessities’. Well, I said ‘under certain assumptions’, one of which is that the economic actor being model is a representative agent: all agents are assumed to be identical, so there are no distributional problems. If we assume there are, say, two groups of individuals—namely, the poor and the rich—and that the former have more inelastic demands because they tend to allocate a higher proportion of their lower income on necessities compared to the other group, Ramsey’s model highlights the tension between efficiency and equity that runs through much of the discussions in public finance and economic policy in general. As Mirrlees et al. (2011, p. 36) put it: ‘Optimal tax theory is all about the choice of a system of taxation that balances efficiency losses against the government’s desire for redistribution and the need to raise revenue.’

When it comes to efficient tax structures, a tailor-made tax on consumption that were able to distinguish between agents would be theoretically optimal: any two agents with different demand elasticities would be taxed differently. Butwhy restrict the analysis to the consumption of goods and services?Ramsey did not concentrate only on the demand side—after all, demand and supply are but the two blades of the same pair of scissors (Marshall 2013, V.III.7, p. 164). In fact, his basic insight was that—assuming linear and separable demand and supply schedules and the absence of income effects—the ratio between the unit tax on a good and its unit price must be equal to the sum of the inverse of the elasticity of demand and the inverse of the elasticity of supply; see Stiglitz (2015).

One key service is labour, so a tax on labour income could also be structured along Ramsey’s rule. Labour income is the product of the number of hours worked and the hourly wages, so the tax rate would be higher for agents with higher labour supply elasticity. Another important source of income, particularly for well-off individuals, is capital income; hence, in theory a tax on interest income could follow similar guidelines. Here we come to one intersection between ageing and taxation: age-adjusted optimal taxes.

2.2.2 Age-Adjusted Optimal Taxation

Ramsey was concerned about efficiency. The levying of taxes (other than lump-sum) introduces deadweight losses or inefficiencies. If the governments could observe things closely associated with efficiency such as effort or skills, they could estimate the elasticities of effort or skills and consequently levy taxes optimally. However, effort or skills cannot be observed directly—this is a key assumption: that the government (or social planner) cannot observe each individual’s labour ability or effort; hence taxes cannot be based on this characteristic, which is assumed to remain ‘private’ information.

We further assume that the government cannot even observe unit wages. Instead, only total income is observable, which conditions the fiscal instruments the government can use.More generally, time is assumed to be available solely either for labour or leisure.12 And leisure cannot be taxed directly, which, according to Erosa and Gervais (2002, p. 339), constitutes the ‘fundamental problem in setting optimal fiscal policy’. If we agree that labour income is positively and closely related to effort and skills, or inversely associated with leisure, then it could constitute an acceptable base for Ramsey-type taxation. Therefore, we need to look into the wage elasticity of labour supply.

Crucially, the elasticity of labour supply varies with age (Peterman 2016; Whalen and Reichling 2017), and the age profiles of capital income show a positive gradient, as the life-cycle hypothesis suggests—see, for example, Brugiavini and Padula (2003), Burtless (2005), and Garbinti et al. (2017). Consequently, the Ramsey model would recommend that income taxes should be adjusted by age. As we mentioned above—see also Chap. 1 in Volume III— older workers tend to exhibit a higher elasticity of labour supply with respect to changes in labour income, particularly along the extensive margin.

In labour economics, there is a distinction between the extensive and the intensive margin of labour supply: the extensive margin refers to the decision of whether to work in paid employment or not; the intensive margin refers to the decision of how many hours to allocate to paid employment, having already decided to work. For men and women the elasticity of labour supply, both at the extensive and the intensive margins, varies along their life cycle (Blundell et al. 2013). As Hemel (2010, p. 1888) explained:

If individual workers cannot make marginal adjustments to their hours, then we would expect the price elasticity of labor supply to be greater for individuals who are considering exit from the workforce than for individuals who might desire an incremental reduction in hours. In other words, we would expect the disincentive effects of taxation to be greater around the retirement decision than at midcareer.

This changing elasticity over the life cycle constitutes the main theoretical pillar of the position that proposes the adoption of age-dependent taxation: ‘The need for age-dependent taxes is a natural implication of life-cycle behavior’ (Erosa and Gervais 2002, p. 341).

Akerlof (1978) advanced the idea that if poorer groups of the population could be identified or ‘tagged’ costlessly according to relevant characteristics they could not modify, transferring subsidies to them would increase social welfare. Chronological age is an observable and non-manipulable trait and, given its association with income, a good candidate for tagging (Bastani et al. 2013).

Furthermore, unlike other observable traits which are also associated with earnings and economic behaviour in general, such as height or gender, tagging based on chronological age may be more acceptable politically given that most people are expected to reach a given chronological age at some time during their lifetimes (Banks and Diamond 2010). For example, in a US context, Hemel (2010, p. 1896) noted that the endorsement by interest groups representing older people of age-dependent tax rates, which made the policy recommendations stemming from optimal taxation theory easier to implement, was ‘a rare (and perhaps unique) congruence’ between economic theory and interest group politics.

Given that labour supply elasticity increases with chronological age, the fiscal policy conclusion (based upon a number of simplifying assumptions) is that marginal tax rates should decline with advancing chronological age (Hemel 2010). The literature on this topic, as on any other in economics, has developed from relatively simple models13 to more complex specifications, where initial assumptions are gradually relaxed. We are going to use Weinzierl (2011a,b) as a guide to reflect on the relationship between taxation and individual ageing, without going into the mathematical details. Weinzierl discussed there alternative tax policies: a labour income tax that is a function of the income but unrelated to the chronological age of the taxpayer; a labour income tax that depends on the income and the chronological age of the taxpayer; and a labour income tax that depends on the income, the chronological age, and the lifetime path of incomes of the taxpayer—termed, respectively, ‘Static Mirrlees’, ‘Partial Reform’, and ‘Full Optimum’ policies. The starting point is an individual’s utility function, which is generally assumed to depend on consumption and leisure. Instead of leisure, what in this case enters the utility function is the disutility of the labour effort. Labour effort is equal to the ratio between the labour income and the wage per unit of labour. Labour income, in turn, is the product of the wage and the labour effort. Ability or effort is not readily observable and is assumed to be distributed among the population. Economic life starts in period 1 when an individual enters the labour market and finishes in period T , when she retires. Each individual lives and works for the same number of periods: in this model there is no retirement and chronological age and period coincide. The utility of an individual of ability i and age t results from the difference between the utility derived from consumption and the disutility from labour: Each individual maximises her utility subject to the budget constraint after the taxes whose specification depends on the policy. For example, under a Static Mirrlees regime where income tax only depends on income, we have T = T (y), whereas under a Partial Reformpolicy, we have T = T (y, t) as the income tax depends on income and age; finally, in the Full Optimum case, the tax becomes T y(.)T t=1, t because it depends on the lifetime path of income and the current chronological age of the taxpayer. Finally, the model assumes the existence of a social welfare function that a benevolent policy maker or social planner seeks to maximise. The standard assumption, adopted by Weinzierl, is that this social welfare function can be represented by a weighted utilitarian function of the individual utilities—that is, as the weighted sum of the individual utilities, where the weights, known as Pareto weights (Saez and Stantcheva 2016), reflect social preferences (d’Aspremont and Gevers 2002; Sen 1986).Weinzierl (2011b) calibrated the model with data for over 10,000 people in paid employment aged 25–55 in the USA between 1968 and 2001 and obtained that age-dependent taxes generated efficiency (i.e. welfare) gains equivalent to between 0.6 per cent and 1.5 per cent of aggregate annual consumption. These efficiency gains resulted from a reduction in the marginal taxes on high-income young workers (because higher taxes on these individuals would introduce substantial the deadweight costs withmuch lower tax revenue fromthis same group of people) and from a reduction, on average, on younger workers relative to older workers under the assumption of imperfections in the capital markets such that private saving and borrowing were restricted. The conclusion was that the welfare gains under age dependence would exceed those under an age-independent tax regime. Similarly, based on US data between 1982 and 2008, Bastani et al. (2013) estimated that switching from a non-linear age-independent income tax to a non-linear age-dependent income tax would generate welfare gains equalling about four per cent of total output. The same approach has been extended to taxes on consumption and interest income: if elasticities vary with chronological age, under the same assumptions as above—particularly, the separability of the utility function—it would be optimal to levy these age-dependent taxes. However, would it be optimal to introduce age-dependent taxes on wages, consumption, and interest income at the same time? Bymeans of a similarmodel as the one described above, Alvarez et al. (1992) showed that it would not. Under the separability assumption between consumption and leisure, these authors presented the following ranking of tax (or subsidy) configurations in terms of the decreasing distortions or deadweight losses each configuration would create (Alvarez et al. 1992, Table 1, p. 119): 1. Age-conditioned wage taxes (or subsidies) and age-conditioned consumption taxes (or subsidies), or a uniform, non-aged-conditioned consumption tax (or subsidy) and age-conditioned wage taxes (or subsidies), or ageconditioned wage taxes (or subsidies) 2. Age-conditioned consumption taxes (or subsidies) and a non-agedconditioned interest income tax (or subsidy) 3. Uniform, non-aged-conditioned consumption tax (or subsidy) and a nonaged- conditioned interest income tax (or subsidy) 4. Age-conditioned consumption taxes (or subsidies) or uniform, non-agedconditioned consumption taxes (or subsidies) This ranking is not based on redistributive arguments or on consideration of the social insurance repercussions of imposing age-dependent taxes, but purely on efficiency grounds. Nevertheless, Gervais (2012) showed that agedependent tax rates on labour income and on capital income would be progressive: under age-dependent labour income tax, the tax rates would increase with labour supply and vice versa, whilst the tax rates on capital income would be negative when labour supply increased (and vice versa). The models in the optimal taxation literature have become more and more complex as authors have relaxed assumptions and explored particular conditions and situations. Different specifications have included the interplay between labour decisions and retirement—for example, the elasticity of labour supply to changes in the pension system, which we will touch upon in Volume III, Part II—or between investment in human capital and wages and productivity along the life cycle; see Volume III, Part I. Lehmann et al. (2013), using data for France between 2003 and 2006, presented the interesting finding that the elasticity of labour supply (at the extensive margin) with respect to the marginal net-of-income-tax rate would be higher than that with respect to the marginal net-of-payroll (or social security contribution) tax rates (which would not be significantly different from zero) despite both taxes affect after-tax income in exactly the same amount. Furthermore, these authors also reported that for workers aged 50 or over, the elasticity was negative, whilst it was positive for younger workers, which adds empirical clout to the recommendations that marginal income tax rates should be lower for older workers. A study looking into Swedish data for 2007 (Laun 2017) concluded that the introduction of two income tax credits—an earned income tax credit which increases for workers aged 65 or over and a reduction in social security contributions (a payroll tax credit) for workers aged 65 or above—had positive short-term effects at the extensive margin: the elasticity of labour supply to these age-related tax credits was 0.22, meaning workers aged 65 years old extended their labourmarket participation as a result of these tax credits, which contributed to a gain in welfare per dollar spent of about 1.15. Other extensions have considered the effects on capital accumulation, the uncertainty around the extension of the lifespan, decisions about planned bequests, and the stochasticity of the relationship between labour productivity and chronological age. Woodland (2016, p. 742) surveyed the literature and concluded that there seems to be an agreement that age-dependent taxes produce net welfare gains, which could ‘partially relieve’ the pressure that population ageing creates on government budgets. 2.2.3 Taxation in Dynastic Models With infinitely lived agents, life-cycle considerations cease to exist.14 However, the timing of saving decisions does matter because of the repercussions on capital accumulation, economic growth, and welfare. These distortions in inter-temporal choices lead to the conclusion that the optimal tax rate on capital or inheritance is zero (Chamley 1986; Judd 1985). Alas, it only takes the introduction of additional assumptions to, or the relaxation of, some assumptions in the most basic dynasticmodels to reach the conclusion that the optimal tax rate on wealth or assets is positive. Among other extensions that lead to tax rates on inheritance and capital income greater than zero, we can list: idiosyncratic labour income shocks—that is, shocks that affect individuals or their households rather than whole economic aggregates; accidental bequests; and the lack of government commitment over time (infinitely, in fact) to the fiscal policy (Piketty and Saez 2013). Furthermore, in their influential survey of direct taxation, Banks and Diamond concluded: The empirical evidence on the consumption patterns of parents and adult children alive at the same time is strongly contradictory of the idea that people typically behave as if there were a single dynastic utility function being jointly maximized.Moreover, taking this literally and recognizingmarriage (which links dynasties to each other) leads to absurdities. (Banks and Diamond 2010, p. 575) 2.3 Population Ageing and Fiscal Space Fiscal space has been defined as the availability of budgetary room that allows a government to provide resources for a desired purpose without any prejudice to the sustainability of a government’s financial position. (Heller 2005, p. 3) and as the financing that is available to government as a result of concrete policy actions for enhancing resource mobilization, and the reforms necessary to secure the enabling governance, institutional and economic environment for these policy actions to be effective, for a specified set of development objectives. (Roy et al. 2009, p. 33) Ostry et al. (2010, p. 17) proposed a different definition of fiscal space focused on fiscal sustainability: ‘the difference between the current level of public debt and the debt limit implied by the country’s historical record of fiscal adjustment’. These authors estimated, using data from 2015, that many developed countries needed to implement fiscal adjustment efforts that far exceeded their historical records. The concept of fiscal space is not without critics: according to Perotti (2007), it is nothing new as it merely re-states the notion of the inter-temporal government budget constraint. However, other analysts see it as a useful conceptual tool to look beyond budgetary straitjackets in the sense that fiscal space can be created and expanded. For instance, Ortiz et al. (2015, p. 1) listed eight policy options available even in the poorest countries to ‘make budgetary room’: • increasing tax revenues • expanding social security coverage and contributory revenues • lobbying for increased aid and transfers • eliminating illicit financial flows • borrowing or restructuring debt • adopting a more accommodative macroeconomic framework • reallocating public expenditures • tapping into fiscal and foreign exchange reserves Park (2012) looked into the impact of population ageing on fiscal space using yet another definition: ‘[the] distance between the current tax revenue level and the peak of Laffer curve’ (p. 3).15 Using data from 1995 to 2009 for the G-7 countries,16 this author estimated a Laffer curve under the then existing population structure and calibrated the Laffer curve for each of these countries up to 2050 using demographic projections. The idea behind the exercise was that population ageing would shrink labour supply and hence reduce revenue capacity (i.e. the tax base) and the fiscal space, but if a country was on the ‘right’ side of the Laffer curve (i.e. if the average tax rate was below its maximum revenue-generating level), the pressure from the change in the demographic structure could be offset, at least in part, by the excess room for fiscal manoeuvre. The results pointed to a smaller fiscal space for Germany, France, and Italy—the three countries in the G-7 with a relatively larger share of the public sector in the economy. These countries would be ‘more susceptible to aging shock’ (op. cit., p. 14). Bogetic et al. (2015) also looked into population ageing and fiscal space, but operationally defined the latter as debt per dependent person ‘as a measure of fiscal space to finance the aging related commitments that are no longer feasible to be financed by the contributions from the active population’ (p. 20). They defined a maximum threshold for the debt-to-GDP ratio and then estimated the policy adjustments needed to avoid exceeding that target. The authors explained that this cap showed ‘the extent to which the government can implement a transfer and expenditure system if it cannot be financed by the aging work force’ and elaborated: Typically, any age-related expenditures are financed by higher taxes or borrowing beyond a certain threshold. Because the threshold is determined by the relative size of the dependent population and the characteristics of the tax and transfer systems and of public spending, the extent to which a government can issue debt per dependent person without breaching a specified debt ceiling shows how much fiscal space it has available to accommodate the fiscal pressures of an aging society. A cap on the growth rate of debt per dependent person -a “speed rule” defined by the fiscal target- will be tighter if the dependent population grows faster than the working-age population. Similarly, an increase in the initial debtto- GDP ratio or a tightening in the fiscal target will suggest need for a downward adjustment to the speed rule. (Bogetic et al. 2015, p. 20) The authors analysed long-term fiscal policy options in 40 countries in Europe and Asia by means of one population ageing indicator—the oldage dependency ratio (see Volume I, Chap. 2)—and several fiscal variables as a percentage of gross domestic product, such as gross public expenditure, revenue, and debt, social contribution revenues, social benefit expenditure, and so on. From these simple bivariate relationships and the threshold defined as explained above, they concluded that the fiscal space in most of these countries is limited ‘for discretionary and growth-oriented public spending’ and ‘to accommodate increases in aging-related spending’ (Bogetic et al. 2015, p. 7). Fiscal space is a useful concept for macroeconomic analysis, but economists should be wary of the danger that lies within: an over-mechanistic numerical approach that does not take into account that: …decisions on financing and spending usually respond to the specific interests of stakeholders that have sufficient power to influence them. No intervention on financing or public spending is neutral in terms of which groups in society are winners or losers. Thus, the creation of fiscal space, whatever its purpose, unfolds in a context dominated by the relationships between the power groups in society. (Durán-Valverde and Pacheco 2012, p. 1) Or, in the words of (Estes et al. 2003, p. 19): …portrayals of the threatened bankruptcy of public treasuries to support the retirement of the elderly and the ‘appropriate’ policy response (such as the proposed privatisation of social security) are crisis constructions embedded in intense power struggles that are momentous in their social, political and economic consequences, including the sacrifices that are demanded.

The financial situation of the public sector in a country is a relevant variable to assess its fiscal space. However, its growth prospects, debt reduction and consolidation policies, the political commitment by policy-makers, the relative clout and effectiveness of the different interest groups, institutional characteristics and dynamics, and—for developing countries—the use of development assistance from abroad are of equal importance.

Finally, economists should be wary of the prevalent mode of political competition (Roemer 2009) in the jurisdiction under study or where they work and provide their advice or make decisions, because as Lynch (2006, pp. 67–68) correctly asserted ‘…the dominant mode of political competition is crucial for the eventual age orientation of social spending’. 2.3.1 The Global Aging Preparedness Index The Global Aging Preparedness Index (or GAP Index), compiled by the Global Aging Initiative of the Center for Strategic and International Studies in Washington, D.C., USA, is an index that seeks to assess how countries are getting ready for ‘particularly the “old-age dependency” dimension of the challenge’ (Jackson et al. 2013, p. iii) posed by population ageing (the authors of the index define old age as 60 years or over). In part, it includes the notion of fiscal space, but it extends the concept as it brings together two sub-indices: a Fiscal Sustainability Index and an Income Adequacy Index. The Fiscal Sustainability Index is composed of three ‘categories’: • the Public Burden category, which measures the level of and projected (all projections for the 2013 edition were run until 2040) growth in total public benefits to older people and is composed of two indicators: – the Benefit Level (the projected public benefits to older people as a proportion of GDP) – the Benefit Growth (the projected growth in public benefits to older people as a proportion of GDP) • the Fiscal Room category, which measures the fiscal space of a country by combining three indicators: – the Tax Room (projected government revenue as a percent of GDP if all growth in benefits to older people are paid by taxes) – the Budget Room (projected proportion of benefits as a percentage of total public spending assuming cuts in all other items finance the projected growth in benefits to older people) – the Borrowing Room (the projected net debt as a percent of GDP assuming all projected growth in benefits to older people is funded by borrowing) • the Benefit Dependency category,which measures the degree of dependence of older people on public benefits and is composed of two indicators: – the Benefit Share (average of projected benefits to older people as a per cent of the cash income of the median-income older person) – the Benefit Cut (the percentage of older people that would fall into poverty—measured as earning an income below 50 per cent of the median income of the whole population—if public benefits were cut by 10 per cent) The indicators in the first two categories of the Fiscal Sustainability Index are weighted equally, but in the Benefit Dependency category, the share indicator receives two-thirds and the cut indicator receives one-third. The Public Burden category receives a weighting factor of 40 per cent, whilst the Fiscal Room and the Benefit Dependency categories are assigned 30 per cent each. The Income Adequacy Index is also composed of three ‘categories’: • the Total Income category, which measures the ratio between the level of income of older people and younger people, and the trends, and is composed of two indicators: – the Income Level (the projected ratio of average after-tax total income per capita of older people to younger people) – the Income Trend (the projected change in the ratio of average after-tax total income per capita of older people to younger people) • the Income Vulnerability category, which measures income adequacy for middle-income older people and the extent of poverty in old age, and is composed of three indicators: – the Median Income Level (the projected ratio of median after-tax cash income per capita of older people to younger people) – the Median Income Trend (the projected change in the ratio of median after-tax cash income per capita of older people to younger people) – the Poverty Level (the percentage of older people with incomes below 50 per cent of the median income for the whole population) • the Family Support category, which measures family support networks, and is composed of two indicators: – the Family Ties (the percentage of older people livingwith adult children) – the Family Size (the projected change in the number of surviving children of older people) The indicators in the first two categories of the Income Adequacy Index are weighted equally, but in the Family Support category, the Family Ties indicator receives two-thirds and the Family Size indicator receives one-third. The Total Income and the Income Vulnerability categories receive a weighting factor of 40 per cent each, whilst the Family Support category is assigned 20 per cent. Finally, the Global Preparedness Index is calculated by assigning the Fiscal Sustainability and the Income Adequacy indices the same weights. The latest (2013) GAP index report found that fiscal sustainability would not be an important policy concern: India, Mexico, and Chile, but that countries such as Brazil, Japan, France, the Netherlands, Germany, Italy, and above all Spain would be highly vulnerable. Looking into income adequacy, Netherlands, the United States, Brazil, Australia, and Germany stand out as highly prepared; amongst the most vulnerable countries are Mexico, Russia, South Korea, and Poland.

2.4 The Fiscal Implications of Risk

Population ageing is one of the socially amplified risks (Kasperson et al. 1988, 2003) in contemporary societies, and what Taylor-Gooby (2004) identified as one of the four processes of ‘social risk’ in post-industrial societies. In fact, Taylor-Gooby understands that population ageing exerts the most important pressure on welfare states, which emerges as ‘new social risks’. These new risks translate, from the perspectives of citizens, into changes in employment relations, family life, social care, career, and so on. From the perspective of governments, the new social risks are manifested in changes in policy-making, institutional structures, power dynamics, and legitimisation.

We saw in Volume I, Chap. 1, examples of apocalyptic demography, with concerns that population ageing would bring about a ‘crisis’, a ‘time bomb’, an ‘agequake’, or a ‘silver tsunami’ and authors warning of the seismic consequences of ‘gray dawn’ and the ‘coming generational storm’. Some go even beyond this. For example, Richard Jackson, President of the Global Aging Institute based in Virginia, USA, suggested that global population ageing threatens to ‘overturn’ (Jackson 2006) or ‘shape’ (Howe and Jackson 2011) the world order. In the same vein, Heller (2003a,b) asserted that a number of major long-term risks and challenges beset almost every country and pose mounting threats to fiscal stability, including population ageing—which Heller17 placed on the same level with climate change, rapid technological change, the intensification of globalisation, increasing inequality, and bioterrorism and the proliferation of weapons of mass destruction. Such a statement may look hyperbolic, but it mirrors what Peterson (1999a,b) had previously written:

The list of major global hazards in the next century has grown long and familiar. It includes the proliferation of nuclear, biological, and chemical weapons, other types of high-tech terrorism, deadly super viruses, extreme climate change, the financial, economic, and political aftershocks of globalization, and the violent ethnic explosions waiting to be detonated in today’s unsteady new democracies. Yet there is a less-understood challenge -the graying of the developed world’s population- that may actually do more to reshape our collective future than any of the above.

(Peterson 1999b, p. 42)

#### It stops resource depletion---turns every aff impact

Gorringe ’20 [Timothy; 2020; Ph.D. and Professor in the Department of Religion and Theology at the University of Exeter; Religions, “Confession and Hope: Ekklesia’s Task in the Global Emergency,” vol. 11]

1. The Four Horsemen

Doubtless every generation has its own version of the four horsemen of Revelation 6, and they have been grim enough over the centuries, but never as genuinely apocalyptic, in the popular sense, as today. Today’s four horsemen—overpopulation, resource depletion, loss of biodiversity and climate change—could each separately mean civilisational collapse and put together they could mean the end of human life on earth.1

The first issue is population, which has more than doubled since 1961 to getting on for 8 billion. The UN predicts it will plateau at 11 billion at the end of the century but this cannot be guaranteed. The assumption is that women’s education, and the availability of contraception, will stabilize numbers but, as Stephen Emmot points out, both of these have been available in Niger for years, and the average birth rate is still seven children per woman. In China and Hungary larger families are officially promoted. If the current rate of global reproduction continues, there will not be eleven billion, but twenty eight billion human beings by the end of the century (Emmott 2013). While one sixth of the present world population still live in absolute poverty it remains the case that, as the Baltimore economist Herman Daly has been arguing for half a century, huge numbers mean huge impacts. Emmott argues that the pressures this size of population will generate can only end in complete collapse, in which the earth will become uninhabitable.

Population impacts are intensified by the dominant economic model, neo-liberalism, which looks for more and more growth, ignoring the warnings of the ‘Limits to Growth’ report of fifty years ago. The mission of the World Bank is to put an end to poverty, which is admirable, but the subtext is that the whole world should live like the United States—which would require five planets, and indeed more if absolute numbers keep growing. One of the results of this version of ‘economy’ (actually, an anti-economy as Wendell Berry in particular has argued) is a soaring gap between rich and poor all over the world. Today inequality is driven not primarily by inherited wealth but by salary differentials.2 Some CEOs earn more than a thousand times what their lowest paid employees earn. The French economist Thomas Piketty suggests that if it got to a stage where the top decile appropriated 90% of each year’s output, revolution would likely occur unless some peculiarly effective repressive apparatus exists to keep it from happening.3 Even in terms of the system as it is, an inegalitarian spiral cannot continue indefinitely: Ultimately there will be no place to invest the savings, and the global return on capital will fall, until an equilibrium distribution emerges.4

The second of our four horsemen is resource depletion, which includes uranium, copper, phosphorus, rare earths which are vital for renewable energy, top soil, but above all water. Sixty per cent of fresh water is found in just nine countries.5 It is estimated that within twenty years almost half the world’s population will experience water scarcity. Global consumption of water is doubling every twenty years, more than twice the rate of human population growth. Agriculture accounts for sixty-five per cent (one ton of wheat requires one thousand tons of water), domestic use ten percent, and industry accounts for the rest. Even now ‘the water table in major grain producing areas in China is falling at the rate of five feet per year. Of China’s 617 cities 300 already face water shortages. 80% of their rivers no longer support fish life.’ (Kunstler 2006).

Some analysts have been predicting peak oil for many years and if this were really the case it would have huge implications for farming and therefore for the capacity to feed seven or eleven billion. However, as Emmott notes, new reserves of oil and gas are constantly being found, and shale oil and gas is coming on stream. The problem, as he puts it, is not that there are not enough fossil fuels, but, to the contrary, that we will seek to use every last drop.6

### Taxation---Taxes Key---2NC

#### Government must have every tool to recapture externalized rents.

Christians ’21 [Allison and Tarcisio Magalhaes; May 20; H. Heward Stikeman Chair in the Law of Taxation, McGill University Faculty of Law; Ph.D. and Professor of Law, University of Antwerp, and Researcher in Digitalization and Taxation, Antwerp Tax Academy and DigiTax Centre of Excellence; Social Science Research Network, “The Case for a Sustainable Excess Profits Tax,” https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3811709]

Conclusion

With the increasing effects of climate change making permanent ecological damage to the planet an inescapable reality, there is a clear need to use every regulatory tool available to alter our behaviour, but there is also an economic inefficiency to correct. We can no longer ignore the volume of business profits that are made possible by little more than the opportunity to exploit people and the planet and offloading the costs of this exploitation to the public now and in the future. Taxation is a necessary and appropriate corrective tool because it is a means by which governments can recapture the value extracted through rents. In particular, given the existing structure of income taxes, a surtax on such rents in the form of a sustainable excess profits tax is theoretically sound and potentially feasible with advances in life cycle assessment.

Even so, it is clear that enacting any such policy reform would require political action in the face of strong resistance by those currently benefiting from the continuing opportunity to extract economic rents. For this reason, a sustainable excess profits tax would have the highest chance of success if it was integrated into existing rule sets and introduced incrementally, ideally as part of the fabric of existing rules and coming international tax reforms. The prospects for such incremental implementation could benefit from ongoing efforts of the international community to address base erosion and profit shifting and the challenges of digitalization.

## Adv---Filed Rates

### 2NC---AT: Grid

#### Weather alt cause and Texas example is neg

Searcey ’21 [Dionne; February 17; reporter; the New York Times, “No, Wind Farms Aren’t the Main Cause of the Texas Blackouts,” https://www.nytimes.com/2021/02/17/climate/texas-blackouts-disinformation.html]

Scientists are still analyzing what role human-caused climate change may have played in the current round of winter storms, but it is clear that global warming poses future threats to power systems nationwide with predictions of more intense heat waves and shortages of water. Many electric grids aren’t equipped to handle those extreme conditions, putting them at risk for widespread failure.

That was the case in Texas, where millions of people suffered rolling blackouts. Grids in the Midwest and Southwest also were strained. Dozens of people have died in the storm or its aftermath.

### 2NC---AT: Renewables

#### Tech can’t solve---CCS and renewables are insufficient, empirics, rebound effect, offshoring

John Wiseman 17, Professorial Research Fellow at the Melbourne Sustainable Society Institute and with the Climate and Energy College, University of Melbourne, Adjunct Professor at the Melbourne School of Population and Global Health, Research Fellow at the Centre for Policy Development and Climate Change Policy Adviser, Sustainability Victoria, Ph.D. from Latrobe University, Samuel Alexander, lecturer with the Office for Environmental Programs, University of Melbourne, and research fellow, Melbourne Sustainable Society Institute, 2017, “The Degrowth Imperative: Reducing Energy and Resource Consumption as an Essential Component in Achieving Carbon Budget Targets,” in Transitioning to a Post-Carbon Society, p. 95-97

The first heroic assumption underpinning techno-optimist solutions is the ongoing reliance in many of the most influential large scale decarbonization strategies on CCS (carbon capture and storage). While CCS may play a valuable, albeit modest, long term role, the current state of knowledge suggests that we are still a very long way from affordable and scalable CCS deployment. Even the Global CCS Institute (2013: 5) has recently reported that, “while CCS projects are progressing, the pace is well below the level required for CCS to make substantial contribution to climate change mitigation”. The growing “emissions gap” is also providing increasing impetus for speculation about the “necessity” of geoengineering “solutions” with all their attendant concerns about ethical implications and unintended consequences (see Hamilton 2013).

The second debatable assumption is that technological innovation will necessarily and rapidly translate into global reductions in energy consumption. Important questions remain about the speed with which 100% renewable energy can realistically be achieved (see e.g. Smil 2010, 2014); the extent of fossil fuel energy consumption required to drive the initial massive expansion in renewable energy infrastructure; and the full life cycle energy return on investment (EROI) outcomes of solar and wind energy—particularly if these calculations factor in the full costs of energy storage (see e.g. Palmer 2013; Prieto and Hall 2013). Noting that emissions reductions of 4% p.a. in an economy growing at 2% p.a. are likely to require carbon intensity improvements of around 6% p.a., Anderson (2013) notes that he has yet to find any credible mainstream economist prepared to argue that prolonged emissions reductions of 3% or 4% or more are compatible with economic growth.

Indeed, as Lord Stern (2006: 231) himself has noted: There is likely to be a maximum practical rate at which global emissions can be reduced. At the national level, there are examples of sustained emissions cuts of up to 1% per year associated with structural change in energy systems... whilst maintaining strong economic growth. However, cuts in emissions greater than this have historically been associated only with economic recession or upheaval, for example, the emissions reduction of 5.2% per year for a decade associated with the economic transition and strong reduction in output in the former Soviet Union. These magnitudes of cuts suggest it is likely to be very challenging to reduce emissions by more than a few percent per year while maintaining strong economic growth.

The third reason for caution in assuming overly optimistic relationships between technological innovation, carbon intensity and emissions reductions is the impact of the “rebound effect” (see Jevons 1865; Herring and Sorrell 2009; Holm and Englund 2009; Jackson 2009). This phenomenon refers to the tendency for innovation and efficiency gains to be rapidly overwhelmed as cheaper unit costs combined with the formidable reach and power of the global advertising industry enable and encourage individuals to consume more of the same or alternative services and products. The harsh reality remains that global emissions continue to grow (IPCC 2013)—along with the global trends in the consumption of energy and resources—with apparent improvements in developed economy energy efficiency often masking the reality of energy intensive production being offshored to developing economies.

#### Turns grid---causes electricity oversupply and distributed generation that shreds resilience---their internal links are purely theoretical

Borenstein ’15 [Severin; May 4; E.T. Grether Professor of Business Administration and Public Policy at the Haas School of Business; “Is the Future of Electricity Generation Really Distributed?,” https://energyathaas.wordpress.com/2015/05/04/is-the-future-of-electricity-generation-really-distributed]

While small scale spatially-diversified generation could in theory reduce distribution upgrades and improve resiliency if the location and types of installations were optimized for those benefits, that’s not how DG solar is actually getting installed. Systems are put in where homeowners choose to install for their private benefits regardless of the impact on the grid, and they can actually destabilize distribution circuits when they pump too much power back into the grid. In Hawai’i, where 12% of houses now have rooftop solar, that’s already a serious concern.

Though it’s great that DG solar can contribute energy to the grid when the household doesn’t consume it all onsite, exporting power from the house reduces the DG advantage in line losses and distribution capacity upgrades. For a typical residential system, at least one-third of the electricity generated is injected into the grid, though that may change with cheaper small-scale storage, one of the many technological factors in flux.

The technology installed with DG solar also is not optimized for the grid, so current systems aren’t contributing to resilience. Solar PV installed today doesn’t have the smart inverters or the onsite storage that would be necessary for the systems to remain operational when the grid goes down. Closely related, DG solar systems aren’t communicating with – or controllable by — the grid operator, so the system operator has to just guess when they might start and stop pumping power into the grid.

### 2NC---AT: Warming

#### Overwhelming literature consensus

Seidov 14—Researcher at NOAA and PhD in Geophysics, Fluid Dynamics, and Thermodynamics [Dan, “Are you aware of any peer-reviewed paper that explicitly classifies current global climate change as an existential risk (risk of human extinction)?” Research Gate, 4 Nov 2014, http://tinyurl.com/jrnfafu, accessed 6 Sep 2016]

The current global climate change **does not have a potential to cause human extinction**. Past severe climate changes were critical for many ancient civilizations, yet our existence proofs that they were not potent enough to cause entire termination of the humankind. The projected changes, even in the worst case scenarios, can cause many dramatic local changes. For example, change in rainfall patterns in agricultural countries may lead to possible famine and other dramatic events. However, any imaginable climate changes based on modern climate science **cannot generate existential risks for the entire human civilization**. In my view, a paper predicting such a catastrophe in any foreseeable future, at least on the time scale of human civilization, that is, thousands of years, has no chance of being published in any serious research journal.

#### **Models have a track record of overestimation---effect size is limited**

Loyola 16 (Mario, Senior fellow at the Wisconsin Institute for Law and Liberty, J.D. from Washington University in St. Louis, “Twilight of the Climate Change Movement”, The American Interest, 3/31/2016, http://www.the-american-interest.com/2016/03/31/twilight-of-the-climate-change-movement/)//JBS

It is true, and at least somewhat alarming, that the current atmospheric carbon dioxide level of 400 parts per million (ppm) is far higher than at any time in the past 800,000 years, almost entirely as a result of humans burning fossil fuels. What we hear less often, however, is that during the first 1.8 million years of the Pleistocene Ice Age, carbon dioxide levels were significantly higher than that. Major glaciation occurred a dozen or more times, without taking much notice at all of what should have been a much stronger greenhouse effect. And for 245 million years before that, carbon dioxide levels were vastly higher. So carbon dioxide levels are the highest they’ve been in 800,000 years, but they’re also among the lowest they’ve been in 245 million years. Compared with that 245 million-year record, pre-industrial carbon dioxide concentrations of 280 ppm were perhaps perilously close to the level, around 150 ppm, below which plants cannot grow. It’s always possible to have too much of a good thing, but it bears recalling that carbon dioxide has vital benefits. Plant photosynthesis, which sustains virtually all life on earth, requires an abundance of sunlight, water, and carbon dioxide. Heretical Questions In political discourse, it is often necessary to simplify complex policy matters in order to make them accessible for public debate. But too much simplification can have the effect of stifling public discourse, as in this unfortunate State of the Union statement by President Obama: “The debate is over. Climate change is real.” Of course climate change is real. The climate is always changing. Only the most foolish of the President’s critics believe otherwise, and it doesn’t help his cause to demonstrate that he can be just as foolish. The evidence is overwhelming that the planet has been warming off and on for several centuries. There is also compelling evidence that at least some significant part of this warming is attributable to carbon dioxide from the burning of fossil fuels since the mid-20th century. There is good scientific reason to believe that increasing concentrations of greenhouse gases almost certainly constitute a net contribution to global warming. But crucial questions remain about the relative importance of natural factors that influence climate. One of these is the sequestration of carbon dioxide by biomass on land and in the oceans. Another concerns cloud cover, which reflects a large amount of solar radiation back into space, and which earlier models of climate change did not take into account (because it’s very hard to get right). The simple climate models of ten or twenty years ago are now showing their age amid a flood of new data, and the far more complex, uncertain, and varied picture those data illustrate. The President is therefore wrong in the sense that, for the most crucial scientific questions, the debate is just beginning. The questions begin with the fact that while there is some correlation between temperature trends over the recent past and “anthropogenic” (or human-caused) carbon dioxide, the correlation is not very strong. The shape of the warming curve does not track the shape of the curve for increased carbon dioxide concentrations. For example, About 40 percent of the warming since 1900 happened in the first half of the 20th century, when “anthropogenic” carbon dioxide was insignificant. That warming could not have been caused by human behavior. Then, from 1945 to 1975, just as major amounts of carbon dioxide from burning fossil fuels start to appear in the atmosphere, there was a major “hiatus” during which global average surface temperatures held steady or actually dropped slightly—again, no correlation. From 1975 to 2000 there appears to have been very rapid warming. But then, as anthropogenic carbon dioxide levels continued to increase, another hiatus in temperatures appears to have set in with the strong El Niño year in 1998. While there are major discrepancies among different data sets, and new data are still being collected, the IPCC’s latest report concedes that the rate of warming since 2000 has been substantially less than predicted by climate models in response to rising levels of carbon dioxide. The public debate is dominated by simplistic claims that “climate change is man-made,” which might lead one to think that all of the current warming trend is man-made. But nearly all climate scientists accept that many factors influence temperatures, including major shifts in patterns of ocean circulation (such as the very strong El Niño, largely responsible for the warm Christmas Day 2015 temperatures in North America), variations in the earth’s orbit, variations in solar activity, and volcanic activity. The “attribution statement” in the IPCC’s latest assessment report is carefully couched: “It is extremely likely that more than half of the observed increase in global average surface temperature from 1951 to 2010 was caused by the anthropogenic increase in GHG [greenhouse gases] and other anthropogenic forces together.” The distinction between “more than half” (the IPCC’s summary of scientific literature) and “all” or “nearly all” is crucial from the point of view of public policy. If only about half the observed warming is due to human activity, the cost-benefit analysis of currently proposed policies becomes far more dubious, and reveals another problem: As much as half the current warming trend (whatever that is) could be due to natural causes, and current policies will do nothing to address that. To see why, it’s crucial to focus on this precise scientific question: How much do temperatures actually increase when atmospheric carbon dioxide increases? Scientists express this relationship as a measure of “equilibrium climate sensitivity,” defined as how many degrees average global temperature will increase as a result of doubling atmospheric carbon dioxide. Virtually all the climate models used in the IPCC’s worst-case predictions of dangerous global warming presume a worst-case scenario equilibrium climate sensitivity (ECS) of 3.0 to 3.5 degrees Celsius. But leading IPCC scientists have concluded that if humans were responsible for all observed warming since 1971, the ECS would be around 2.0 degrees Celsius. And if humans are only responsible for about half of the observed warming, as the IPCC itself admits is quite possible, that implies an ECS closer to 1.0 degrees Celsius. A reliable figure for ECS continues to elude our grasp, but with an ECS of 1.0 degrees Celsius, the case for sweeping reductions in carbon emissions is greatly weakened. At that level of climate sensitivity, even if carbon dioxide emissions continue to increase unabated, temperatures would increase significantly less than the stated goal of the IPCC’s, which is warming of no more than two degrees Celsius by 2100. (This may explain why the Paris agreement moved the goalposts to a new goal of less than 1.5 degrees Celsius by 2100). But in that case, IPCC’s worst-case scenario would then be non-catastrophic by the IPCC’s own definition. The policy implications are dramatic. Under this scenario, which lies well within the IPCC’s forecast, even dramatic reductions in carbon dioxide emissions would have no measurable impact on temperatures. And the natural factors responsible for as much as half the recently observed warming would presumably continue warming the planet, oblivious to any reduction in carbon emissions. The key point is this: The IPCC’s latest “attribution statement” (extreme confidence that more than half the observed warming is due to humans) would be correct even if ECS is only 1.0 degrees Celsius and expected increases in carbon dioxide pose essentially no risk of catastrophic climate change.

### 2NC---AT: Resource Wars

#### They don’t escalate

Atkins, 16—PhD Candidate in Energy, Environment & Resilience at the University of Bristol (Ed, “Environmental Conflict: A Misnomer?,” <http://www.e-ir.info/2016/05/12/environmental-conflict-a-misnomer/>, dml)

It is important to note that such conflicts predominantly occur on an intra-state basis, rather than between two nations. International conflict over environmental factors remain unlikely – whether due to the robust nature of the world trade system and dynamics of supply and demand or to the spread of small arms transforming the notion of traditional conflict (Deudney, 1990). An important example can be found in the assertions of water wars. Although the management of rivers is often complicated by their crossing of territorial boundaries and nations dependent on water from beyond their borders (Egypt, Hungary and Mauritania all rely on international watercourses for 90 per cent of their water), an international conflict exclusively over possession of and access to a shared water source is still to occur. The reasons for this are simply, as Wolf (1998: 251) states, ‘War over water seems neither strategically rational, hydrographically effective, nor economically viable.’ At the international level, the costs outweigh the benefits and cooperation is sought before conflict occurs.

## Adv---State Action

### 2NC---AT: Housing

#### Real estate crashes are unusual historically.

Smith ’21 [Liz Brumer-Smith; January 4; real estate investor; the Motley Fool, “Will the Real Estate Market Crash in 2022?” https://www.fool.com/real-estate/2022/01/04/will-the-real-estate-market-crash-in-2022/]

While there are certainly a number of factors that could push real estate over a breaking point in 2022 or beyond, it's unlikely any of these factors will result in an immediate and sudden market crash as we've seen in the past. Crashes in the real estate market aren't nearly as common as people may think. Aside from the Great Recession, real estate prices actually rose in the dot com bubble and the recession during 1990-1991. A notable economic event, such as a new fiscal policy, stock market crash, or uncapped inflation rates, could definitely result in a real estate market crash; however, there's no guarantee that would be the outcome.

#### Numbers suggest no crash. Markets self-correct.

Egan ’21 [Matt; July 27; reporter, citing Aneta Markowska, chief economist at Jefferies, Lawrence Yun, chief economist at the National Association of Realtors, JPMorgan Chas (JPM)e CEO Jamie Dimon, and PNC chief economist Gus Faucher; CNN, “Home prices can't go straight up forever. But this probably isn't a bubble,” https://www.cnn.com/2021/07/27/economy/housing-bubble-fears-overblown/index.html]

The other key difference is that banks, home buyers and regulators appear to have learned a painful lesson about the pitfalls of overborrowing.

"In some ways this is an even hotter housing market than before the Great Recession," said Aneta Markowska, chief economist at Jefferies. "But the risk of this turning into a bubble is much lower."

Economists at Bank of America concede that home prices may correct lower in some markets in the short to medium term.

Still, the bank told clients in a recent note that a "hard landing is unlikely" this time around.

'We have a housing shortage'

Of course, Bank of America acknowledged that "bubbles are notoriously difficult to identify in real time." They only become obvious in hindsight. That's what makes them bubbles.

Still, today's supply situation is the opposite of the glut in building 15 years ago: Back then, there was a massive overbuilding problem. At the peak, around 2 million homes were being built per year, compared with just 1.6 million today.

"Ultimately, we ended up with excess supply. That's what caused the market to crash," said Markowska.

As of the end of June, there were just 1.25 million existing homes for sale. That's down almost 19% from a year ago. At the current pace, it equates to just 2.6 months of supply, or less than half of the six months viewed as a balanced market.

"We have a housing shortage. In shortages, prices don't decline," said Lawrence Yun, chief economist at the National Association of Realtors.

Home prices surged by 16.6% in May, accelerating from the 14.8% gain in April, according to data published Tuesday by S&P CoreLogic Case-Shiller Indices.

The latest figures mark the biggest annual gain in home prices since the group began tracking the metric more than 30 years ago. Home prices spiked by 25.9% in Phoenix, 24.7% in San Diego and 23.4% in Seattle, according to the report.

Meanwhile, existing home prices continued to grow in June, according to the NAR. The median price for an existing home hit a record $363,300 last month, up 23% over the prior 12 months.

Preventing a boom-bust scenario

The good news is there are signs the housing market is self-correcting as a result of these heady price gains.

New home sales unexpectedly declined in June to the weakest pace since April 2020, according to data released Monday, marking the third straight month of declines. Existing home sales declined for four months in a row before inching higher in June.

"Some buyers are simply being priced out," said Yun.

Instead of paying what they view as unreasonable prices, some prospective home buyers are deciding to wait on the sidelines and rent.

"This may be a blessing in disguise," said Markowska of Jefferies, pointing out that home prices may be able to cool off as inventories rise. "It elongates the housing cycle and prevents a boom-bust dynamic."

NINJA loans are out of style

The other crucial difference between today and the mid-2000s is that borrowing hasn't gotten out of hand, at least not yet.

JPMorgan Chas (JPM)e CEO Jamie Dimon told lawmakers at a hearing in late May that although there is a "little bit of a bubble in housing prices," the lending situation is much stronger today.

"Unlike in '08 and '09, when there was tremendous leverage and bad mortgage underwriting, there is not much leverage and much better mortgage underwriting," Dimon said.

Demand for housing was artificially driven up during the last boom by the fact that some people with little or no income were able to get mortgages. The federal government cracked down on so-called NINJA loans (no income, no job, no assets) after the subprime crisis.

"Lenders are being much more responsible this time around," said PNC chief economist Gus Faucher, referring to the industry at large. "We haven't seen a return to the no documentation and no down payment loans. That will help prevent a crash."

The risk of fire sales is lower

Many homeowners with adjustable rate mortgages (ARMs) were hurt when their borrowing costs rose as the Federal Reserve raised interest rates beginning in 2004.

Fed rate hikes today could slow down the housing market by making mortgages more expensive for prospective buyers. But very few borrowers would be forced to pay more for existing mortgages. That's because just 2% of outstanding securitized mortgage debt is under adjustable rate mortgages, according to Bank of America. That's down sharply from 21% in 2006.

Homeowner balance sheets are also in a much stronger place today.

Mortgage debt as a percentage of disposable income peaked at more than 7.2% in late 2007, according to the Federal Reserve. That closely watched metric of leverage stood at just 3.45% in early 2021.

This is crucial because excessive leverage is what allowed the bursting of the mid-2000s housing bubble to spiral out of control.

"Less leverage means household balance sheets are better positioned to handle a decline in house prices," Bank of America economists wrote. "Therefore we are unlikely to see a wave of defaults, leading to fire sales."

#### Data suggests no crash.

Williams ’21 [Jesse; September 17; reporter, citing former California Association of Realtors Chief Economist Leslie Appleton-Young; RisMedia, “The ‘It Girl’ Of 2021: Why A Housing Market Crash Is Unlikely,” https://www.rismedia.com/2021/09/17/it-girl-why-housing-market-crash-unlikely/]

In her aptly named talk “The Next Housing Crash: Fact or Fiction,” the numbers point decidedly toward fiction, Appleton-Young showed.

Compared to the 2006-2008 housing bubble burst ahead of the Great Recession, there are much fewer foreclosures, and far fewer borrowers in foreclosure who do not have enough equity to cover their mortgage.

“A very different situation than we had back then,” she said.

As the market is trending toward “moderation” with an injection of new inventory likely offset by an uptick in mortgage rates, there is little to support sensationalist headlines that have pointed fingers at institutional buyers or worried about low rates overinflating prices, Appleton-Young assured attendees.

That is not to say that the numbers aren’t jaw-dropping, she added. A 9.1% increase in home prices in 2020 followed by a 14.1% jump so far this year, and a huge shortfall in inventory (somewhere between 1 million and 4 million homes depending on the methodology) have really shocked the whole industry, she said.

“We need a lot more housing built, and it’s one of the things that has kept the pressure on this imbalance between demand and supply,” she said.

Also notable—and running against the popular narrative—is housing affordability. Though the spectacular appreciation of homes has certainly priced many people out of the market, home-buying power has actually doubled since 2006, according to one analysis, and tappable home equity has also jumped from under $5 trillion back then to just under $10 trillion today, she said.

“It’s very important for REALTORS® and consumers to do the math and see what this really looks like. Affordability has been getting tighter the last couple of months…but do the analysis, it’s more affordable now,” she said.

While many of these data points are likely to pull back, Appleton-Young said other changes in the market are here to stay, driven mostly by consumer behavior. Institutional investors—who still make up a relatively insignificant percentage of the overall market—may continue to increase their footprint, she posited, after growing 4% in the first quarter of this year.

“The percentage changes are notable,” she said. “It’s probably an important issue to track going forward—there’s a lot of money pouring into real estate—but it’s not the root cause in any way, shape or form of what’s happening now.”

Longer tenure by baby boomers, who are more likely to age in place and pass on their homes to their children than previous generations, likely means that a three-month inventory supply will become the norm in a balanced market rather than a six-month supply, according to Appleton-Young.

A lot of these trends predated March of 2020, she pointed out, before the pandemic put the market on a “unique and interesting path.”

But that path, she reiterated, does not appear to be leading toward a crash despite all the head-spinning numbers and growth.

### 2NC---AT: Spillovers

#### Spillover effect massively mitigate populism---states wont erect barriers

Gerken ’15 [Heather; Spring; Professor of Law at Yale; Democracy, “Living Under Someone Else’s Law,” no. 36]

Spillovers don’t just get issues on the national agenda; they also help break through Washington gridlock. Minorities in Congress often use procedural tools to block reforms that they oppose. When the states are doing nothing on an issue, filibustering is a no-brainer—it prevents the enactment of a nationwide policy and thus ensures a total victory to the minority. But when spillovers do exist, the calculus in Washington becomes more complicated. Even if opponents of change successfully filibuster a bill in Congress, an unchecked spillover may have regional or even national effects. The states, in effect, allow for backdoor national policy-making. As a result, the interests blocking change at the national level suddenly have an incentive to come to the bargaining table. Pure obstructionism in Congress doesn’t reap the same rewards, and a compromise solution becomes more likely.

Spillovers also limit the power of special interests. Although interest groups are often able to block legislation in Congress, they have a harder time blocking legislation in all 50 states. Environmentalists, stymied in Congress by big business, convinced California to adopt carbon-emissions standards. Opponents of drones, thwarted in Congress by Boeing and Amazon, have convinced nine states to ban drone flights over private property. To be sure, the special interests that control Congress can pass legislation at the state level, too. But these state outlets matter much more to groups that don’t have Congress in their pocket and thus help level the playing field. By creating a spillover, a single innovative state can put an item on the national agenda even if nearly everyone else—Congress, interest groups, and other states—would prefer that the issue go away. State spillovers at least push self-interested politicians to take a position on a question they’d rather duck, which is a democratic good unto itself.

Spillovers further ensure that policy debates are practical rather than speculative. It’s always helpful to pass a reform at the state level because it proves a policy can work in practice. By forcing automakers to limit emissions in the 1970s, for example, California proved to the world that cars could be both efficient and affordable. That’s precisely why Justice Louis Brandeis likened the states to policy-making laboratories for the rest of the country. Spillovers add a new twist to this analogy. Since spillovers often have regional effects, they create much bigger laboratories. Experiments yield more data in less time. Successful experiments quickly become models for national reform. Unsuccessful experiments get shut down, becoming a cautionary tale in future policy debates.

### 2NC---AT: Populism

#### Populism doesn’t cause war

Ferguson ’16 [Niall; autumn 2016; Senior Fellow at Stanford University’s Hoover Institution, Senior Fellow of the Center for European Studies at Harvard University, and Visiting Professor at Tsinghua University in Beijing, “Populism as a Backlash against Globalization - Historical Perspectives,” <https://www.cirsd.org/en/horizons/horizons-autumn-2016--issue-no-8/populism-as-a-backlash-against-globalization>]

Such comparisons between the United States today and Germany in the 1930s are becoming commonplace. As a professional historian, I would like to offer what seems to me a better analogy. Our Tranquil Times Journalists are fond of saying that we are living in a time of “unprecedented” instability. In reality, as numerous studies have shown, our time is a period of remarkable stability in terms of conflict. In fact, viewed globally, there has been a small uptick in organized lethal violence since the misnamed Arab Spring. But even allowing for the horrors of the Syrian civil war, the world is an order of magnitude less dangerous than it was in the 1970s and 1980s, and a haven of peace and tranquility compared with the period between 1914 and 1945. This point matters because the defining feature of interwar fascism was its militarism. Fascists wore uniforms. They marched in enormous and well-drilled parades and they planned wars. That is not what we see today. So why do so many commentators feel that we are living through “unprecedented instability?” The answer, aside from plain ignorance of history, is that political populism has become a global phenomenon, and established politicians and political parties are struggling even to understand it, much less resist it. Yet populism is not such a mysterious thing, if one only has some historical knowledge. The important point is not to make the mistake of confusing it with fascism, which it resembles in only a few respects. Rather like a television chef, I shall describe a recipe for populism, based on historical experience. It is a simple recipe, with just five ingredients. Five Ingredients for A Populist Backlash The first of these ingredients is a rise in immigration. In the past 45 years, the percentage of the population of the United States that is foreign-born has risen from below 5 percent in 1970 to over 13 percent in 2014—almost as high as the rates achieved between 1860 and 1910, which ranged between 13 percent and an all-time high of 14.7 percent in 1890. So when people say, as they often do, that “the United States is a land based on immigration,” they are indulging in selective recollection. There was a period, between 1910 and 1970, when immigration drastically declined. It is only in relatively recent times that we have seen immigration reach levels comparable with those of a century ago, in what has justly been called the first age of globalization. Ingredient number two is an increase in inequality. Drawing on the work done on income distribution by Thomas Piketty and Emmanuel Saez, we can see that we have recently regained the heights of inequality that were last seen in the pre-World War I period. The share of income going to the top one percent of earners is back up from below 8 percent of total income in 1970 to above 20 percent of total income. The peak before the financial crisis, in 2007, was almost exactly the same as the peak on the eve of the Great Depression in 1928. Ingredient number three is the perception of corruption. For populism to thrive, people have to start believing that the political establishment is no longer clean. Recent Gallup data on public approval of institutions in the United States show, among other things, notable drops in the standing of all institutions save the military and small businesses. Just 9 percent of Americans have “a great deal” or “quite a lot” of confidence in the U.S. Congress—a remarkable figure. It is striking to see which other institutions are down near the bottom of the league. Big business is second-lowest, with just 21 percent of the public expressing confidence in it. Newspapers, television news, and the criminal justice system fare only slightly better. What is even more remarkable is the list of institutions that have fallen furthest in recent times: the U.S. Supreme Court now has just a 36 percent approval rating, down from a historical average of 44 percent, while the Presidency has dropped from 43 percent to 36 percent approval. The financial crisis appears to have convinced many Americans—and not without good reason—that there is an unhealthy and likely corrupt relationship between political institutions, big business, and the media. The fourth ingredient necessary for a populist backlash is a major financial crisis. The three biggest financial crises in modern history—if one uses the U.S. equity market index as the measure—were the crises of 1873, 1929, and 2008. Each was followed by a prolonged period of depressed economic performance, though these varied in their depth and duration. In the most recent of these crises, the peak of the U.S. stock market was October 2007. With the onset of the financial crisis, we essentially replayed for about a year the events of 1929 and 1930. However, beginning in mid to late 2009, we bounced out of the crisis, thanks to a combination of monetary, fiscal, and Chinese stimulus, whereas the Great Depression was characterized by a deep and prolonged decline in stock prices, as well as much higher unemployment rates and lower growth. The first of these historical crises is the least known: the post-1873 “great depression,” as contemporaries called it. What happened after 1873 was nothing as dramatic as 1929; it was more of a slow burn. The United States and, indeed, the world economy went from a financial crisis—which was driven by excessively loose monetary policy and real estate speculation, amongst other things—into a protracted period of deflation. Economic activity was much less impaired than in the 1930s. Yet the sustained decline in prices inflicted considerable pain, especially on indebted farmers, who complained (in reference to the then prevailing gold standard) that they were being “crucified on a cross of gold.” We have come a long way since those days; gold is no longer a key component of the monetary base, and farmers are no longer a major part of the workforce. Nevertheless, in my view, the period after 1873 is much more like our own time, both economically and politically, than the period after 1929. There is still one missing ingredient to be added. If one were cooking, this would be the moment when flames would leap from the pan. The flammable ingredient is, of course, the demagogue, for populist demagogues react vituperatively and explosively against all of the aforementioned four ingredients. Kearney’s Cause Now, my argument is not intended to dismiss or downplay those elements of Donald Trump’s campaign for President of the United States that have been implicitly, if not explicitly, racist. Nor do I treat lightly the various signals he has given of indifference to, or at least ignorance of, the U.S. Constitution. My point is that these demerits do not by themselves qualify Trump for comparison with Mussolini, much less with Hitler. Rather, I want to argue that Trump has much more in common with the demagogues of the earlier, lesser depression of the late nineteenth century, and that it is to that period that we should look for historical analogies and insights. The best illustration of my case is the now forgotten figure of Denis Kearney, leader of the Workingmen’s Party of California and the author of the slogan “The Chinese Must Go!” Himself an Irish immigrant to the United States—as opposed to the son of a Scottish immigrant and grandson of a German, which is what Donald Trump is—Kearney was part of a movement of nativist parties and “Anti-Coolie” clubs that sought to end Chinese immigration into the United States. The report of the Joint Special Committee to Investigate Chinese Immigration in 1877 gives a flavor of the times. “The Pacific coast must in time become either Mongolian or American,” was the committee’s view. The report argued that the Chinese brought with them the habits of despotic government, a tendency to lie in court, a weakness for tax evasion and “insufficient brainspace […] to furnish [the] motive power for self-government.” Moreover, Chinese women were “bought and sold for prostitution and treated worse than dogs,” while the Chinese were “cruel and indifferent to their sick.” Giving such inferior beings citizenship, the committee’s report declared, “would practically destroy republican institutions on the Pacific coast.” The realities were, it scarcely needs to be said, very different. According to the “Six Companies” of Chinese in San Francisco—corporate bodies that represented the Chinese population of the city—there was compelling evidence that Chinese immigration was a boon to California. Not only did the Chinese provide labor for the state’s rapidly developing railroads and farms; they also tended to improve the neighborhoods in which they settled. Moreover, there was no evidence of a disproportionate Chinese role in gambling and prostitution. In fact, statistics showed that the Irish were more of a charge on the city’s hospital and almshouse than the Chinese. Nevertheless, a powerful coalition of “laboring men and artisans,” small businessmen and “grangers” (the term used to describe those who aimed to shift the burden of taxation onto big business and the rich) rallied to Kearney’s cause. As one shrewd contemporary observer noted, part of his appeal was that he was attacking not just the Chinese, but also the big steamship and railroad companies that profited from employing Chinese labor, not to mention the corrupt two-party establishment that ran San Francisco politics: Neither Democrats nor Republicans had done, nor seemed likely to do, anything to remove these evils or to improve the lot of the people. They were only seeking (so men thought) places or the chance of jobs for themselves, and could always be bought by a powerful corporation. Working men must help themselves; there must be new methods and a new departure […] The old parties, though both denouncing Chinese immigration in every convention they held, and professing to legislate against it, had failed to check it […] Everything, in short, was ripe for a demagogue. Fate was kind to the Californians in sending them a demagogue of a mean type, noisy and confident, but with neither political foresight nor constructive talent. Kearney may have lacked foresight and “constructive talent,” but there is no gainsaying what he and his ilk were able to achieve. Beginning with the Page Law (1875) prohibiting the immigration of Asian women for “lewd or immoral purposes,” American legislators scarcely rested until Chinese immigration to the United States had been stopped altogether. The Chinese Exclusion Act (1882) suspended immigration of Chinese for 10 years, introduced “certificates of registration” for departing laborers (effectively re-entry permits), required Chinese officials to vet travelers from Asia, and, for the first time in American history, created an offense of illegal immigration, with the possibility of deportation as a part of the penalty. The Foran Act (1885) banned all contract laborers from immigrating to America. Legislation passed in the Scott Act (1888) banned all Chinese from travel to the United States except “teachers, students, merchants, or travelers for pleasure.” In all, between 1875 and 1924, more than a dozen pieces of legislation served to restrict and finally end altogether Chinese immigration. No one should therefore underestimate the power of populism. For all his coarseness and bombast, Denis Kearney and his allies effectively sealed the American border along the Pacific coast of the United States; indeed, one cartoon of the time depicted them constructing a wall across the San Francisco harbor. In the 1850s and 1860s, as many as 40 percent of all Chinese emigrants had travelled beyond Asia, though the numbers arriving in the United States had in fact been relatively small (between 1870 and 1880, a total of 138,941 Chinese immigrants came, just 4.3 percent of the total, a share dwarfed by the vast European exodus across the Atlantic in the same period). What exclusion did ensure in the late nineteenth was that Chinese immigration would not grow, as it surely would have, but instead dwindled and then ceased. Ironies Populism, then, is not just a form of political entertainment. One sometimes hears it said of Donald Trump: “Ah, he says wild things on the campaign trail, but when he is president it will be fine.” History suggests otherwise. It suggests that men who threaten to restrict immigration—as well as to impose tariffs and to discourage capital export, as populists generally do—mean what they say. Indeed, populists are under a special compulsion to enact what they pledge in the campaign trail, for their followers are fickle to begin with. In the case of Trump, most have already defected from the Republican Party establishment. If he fails to deliver, they can defect from him, too. Of course, populists are bound eventually to disappoint their supporters. For populism is a toxic brew as well as an intoxicating one. Populists nearly always make life miserable for whichever minorities they chose to scapegoat, but they seldom make life much better for the people whose ire they whip up. Whatever the demagogues may promise—and they always promise “jam today”—populism tends to have significantly more economic costs than benefits. Restricting immigration, imposing tariffs on imported goods, penalizing firms for investing abroad: such measures, if adopted by an American government in 2017, would be almost certain to reduce growth and employment, rather than the reverse. That has certainly been the Latin American experience—and few regions of the world have run the populist experiment more often. The foreign dimension brings us to a final irony. Despite their habitual insistence on narrow national self-interest, populists are nearly always part of a global phenomenon. Globalization had been making enormous strides prior to 1873, with world trade, migration, and international capital flows growing at unprecedented rates. But the crisis of that year generated a populist backlash against globalization that was itself global in its scope. Then, just as now, the principal targets of the demagogues were immigration, free trade, and high finance. Just as the United States excluded immigrants and raised tariffs, so did European countries by adopting similar discriminatory measures. In Bismarck’s Germany, populism was often antisemitic—as it was in the France of the Dreyfus Affair—while in late Victorian Britain it was anti-Irish. Tariffs went up almost everywhere except in Britain. Populism today has a similarly global quality. In June, the British vote to leave the European Union was hailed by populists right across the European continent as well as by Donald Trump in the United States and, implicitly, by Vladimir Putin in Russia. Yielding to the Complicators Let me conclude with a note of qualified optimism. Because populism is not fascism, populist victories should not be construed as harbingers of war—if anything, the opposite is true. In the 1870s and 1880s, populists did achieve significant reductions in globalization: not only immigration restrictions, but also higher tariffs. But they did not form many national governments, and they did not subvert any constitutions. Nor were populists much interested in starting wars; if anything, they lent towards isolationism and viewed imperialism as just another big business racket. In most countries, the populist high tide was in the 1880s. What came next—in many ways as a reaction to populism, but also as an alternative set of policy solutions to the same public grievances—was Progressivism in the United States and socialism in Europe. Perhaps something similar will also happen in our time. Perhaps that is something to look forward to. Nevertheless, we would do well to remember that World War I broke out during the progressive not the populist era. The world today is, as I observed at the outset, in much less turmoil than one might infer from television news. Nevertheless, the economic and social consequences of globalization and the most recent financial crisis sowed the seeds for the populist backlash that we now see. Populists are not fascists. They prefer trade wars to actual wars; administrative border walls to more defensible fortifications. The maladies they seek to cure are not imaginary: uncontrolled rising immigration, widening inequality, free trade with “unfree” countries, and political cronyism are all things that a substantial section of the electorate have some reason to dislike. The problem with populism is that its remedies are wrong and, in fact, counterproductive. What we most have to fear—as was true of Brexit—is not therefore Armageddon, but something more prosaic: an attempt to reverse certain aspects of globalization, followed by disappointment when the snake oil does not really cure the patient’s ills, followed by the emergence of a new and ostensibly more progressive set of remedies for our current malaise. The “terrible simplifiers” may have their day then. But they will end up yielding power to well-intentioned complicators, those more congenial to educated elites, but probably every a bit as dangerous, if not more so.

# 1NR

## da - oil

### 1nr - !

#### Even if they win no diversionary war, Russian econ decline leads to nuclear terrorism, accidents, prolif, and Russia-China war---extinction

Dr. Olga Oliker 2, Senior Associate of the Russia and Eurasia Program at the Center for Strategic and International Studies, Ph.D. in Political Science from the Massachusetts Institute of Technology, M.P.P. from Harvard University’s John F. Kennedy School of Government, and Dr. Tanya Charlick-Paley, Associate Political Scientist at RAND and Post-Doctoral Fellow at the Mershon Center for Strategic Studies, “Assessing Russia's Decline: Trends and Implications for the United States and the U.S. Air Force”, RAND Monograph, https://www.rand.org/pubs/monograph\_reports/MR1442.html

The preceding chapters have illustrated the ways in which Russia’s decline affects that country and may evolve into challenges and dangers that extend well beyond its borders. The political factors of decline may make Russia a less stable international actor and other factors may increase the risk of internal unrest. Together and separately, they increase the risk of conflict and the potential scope of other imaginable disasters. The trends of regionalization, particularly the disparate rates of economic growth among regions, combined with the politicization of regional economic and military interests, will be important to watch. The potential for locale, or possibly ethnicity, to serve as a rallying point for internal conflict is low at present, but these factors have the potential to feed into precisely the cycle of instability that political scientists have identified as making states in transition to democracy more likely to become involved in war. These factors also increase the potential for domestic turmoil, which further increases the risk of international conflict, for instance if Moscow seeks to united a divided nation and/or demonstrate globally that its waning power remains something to be reckoned with.

Given Russia’s conventional weakness, an increased risk of conflict carries with it an increased risk of nuclear weapons use, and Russia’s demographic situation increases the potential for a major epidemic with possible implications for Europe and perhaps beyond. The dangers posed by Russia’s civilian and military nuclear weapons complex, aside from the threat of nuclear weapons use, create a real risk of proliferation of weapons or weapons materials to terrorist groups, as well as perpetuating an increasing risk of accident at one of Russia’s nuclear power plants or other facilities.

These elements touch upon key security interests, thus raising serious concerns for the United States. A declining Russia increases the likelihood of conflict—internal or otherwise—and the general deterioration that Russia has in common with “failing” states raises serious questions about its capacity to respond to an emerging crisis. A crisis in large, populous, and nuclear-armed Russia can easily affect the interests of the United States and its allies. In response to such a scenario, the United States, whether alone or as part of a larger coalition, could be asked to send military forces to the area in and around Russia. This chapter will explore a handful of scenarios that could call for U.S. involvement.

A wide range of crisis scenarios can be reasonably extrapolated from the trends implicit in Russia’s decline. A notional list includes:

* Authorized or unauthorized belligerent actions by Russia troops in trouble-prone Russian regions or in neighboring states could lead to armed conflict.
* Border clashes with China in the Russian Far East or between Russia and Ukraine, the Baltic states, Kazakhstan, or another neighbor could escalate into interstate combat.
* Nuclear-armed terrorists based in Russia or using weapons or materials diverted from Russian facilities could threaten Russia, Europe, Asia, or the United States.
* Civil war in Russia could involve fighting near storage sties for nuclear, chemical, or biological weapons and agents, risking large-scale contamination and humanitarian disaster.
* A nuclear accident at a power plant or facility could endanger life and health in Russia and neighboring states.
* A chemical accident at a plant or nuclear or nuclear-related facility could endanger life and health in Rusisa and neighboring states.
* Ethnic pogrom in south Russia could force refugees into Georgia, Azerbaijan, Armenia, and/or Ukraine.
* Economic and ethnic conflicts in Caucasus could erupt into armed clashes, which would endanger oil and gas pipelines in the region.
* A massive ecological disaster such as an earthquake, famine, or epidemic could spawn refugees and spread illness and death across borders.
* An increasingly criminalized Russian economy could create a safe haven for crime or even terrorist-linked groups. From this base, criminals, drug traders, and terrorists could threaten the people and economies of Europe, Asia, and the United States.
* Accelerated Russian weapons and technology sales or unauthorized diversion could foster the proliferation of weapons and weapon materials to rogue states and nonstate terrorist actors, increasing the risk of nuclear war.

#### 1NC Dettmer says low prices kill Vision 2030 - that triggers Saudi failed state which spirals to global war

Karasik 16 (Theodore Karasik – PhD in History @ UCLA, senior advisor of Gulf State Analytics , currently a Gulf-based analyst of regional geopolitical affairs. Joseph Cozza. “What If Saudi Arabia Collapses?” 10 August 2016, <https://lobelog.com/what-if-the-state-of-saudi-arabia-collapses/>)

Consequences for Region and the World

The collapse of the Saudi state would have grave implications for the region and the world. As illustrated by Libya, Syria, and Yemen, state collapse creates a vacuum for radical jihadist groups to claim new territory. Currently, al-Qaeda in the Arabian Peninsula (AQAP) is pushing against the Saudi border with Yemen and the Islamic State (ISIS or IS) in Iraq and Syria poses a constant threat to the kingdom’s north. Thus, civil war, instability, and high levels of sectarian tension would likely be fertile ground for these groups to grow and expand their control, threaten the holy sites, and perpetuate regional instability. Washington’s national security establishment has expressed concerns about turmoil escalating in Saudi Arabia if MBS’s reform agenda fails to achieve its objectives. Some see the kingdom at a crossroads and fear that the kingdom’s collapse would benefit the Islamic State. Regarding MBS possibly becoming the next king, one anonymous Saudi expert told NBC News, “It’s him or it’s ISIS.”

The July 4 attacks in three Saudi cities (Medina, Jeddah, and Qatif) underscored the significance of the militant Salafist-Jihadist threat not only to the country’s security but also Al Saud’s prestige and Islamic legitimacy as the Custodian of the Two Holy Mosques. The intended attack by IS adherents on the Prophet’s Mosque during the end of Ramadan signals the Islamic State’s intent to usurp the Al Saud much as the apocalyptic leader Juhayman al-Otaybi did when he seized the Grand Mosque in 1979. “This attack has made it very clear that ISIS does not seem to believe in any moral red lines whatsoever,” said Fahad Nazer, a leading expert on Saudi Arabia. “Even al-Qaeda, which is certainly brutal in its own right, has never targeted Muslims in their houses of worship. ISIS has done that repeatedly.”

A civil war in the Arabian Peninsula would also challenge long-standing alliances. Instability, the threat to the holy cities, and the possibility of jihadist gains would encourage states with high stakes (Egypt, Jordan, Iran, Pakistan, U.S., etc.) to react. In fact, UAE officials have even made contingency plans for a potential state collapse in Saudi Arabia, a risk which none of the kingdom’s neighbors can afford to ignore. These states would certainly move to secure the holy sites and combat terror cells, but solving the civil war would be a massive challenge. There would be considerable pressure to support the Saud family, but supporting the Wahhabi religious establishment over a reform movement would cause domestic complications in some of these countries that resent the kingdom’s influence across the region.

Pakistan, which has a “special bilateral relationship” with Saudi Arabia obligating their military to defend Mecca and Medina and protect Saudi Arabia’s territorial integrity, would face the most pressure to intervene militarily on behalf of the Saud government should turmoil intensify. The two nations have a long history of military and security cooperation, and there is little doubt that Pakistan would act to protect the Al Saud rulers. In addition, the Egyptian military is present in the northern border areas of Saudi Arabia helping to augment Pakistani forces supporting SANG and the Saudi border guard. Iran and Oil

The geopolitical tsunami that would result from Saudi Arabia’s collapse would have enormous consequences regarding Iranian influence across the region. From Iraq to Lebanon, and from Yemen to Syria, the struggle on the part of hardline Sunni Islamists to counter Shi’ism and Iran’s reach would enter a new phase should Saudi Arabia cease to exist as a unified nation-state. It is not entirely clear how Iran would react to state-collapse in Saudi Arabia, especially considering instability in the region would present a security risk to shipping and trade in the Persian Gulf. Although Iran would likely avoid direct involvement in a conflict in the Arabian Peninsula, it would certainly attempt to capitalize on a regional power vacuum created by a diminished Saudi Arabia by consolidating its political and military influence in Yemen, Iraq, Syria, Eastern Saudi Arabia, and, if instability spreads, Shi’ite-majority Bahrain. Diminished oil output by its regional rival would also increase demand for Iranian oil, boosting their economy. There is also no clear Sunni successor state to check Iran’s regional influence. Egypt’s economy is too weak, and Jordan is surrounded on all sides by instability.

Finally, Saudi Arabia as a failed state would send international markets into free fall. State collapse in Saudi Arabia would halt oil production, significantly increasing the price of oil and dramatically weakening global economies. Such an increase would spark a severe global economic crisis. The longer Saudi Arabia is destabilized, the more difficult it would be for the world to pull out of the crisis and recover. The socio-political ramifications of such an economic shock could be catastrophic and disastrous for both the region and the world. If the government faces large-scale demonstrations calling for social and political liberalization while facing tribal, familial, and religious elite abandonment, the result could be instability, civil war, and/or state collapse. Again this result is far from inevitable. The Saudis might be able to successfully implement the Vision 2030 reforms while ensuring elite and citizen support. The country must also be open to course corrections in the event of economic turmoil or elite resentment in order to prevent instability.

#### Accesses all impacts---high prices put a cap on every conflict

Hillebrand 8, Associate Professor of International Economics Patterson School of Diplomacy and International Commerce University of Kentucky (Evan, “ How Will Future Oil Prices Affect Geopolitics?,” <http://www.uky.edu/~ehill2/dynpage_upload/files/How%20Will%20Future%20Oil%20Prices%20Affect%20Geopolitics.pdf>

In the EIA work (see figure 35, reproduced below) world oil prices are assumed to take three possible widely divergent paths, from mid 2006 to 2030. Divergent price paths could be motivated in many different ways, such as differences in growth of demand, differences in assumptions about the technology of energy usage, or most importantly, differences in assumptions about the geological accessibility of oil. In the IEO2007 the different price paths result mainly from the assumption of different oilproduction paths outside of the United States. Further, it is assumed that those paths are dictated more by geological considerations than by policy choices or political constraints. 5 I constrained the IFs model to roughly replicate the world oil production assumptions portrayed in the IEO2007 scenarios. These scenarios show world oil production in 2030 ranging from 101.9 million barrels per day (mbd) in the high price/low production scenario, to 117.8 mbd in the reference case, to 127.7 mbd in the low price/high production case. The IEO scenarios are not integrated with a world economic model, nor are alternate fuels considered except in the US case. Thus I had to fill in the details, as it were, using the IFs model, which does integrate global demand and supply of 6 fuel sources (oil, coal, natural gas, hydro, nuclear, and other) with economic growth and energy demand in 182 countries. In the IFs model, economic growth in every country responds endogenously to change in energy production and energy prices. In addition, the IFs model projects quite substantial shifts among energy sources given large swings in relative prices. Thus the final results cannot be in any way construed to be implied by the DOE analysis: the DOE results are too sparse for that. The results reported are my own scenarios—based loosely on the DOE price and oil production assumptions—but using the IFs model as the basic platform for analysis. The different oil market assumptions, it will become clear, have quite dramatically different implications for global economic and political futures. In this work, as in the IEO2007 and in most other long-run forecasting work,2 the basecase is for continued strong global economic growth and some degree of convergence between the OECD and non-OECD countries. Growth rates are projected basically as a continuation of trends: strong technological growth in the OECD countries, 2 See, for example, the economic growth projections underlying the IPCC climate change projections at http://sedac.ciesin.columbia.edu/ddc/sres/index.html (2000), or Maddison (2007). One major exception is Meadows et al. (2004) 6 strong investment coupled with continued modernization in non-OECD Asia, but a gradual slowing from the very high growth rates of recent decades. For the other nonOECD regions, the forecast assumes a gradual improvement in economic governance that leads to a more efficient use of capital and more domestic competition. Embedded in the base case is increasing globalization, a lack of major conflicts, and reasonably successful fiscal management by OECD and non-OECD governments. I imposed these energy and economic numbers on the IFs model3 and used the model to generate its own long range geopolitical scenario. The IFs model projects variables such as the level of democratization, geopolitical power, risk of domestic instability, and the risk of war4 . Under the base case energy and economic assumptions, and under the myriad assumptions underlying the IFs model, the geopolitical landscape shifts in a benign direction. Rising GDP per capita and generational change leading to larger percentages of populations growing up without want lead to growing democratization (Inglehart, 2000). Faster economic growth in China and the other non-OECD countries leads to a gradual decline in the share of world power held by the United States and the EU and a rise by China. Economic growth and consolidation of democracy lead to a diminution almost everywhere in the risk of internal war (Goldstone, 2004). The rise of great powers such as China and India compared to the relative decline of US power could lead to an increase in the risk of interstate war (Tamen, 2000), but this scenario assumes China and India, in particular, are satisfied powers (Kugler, 2006), that have adapted peacefully to the existing international order and see no need for warfare to validate their rising status. This result also conforms with Gartzke’s “Capitalist Peace” (2007) in which spreading economic interdependence erodes incentives for interstate war.

#### Reverse causal---low prices degrade capitalist peace

Kleinman 16 (Seth Kleinman – head of the European energy research at Citigroup, “The Hidden Consequences of the Oil Crash,” 21 January 2016, <http://www.politico.com/magazine/story/2016/01/oil-crash-hidden-consequences-213550#ixzz4NOVMKcWW>)

The dark side to low oil prices is starting to reveal itself both at home and abroad. In America, there is the direct economic impact of thousands of layoffs and the collapse in oil and gas capital expenditures (which accounted for almost 15 percent of overall U.S. capital expenditures in 2013). But these losses don’t account for oil’s massive ripple effects on trucking, construction, metals and the army of businesses that partner with the oil and gas industries. Internationally, low oil prices are wreaking havoc with commodity-exporting nations, including manufactured good exporters like China. Since these oil exporters were enormous importers, global trade withers.

#### Low oil prices turn the case - green paradox

Winter 12 (Ralph A. Winter is a Professor of Strategy and Business at the Sauder School of Business, University of British Columbia. He is the President of the Canadian Economics Association and the President of the Canadian Law and Economics Association. He is an associate editor for the RAND Journal of Economics. H is the author of “The Economics of Supply Chain Contracting,” “Organizational Form and Quality of Output,” and “Exclusionary Contracts.” “Innovation and the Dynamics of Global Warming,” 2/7/12, https://are.berkeley.edu/documents/seminar/WinterPaper.pdf)//tb

The innovation and development of clean energy sources such as wind and solar energy are emerging as a key strategy in the battle against global warming. The strategy rests on a seemingly obvious proposition: innovation lowers the cost of clean energy, leading to substitution away from fossil fuels, which lowers carbon emissions and mitigates the problem of global warming. The proposition, unfortunately, is false. Innovation in clean energy can set global temperatures on a permanently higher path. The subsidy of innovation, as a naked policy instrument unsupported by carbon pricing, is not merely suboptimal policy. Subsidizing innovation can make global warming worse. To develop the economic relationship between clean-energy innovation and climate change, I start with a paradox familiar to environmental economists. Fossil fuels are an exhaustible resource. Suppose that tomorrow a clean, inexhaustible energy substitute were universally available at a cost equivalent to 60 dollars per barrel of oil. The owner of any conventional fuel deposit with low extraction costs would prefer to sell at 59.99 or less rather than share the energy market with the substitute. Oil from these deposits will therefore be sold before clean energy captures any market share and at lower prices as a result of the innovation. The effect of the innovation in clean energy is that fuel will be exhausted - and carbon emitted — more intensively and at an earlier date. This paradox is that carbon emissions are initially higher as a result of clean energy innovation. 1 As set out in the literature, however, the theory predicts that in the long run clean energy innovation helps in the battle against global warming. Innovation in clean energy has two effects on carbon emissions. First, as in the example above, carbon is released earlier into the atmosphere as a result of innovation. In existing models, this early release of carbon into the atmosphere is neutral or beneficial in terms of the long run temperature trend as the atmospheric carbon is reabsorbed into the earth’s surface at a steady rate. The environment, represented by a single state variable, is able to improve over time. The second effect of innovation is that fossil fuel deposits with high extraction cost (above 60 dollars in our example) will be left in the ground rather than extracted. Less carbon is emitted into the atmosphere — a clear benefit of clean-energy innovation. The net effect is that the paradox disappears in the long run. The prediction is that innovation eventually works as intended. 2 This prediction is too optimistic. The theory offered here represents carbon in the biosphere via two state variables, carbon in the atmosphere and carbon on the earth’s surface. This allows us to include a fundamental feature of carbon cycle dynamics: positive feedback effects. As greater atmospheric carbon raises the global temperature, reactive ice-yields melt and methane gas is released from melting permafrost (to take just two examples), resulting in a higher *rate* of flow of carbon to the atmosphere. The effect is that an initial increase in carbon emissions that raises global temperature will increase the rate at which carbon escapes from the earth’s surface and accumulates in the atmosphere. Innovation combined with the sufficiently strong feedback effects then yields higher temperature paths not just in the short run but permanently. The acceleration of carbon emissions (the first effect of innovation) may overwhelm even in the long run the benefit of reduced total carbon emissions (the second effect). Because of positive feedbacks, even a small innovation may lead the temperature path to a discretely higher steady- state temperature. Global warming is a long run problem and it is the long run consequences of global warming policies that are critical for policy. The theory here argues against clean energy innovation subsidies as a naked policy instrument. As a component of a portfolio of policies, however, clean-energy innovation subsidies are of value because the other main policy instrument, carbon pricing, eliminates the “dark side” of innovation. To render innovation of value, carbon prices must be reactive to innovation successes — and reactive in a non-obvious way. When a new innovation gives clean energy producers an advantage over conventional energy, a reactive carbon price policy is often one that magnifies this advantage, by raising the tax on fossil fuel use. Fossil fuel producers are hit with a double whammy. Carbon pricing is thus an important complementary instrument to clean energy innovation, being necessary even to ensure that the net impact of innovation is positive. This complementarity is not well understood among policymakers. With carbon taxes seemingly impossible to implement given U.S. politics, clean-energy research and development is becoming the focus across a range of the political spectrum. 3 Support for the policy trend presupposes that carbon pricing and clean energy subsidies are substitutes in the battle against global warming. This is natural assumption, given that these are two instruments available to solve the same problem, but the assumption is misguided. Carbon pricing is even more essential when clean energy innovation is successful than when it is not. This paper contributes to a growing literature on global warming and an earlier literature on exhaustible resource economics. The clean energy paradox, or green paradox, in terms of the impact of innovation described is developed in Strand (2007) and very clearly in Hoel (2008) as discussed in footnote 1. Acemoglu et al (2011) develop a dynamic model integrating the economy with climate change in which the driver of policy design is endogenous technical change. These authors assume a constant rate of environmental regeneration. This assumption would allow the environment to recover completely from any past damages if the rate of emissions could be reduced sufficiently. It is never too late to recover. The built-in optimism about the long run in Acemoglu et al (2011) and in Hoel (2008) disappears once the positive-feedback mechanisms of the carbon cycle are recognized. Positive feedback mechanisms require that the environment be represented by multiple state variables, as in the climate science literature, not a single state variable as in Acemoglu et al and Hoel. 4 I allow uncertainty in the innovation process in my model to capture an important distinction between the ex-ante effect on global warming of the threat of innovation and the ex post effect of successful innovation. In doing so, I draw on the economic literature on the theory of pricing in an exhaustible resource market subject to innovation in a backstop technology (Heal 1976, Gallini, Lewis and Ware 1983, Dasgupta and Stiglitz 1981) as well as the literature on exhaustible resource pricing with heterogeneous extraction costs or reserve-dependent costs (see Devarajan and Fisher 1981). The possibility of perverse effects of clean-energy innovation and the complementarity of innovation and carbon pricing are not fully appreciated in the climate policy literature. The most prominent model integrating economics and climate dynamics is the Dynamic Integrated Model of Climate and the Economy (the DICE model) (Nordhaus, 2008) and its extension to a regionally disaggregated model (Nordhaus 2010 and 2011). The latest version of the DICE model includes a backstop clean-energy technology, but assumes (1) a current Hotelling rent of $0.07 per ton of carbon for fossil fuels (Nordhaus, 2007, p.31), which implies a Hotelling rent of only $0.01 per barrel of crude oil; 5 and (2) an extraction cost of zero (Nordhaus 2008, p.43). The effects analyzed here, in contrast, rely entirely on a large Hotelling rent. The DICE assumptions (1) and (2) are at odds with the observed price of 80-100 dollars per barrel. 6 The interaction of innovation and carbon pricing policy is outside the focus of the DICE model. 7 The Stern review of global warming policy (Stern, 2006) notes that the price reaction of the fossil fuel market may dampen the effects of policy of clean energy subsidies, but does not recognize the possibility of a negative net impact of innovation. Stern is solidly of the conventional view that the net effect of innovation in clean energy must be positive. Stern surveys the important positive feedback mechanisms in carbon models but does not connect feedback mechanisms to the reaction of fossil fuel prices to innovation, which is the analytical focus of this paper. Section 2 of this paper offers an economic model of innovation and the dynamics of global warming. Section 3 moves from positive economic theory to normative analysis, and from the consequences of existing global warming policy to optimal policy in a first-best world. I analyze an optimal carbon tax in the model with exogenous innovation. The first-best optimum can be implemented in a competitive market with a carbon tax, a tax that will increase in the event of early success in innovation. Optimal carbon pricing does allow clean-energy innovation to have an unambiguously positive impact on social welfare. Even in the first-best optimum, however, successful innovation leads to a worsening of global warming. The concluding section offers a critical discussion of the policy literature in light of the theory developed here.

### 1nr - no impact

#### **Russia AND oil is a distinct scenario for lashout**

Fisher, foreign policy editor at Vox, 14

(Max, “The worse Russia's economy gets, the more dangerous Putin becomes”, http://www.vox.com/2014/12/17/7401681/russia-putin-ruble)

You might reasonably conclude that the destruction of Russia's economy is great news for the United States of America. After all, won't it humble Vladimir Putin, forcing him to finally back out of his disastrous Ukraine invasion, soften his growing hostility toward Europe and the US, and generally ratchet down the brinksmanship and aggression that have made him so troublesome? Actually, it's the opposite. The odds are that [Russia's freefalling economy](http://www.vox.com/2014/12/16/7401401/ruble-collapse-interest-rates) will make Putin even more aggressive, more unpredictable, and less willing to compromise. The weaker that Russia becomes, the more dangerous it will get, and that's terrible news for everyone, including the US. It is precisely because the cratering economy is weakening Putin that it will force him to bolster his rule, which he will almost certainly do by drumming up nationalism, foreign confrontations, and state propaganda. Russia, already hostile and isolated, is likely to become even more so, worsening both its behavior abroad and the already-significant economic suffering of regular Russians. The country's propaganda bubble will further seal off Russians from the outside world, telling them that Russia's decline is the fault of Western aggression that they must rally against. In all, this effect is starting to look something like the North Koreaification of Russia. That does not mean that Russia is about to become or will ever be as isolated, hostile, or aggressive as North Korea, but it only has to edge a little bit in that direction to bring terrible consequences for the world and for Russians themselves. Putin's handling of Russia's last downturn is a very bad sign for how he'll deal with this one We don't have to guess at how Putin will respond to a weakening economy: we already know the answer from how he dealt with the economic downturn that began for Russia in 2008, and hit home for Putin in 2012 when Russians protested his sham reelection. Before then, Putin had certainly been a provocateur, but nothing like what he is now. He based his power and popularity on Russia's economic growth, which was enough. But after 2012, Putin shifted strategies, focusing on stirring up old-school anti-Western paranoia and imperial-style Russian nationalism. That meant ginning up conflict with the US, for example by banning American families from adopting Russian orphans, and seizing on geopolitical crises such as Syria as an opportunity to present Russia as a great power opposed to nefarious Western imperialism. It also meant cracking down on free speech and civil rights at home, cracking down on everyone from journalists to gay and lesbian people, while ratcheting up nationalistic propaganda in the media. And, ultimately, it meant invading Ukraine, which Putin presented as a humanitarian intervention to save fellow Russian-speakers from evil Western fascism. All of this worked: it distracted Russians from the sinking economy, focusing them instead on perceived enemies at home and abroad: Ukraine, the West, Russian liberals, Russian gays and lesbians. In fact, Putin's approval rating even rose, to a meteoric high of over 80 percent. But the danger is that Putin became trapped in the logic of his own propaganda, which is a big part of why he invaded Ukraine again, this time in eastern Ukraine. The worse Russia's economy gets, the more Putin will need to escalate hostility abroad As the economy sinks, Putin will only become more reliant on these sorts of shenanigans he's used previously to stay in power. He's not just worried about his popularity, after all, but his very legitimacy as the head of state; the 2012 election showed him that Russians could turn against him. Putin has little choice, then, but to seek legitimacy by stirring up more crises abroad, positioning himself as a nationalist hero leading the brave Russian state in a hostile world. But the only way he can maintain that image at home is if his soft conflict with the West continues. Putin can't deescalate tensions in Ukraine and more broadly in Europe because those tensions are just about all he has left. More broadly, the obvious move here is for Putin is to blame his country's falling economy on American and European imperialism. By playing up the role of outside hostility in Russia's economic crisis, Putin would shift the blame and, just as important, promote the idea that Russians have to come together and endure the downturn as a matter of national mission against a foreign enemy. This is part of why Putin has spent much of 2014 comparing the pro-Western Ukrainian government to Nazis and talking about World War Two. The memory of Nazi Germany's 1941 invasion is still palpable in Russia. By hitting on the memory of those years of hardship and struggle, and raising subtle and not-so-subtle comparisons to the international tensions today, Putin is trying to persuade Russians that, the worse things get, the more that they should support him and his government. That's working, but the worse Russia's economy gets, the more that Putin will have to exacerbate tensions with the West in order to justify blaming it all on foreign conflict and enemies. Putin has every reason to keep the conflict in Ukraine going, or even make it worse It's not just that Putin needs to maintain tension and conflict in order to maintain his self-made image as a tough-guy nationalist leader holding strong against a hostile West. Even his short-term strategy in Ukraine points to further escalation. Putin can't simply withdraw from Ukraine, which would be a public humiliation. He's currently too invested in a losing situation to cut his losses. [Mark Galeotti](http://inmoscowsshadows.wordpress.com/2014/12/16/putin-the-rouble-crisis-and-ukraine-will-he-be-tempted-to-up-the-ante/), a New York University scholar who studies Russia, points out that Putin might conclude that his best bet is to escalate even further, sending more troops, to try to force a better deal. After all, Putin cares more about Ukraine than the West does — this is true — and at some point the very weak Ukrainian government may concede defeat and allow Putin more favorable peace terms. The more that Putin's economy suffers, the more likely he is to try some dangerous gambit like that to ease the cost of sanctions.

#### And, it’s only defense to diversionary war - time-lagged cross-national time series data verifies low prices cause instability.

Korotayev et al. 18. Andrey Korotayev is the head of the Laboratory of Monitoring of the Risks of Sociopolitical Destabilization of the National Research University Higher School of Economics; Stanislav Bilyuga is affiliated to the Laboratory of Monitoring of the Risks of Sociopolitical Destabilization of the National Research University Higher School of Economics; Ilya Belalov has a PhD degree in virology and is a research scientist in the Institute of Microbiology in Moscow, Russia; Jack A. Goldstone is the Virginia E. and John T. Hazel, Jr. Professor of Public Policy and Eminent Scholar at Schar School of Policy and Government of George Mason University. 03/2018. “Oil Prices, Socio-Political Destabilization Risks, and Future Energy Technologies.” Technological Forecasting and Social Change, vol. 128, pp. 304–310.

If we look at changes in oil prices and subsequent instability, rather than the level of prices, we still find strong correlations. Table 5 shows the correlation between the decline in oil prices in a given year and the growth of political instability (e.g. increases in the CNTS indicators) three years later, using moving averages of oil prices. The correlations between changes are all in the right direction (negative), and are statistically significant for six of the eight primary indicators. These correlations, however, are not as high as in the case of the correlation between the oil price level and the level of instability in three years, which, in our opinion, is largely due precisely to the fact that in the latter case we are dealing with a power-law relationship, rather than a linear correlation.

5. Discussion and conclusion

Thus, our research suggests that prolonged decline in oil prices leads to an almost inevitable growth of sociopolitical instability in oil-exporting countries, while a systematic increase of the prices serves as a powerful factor of sociopolitical stabilization. The relationship appears to be of power-law type. That is why oil price changes in the range higher than $60 per barrel only exert very slight influence on the sociopolitical instability in oil-exporting countries. However, if prices fall below this level, further decrease by each $10 leads to a more and more pronounced increase in the sociopolitical destabilization risks. These risks grow particularly sharply at a prolonged oil price collapse below $40 per barrel, and become nearly inevitable at a prolonged oil price collapse below $35 per barrel. Our analysis has also revealed three year time lags — though a strong steady drop in oil prices immediately leads to a marked increase in the risks of sociopolitical destabilization in oilexporting countries, this risk becomes really high three years after that. It appears that during high price periods most oil exporting countries tend to accumulate substantial reserves of stability that tend to be exhausted within three years of consistently low prices (note that a steady

Table

Description automatically generated

growth of oil prices also tends to produce its stabilizing effect with a three year time lag). Of course, even if the oil prices drop below $35 for many years, the risks of sociopolitical destabilization can still be mitigated and even fully avoided with the help of adequate policy measures. Indeed, the oil price decline in the 1980s and the early 1990s greatly contributed to the collapse of the USSR and the onset of the Algerian civil war (see, e.g., Гринин et al., 2010) — but, for example, Saudi Arabia managed to avoid any substantial political destabilization, though not without significant effort (see, e.g., Turchin, 2006).

However, our analysis indicates that the possible substantial decline of the global oil demand as a result of the development of the energy technologies reviewed in the first section of the present article could lead anyway to a very substantial increase in the sociopolitical destabilization risks within the oil exporting economies. This suggests that the governments, civil societies, and business communities of the respective countries should amplify their effort aimed at the diversification of their economies and the reduction of their dependence on the oil exports.

#### Specifically in key hotspots

Dryad Global 3-10. Economics think tank in London. 3-10-2020. "Who pays? Geopolitical consequences of an oil price war." Dryad Global. https://dryadglobal.com/who-pays-geopolitical-consequences-of-an-oil-price-war/

With a sustained low oil price, the risks to fringe oil suppliers have increased: a continued low price makes it impossible for states, such as Iran, to offer themselves as viable sources of discounted oil and forces them out of the market. This could lead them to take more active and indeed extreme measures to shore up their economies or to hamper the activities of their geopolitical rivals. Consequently, there is a greater risk of wider regional instability in North Africa, the Middle East and South America.

### 1nr- at: supply shocks

#### Reduced energy market concentration offsets refinement bottlenecks in supply chains – that significantly lowers oil prices

Adams et al 18 [Ken Adams focuses on litigation strategy and the resolution of complex disputes. Before founding Adams Holcomb, he was a senior litigation partner at the law firm of Dickstein Shapiro LLP.  For more than 30 years he concentrated on litigating and resolving the most complex, multifaceted disputes the firm was called upon to handle.  He is ranked in the 2007 and 2008 editions of Chambers USA: America’s Leading Lawyers for Business as a leading individual in the area of Antitrust for the District of Columbia. . "Chapter Ten Energy: The Importance of Competition and the Role of Antitrust." https://www.antitrustinstitute.org/wp-content/uploads/2018/08/Energy-Chapter-from-AAI-Transition-Report\_100520082049.pdf]

Much of the decline in numbers of refineries can be explained by reduced incentives to operate small, inefficient facilities and subsequent work-off of obsolete and high-cost capacity induced by the phase-out of crude oil price controls in the early 1980s. Environmental restrictions, boutique fuel requirements, and the MTBE ban have more recently contributed to tight refinery capacity. And while refiners have increased distillation capacity by 15 percent,62 refinery utilization rates have increased markedly since the early 1980s, peaking at around 95 percent in the late 1990s.63 Moreover, about 55 percent of U.S. operating distillation capacity in 2006 was in refining facilities with capacities greater than 200,000 barrels per day—a 36 percent increase over the last two decades.64 Currently, a relatively few, large facilities thus account for more than one-half of total U.S. refinery capacity.

The foregoing analysis raises concerns that refining in the United States is effectively a bottleneck in the production chain. In general, bottlenecks can have dramatic effects on prices, particularly when they are operated at the high utilization rates that have characterized the industry for several years. If consumption increases when capacity is tight, price increases reflect scarcity and appropriately ration demand. But if refiners deliberately shut down refining capacity (i.e., withhold), the supracompetitive price increase will directly harm consumers. Refining thus shares much in common in this regard with electricity: because capacity exists in discrete “chunks” that are utilized in increasing order of their marginal costs, one firm often owns more than one type of capacity, and demand fluctuates over time. Moreover a refiner or group of refiners need not hold a large share of capacity to profit from a withholding strategy. Even a small amount of capacity, if strategically withdrawn from the market, can produce a large price increase from which all firms with inframarginal capacity will benefit. The growth in size of refining facilities exacerbates such price effects because an outage at one large facility affects large volumes of refined products.

A second factor affecting the domestic industry landscape has been a fundamental shift in the role of the majors and independents over time. For example, a period of low profitability in the 1990s forced the majors to refocus their strategy on regional profit centers, resulting in spin-offs of refining capacity to the former independents. Refining capacity owned by the majors fell from 72 percent in 1990 to 54 percent in 1998.65 At the same time, the independents tripled their share of capacity from 8 percent to 23 percent, about two-thirds of which was based on assets acquired from the majors by firms such as Citgo/PDV America, Ultramar Diamond Shamrock, and Valero Energy. 66 Realignment of players in downstream markets contributes to harder-to-measure changes that merger analysis often dodges, such as the degree of vertical integration in upstream refining and downstream retail gasoline markets.67 Moreover, when coupled with ownership of a bottleneck segment such as refining, integration raises particular concerns about foreclosure and the leverage of market power to the retail gasoline outlet level.

A third important consideration is high and increasing concentration in refining and wholesale markets. Market structure is likely to be at the heart of most major competition policy questions involving petroleum markets. Where debates over market structure in other industries can turn on the ease of entry and the role of innovation in expanding the scope of markets, energy markets are still defined largely around constrained transportation networks and production cost differentials. Data from merger transactions over the last twenty years indicate refining market concentration ranging from 1,800 to as high as 6,700 HHI.68 Similarly, concentration in wholesale (e.g., terminalling or bulk supply) markets ranges from 1,565 to 4,600 HHI.69

Coupled with high concentration in specific markets, we also find increasing levels of market concentration in refining and wholesaling. Petroleum Administration for Defense Districts (PADDs) data for regional markets shown in Table 1 indicate double digit percentage increases in concentration from 1994 to 2002 in all the PADDs, with some areas moving from moderately to highly concentrated. These increases have likely been triggered by the gradual shutting down of refining capacity over time, the aggregate effect of mergers that do not exceed the Guidelines thresholds but nonetheless increase market concentration, and the effect of mergers that have not been adequately remedied. High concentration is problematic because it increases the probability of coordination among refiners.70 For example, refiners can tacitly or explicitly collude on output or on investment in new capacity by suppressing excess refining capacity and using swap agreements as a means of restraining capacity and preserving market discipline.71 Any discipline that new entry would bring to refining markets, however, is precluded by high sunk costs, environmental regulations, and the declining availability of domestic crude inputs.

#### Perception is an independent link and triggers rapid devaluation.

Sen and von Schickfus 20 — Suphi Sen is an assistant professor at the Environmental Economics and Natural Resources Group at Wageningen University. His areas of research include environmental and resource economics, energy economies, and economies of climate change. Marie-Theres von Schickfus is an economist for the ifo Institute, Center for Energy, Climate, and Resources. (“Climate policy, stranded assets, and investors’ expectations” Journal of Environmental Economics and Management, Volume 100, March 2020. https://www.sciencedirect.com/science/article/pii/S0095069618307083#!)//JLPark

Stranded asset risk is relevant for the energy sector and beyond. Most fossil energy assets are long-lived; they usually require a large initial investment, but have relatively low operating costs. [Davis and Socolow (2014)](https://www.sciencedirect.com/science/article/pii/S0095069618307083" \l "bib18) show that expected future cumulative emissions from the existing infrastructure of the global power sector have increased dramatically in the last decades. Such long-term investments have the potential to “lock in” carbon-intensive technologies for a long period of time ([Erickson et al., 2015](https://www.sciencedirect.com/science/article/pii/S0095069618307083" \l "bib21)).[42](https://www.sciencedirect.com/science/article/pii/S0095069618307083" \l "fn42) Calculations by [IEA (2013)](https://www.sciencedirect.com/science/article/pii/S0095069618307083" \l "bib29) and [Pfeiffer et al. (2016)](https://www.sciencedirect.com/science/article/pii/S0095069618307083" \l "bib54) conclude that the “2° capital stock” will already be reached in 2017. Investments in fossil capacities after 2017 are inefficient: they lead to “both larger carbon lock-ins and higher short-term emissions that need to be compensated by deeper emissions cuts in the long run” ([IPCC, 2014](https://www.sciencedirect.com/science/article/pii/S0095069618307083#bib31)), increasing the cost of climate change mitigation. Moreover, in order to achieve emission cuts in such a scenario, fossil assets need to be stranded. [IEA (2013)](https://www.sciencedirect.com/science/article/pii/S0095069618307083#bib29) provides a conservative estimate that the energy industry faces sunk costs of $ 120 billion due to fossil fuel plants being retired early, even if action to achieve the 2°C goal had started in 2012. For a scenario of delaying climate action until 2030 (and using a different methodology), [IRENA (2017a)](https://www.sciencedirect.com/science/article/pii/S0095069618307083#bib32) estimates stranded assets of $ 1.9 trillion in electricity generation, and an additional $ 7 trillion in upstream energy infrastructure (mostly oil production). This is approximately equivalent to 3.5% of global income, and implies a risk not just for the obviously affected energy industry facing sunk costs: international organizations, financial institutions and regulators are increasingly concerned about the “transition risk” of climate policy, especially about a sudden re-pricing of assets.[43](https://www.sciencedirect.com/science/article/pii/S0095069618307083" \l "fn43) A sudden devaluation of energy companies will occur only if expectations were not adjusted in accordance with the risk of asset stranding. Sudden changes in the stringency of carbon policies, or expectations in the presence of tipping points can lead to abrupt repricing of fossil fuel assets. Given energy companies' size and interrelation with the rest of the economy, policymakers may regard energy companies as “too big to fail.” For this and other political economy reasons,[44](https://www.sciencedirect.com/science/article/pii/S0095069618307083" \l "fn44) policymakers may opt for compensation policies, and investors may expect them to do so. Compensations, then, are almost a self-fulfilling prophecy: if they are expected, they will be necessary in order to avoid larger shocks.[45](https://www.sciencedirect.com/science/article/pii/S0095069618307083" \l "fn45) Therefore, understanding the interaction between policy making and investors’ expectations is essential for the design of climate policies. Our results suggest that early and credible commitment to climate policies and whether they involve compensation payments or not is crucial. Such clear signals to financial markets can avoid a disruptive and unorderly energy transition and macro shocks, while directing capital towards climate-friendly technologies. We believe that further research in similar contexts can help to generalize these results, or to identify the important factors in the formation of expectations regarding climate related risks.

### 1nr - at: diversification

#### MENA diversification is slow – accelerated transition causes price collapse and migration crises

Steven 19 — Paul Stevens is a distinguished fellow at Chatham House, having first joined the institute in 2008. He was educated as an economist and as a specialist on the Middle East at Cambridge and the School of Oriental and African Studies. From 1973-79 he taught at the American University of Beirut in Lebanon, interspersed with two years as an oil consultant. Between 1979-93 he was a lecturer/senior lecturer in economics at the University of Surrey. Between 1993 and 2007 he was professor of Petroleum Policy and Economics at the Centre for Energy, Petroleum and Mineral Law and Policy at the University of Dundee. He is now professor emeritus at the University of Dundee and until recently, a visiting professor at University College London (Australia). He is also a distinguished fellow at the Institute of Energy Economics Japan (IEEJ) in Tokyo. He has published extensively on energy economics, the international petroleum industry, economic development issues and the political economy of the Gulf. He also works as a consultant for many companies and governments. In March 2009 he was presented with the OPEC Award in recognition of his outstanding work in the field of oil and energy research. (“The Geopolitical Implications of Future Oil Demand” Chatham House, Energy, Environment, and Resources Department, August 2019. https://www.chathamhouse.org/sites/default/files/2019-08-14-FutureOilDemand.pdf)//JLPark

If the transition to renewables and low-carbon electricity happens faster than the energy establishment anticipates, the implications for exporters of oil and for the geopolitics of oil will be very serious. For example, the failure of many oil-exporting countries to reduce their dependence on hydrocarbon revenues and diversify their economies will leave them extremely vulnerable to reduced oil and gas demand in their main markets. The countries of the Middle East and North Africa (MENA) region will be particularly exposed, with the possible consequences including an increase in the incidence of state failure in a region already suffering the fallout from having signally failed to address the causes of the Arab uprisings since 2011. Increased political and economic turbulence in the MENA region would also have the potential to create serious migration problems for Europe.

#### Migration crises go nuclear

Cribb 19 [Julian Cribb, distinguished science writer with more than thirty awards for journalism, October 3, 2019. “Food or War.” Cambridge University Press. https://www.cambridge.org/core/books/food-or-war/2D6F728A71C0BFEA0CEC85897066DCAF]

Although actual numbers of warheads have continued to fall from its peak of 70,000 weapons in the mid 1980s, scientists argue the danger of nuclear conflict in fact increased in the first two decades of the twenty first century. This was due to the modernisation of existing stockpiles, the adoption of dangerous new technologies such as robot delivery systems, hypersonic missiles, artificial intelligence and electronic warfare, and the continuing leakage of nuclear materials and knowhow to nonnuclear nations and potential terrorist organisations. In early 2018 the hands of the ‘ Doomsday Clock ’ , maintained by the Bulletin of the Atomic Scientists, were re-set at two minutes to midnight, the highest risk to humanity that it has ever shown since the clock was introduced in 1953. This was due not only to the state of the world ’s nuclear arsenal, but also to irresponsible language by world leaders, the growing use of social media to destabilise rival regimes, and to the rising threat of uncontrolled climate change (see below). 12 In an historic moment on 17 July 2017, 122 nations voted in the UN for the first time ever in favour of a treaty banning all nuclear weapons. This called for comprehensive prohibition of “ a full range of nuclear-weapon-related activities, such as undertaking to develop, test, produce, manufacture, acquire, possess or stockpile nuclear weapons or other nuclear explosive devices, as well as the use or threat of use of these weapons. ” 13 However, 71 other countries– including all the nuclear states– either opposed the ban, abstained or declined to vote. The Treaty vote was nonetheless interpreted by some as a promising first step towards abolishing the nuclear nightmare that hangs over the entire human species. In contrast, 192 countries had signed up to the Chemical Weapons Convention to ban the use of chemical weapons, and 180 to the Biological Weapons Convention. As of 2018, 96 per cent of previous world stocks of chemical weapons had been destroyed– but their continued use in the Syrian conflict and in alleged assassination attempts by Russia indicated the world remains at risk. 14 As things stand, the only entities that can afford to own nuclear weapons are nations– and if humanity is to be wiped out, it will most likely be as a result of an atomic conflict between nations. It follows from this that, if the world is to be made safe from such a fate it will need to get rid of nations as a structure of human self-organisation and replace them with wiser, less aggressive forms of self-governance. After all, the nation state really only began in the early nineteenth century and is by no means a permanent feature of self-governance, any more than monarchies, feudal systems or priest states. Although many people still tend to assume it is. Between them, nations have butchered more than 200 million people in the past 150 years and it is increasingly clear the world would be a far safer, more peaceable place without either nations or nationalism. The question is what to replace them with. Although there may at first glance appear to be no close linkage between weapons of mass destruction and food, in the twenty first century with world resources of food, land and water under growing stress, nothing can be ruled out. Indeed, chemical weapons have frequently been deployed in the Syrian civil war, which had drought, agricultural failure and hunger among its early drivers. And nuclear conflict remains a distinct possibility in South Asia and the Middle East, especially, as these regions are already stressed in terms of food, land and water, and their nuclear firepower or access to nuclear materials is multiplying. It remains an open question whether panicking regimes in Russia, the USA or even France would be ruthless enough to deploy atomic weapons in an attempt to quell invasion by tens of millions of desperate refugees, fleeing famine and climate chaos in their own homelands– but the possibility ought not to be ignored. That nuclear war is at least a possible outcome of food and climate crises was first flagged in the report The Age of Consequences by Kurt Campbell and the US-based Centre for Strategic and International Studies, which stated ‘ it is clear that even nuclear war cannot be excluded as a political consequence of global warming ’ . 15 Food insecurity is therefore a driver in the preconditions for the use of nuclear weapons, whether limited or unlimited.

### 1nr - impact inev

#### Russian growth now, but it’s going to be on the brink, and will only be sustained by its strength in commodity markets

World Bank ’12/1 [World Bank, “Amidst Strong Economic Rebound in Russia, Risks Stemming from COVID-19 and Inflation Build, Says World Bank Report,” https://www.worldbank.org/en/news/press-release/2021/12/01/amidst-strong-economic-rebound-in-russia-risks-stemming-from-covid-19-and-inflation-build-says-world-bank-report]

MOSCOW, December 1, 2021 – Following a strong economic rebound in 2021, with 4.3 percent growth, Russia’s growth is expected to slow in 2022 and 2023, with a forecast of 2.4 percent and 1.8 percent growth, respectively, according to the World Bank’s latest Regular Economic Report for Russia (#46 in the series).

The Russian economy has now recovered to above its pre-pandemic peak, with growth driven by a strong rebound in consumer demand. In 2022, growth will be supported by continued strength in commodity markets, but will likely also be hampered by COVID-19 control measures and tighter interest rates.

Household consumption in the second quarter increased to more than 9 percent on the previous quarter (seasonally adjusted), showing the fastest rate of growth in a decade. Labor markets also saw a substantial upswing, with unemployment falling to a four-year low and real wages growing.

#### Oil is critical to the economy – haven’t shifted away

Olga Tanas 5-18-2016; Bloomberg economy reporter in Russia, “Russia Retools After Crash as Post-Oil Economy Takes Shape” <http://www.bloomberg.com/news/articles/2016-05-17/russia-learns-to-live-after-crash-as-post-oil-path-takes-shape>

For all the signs of improvement elsewhere, oil and gas remain the lifeblood of the economy. Any gains will prove short-lived without a broader overhaul that unlocks investment. “Some industries have benefited from the devaluation, but it’s a one-time win,” said Evsey Gurvich, head of the Economic Expert Group in Moscow. “There’s a certain shift, but a process of overhaul hasn’t yet started. What’s needed is investment, reforms, investor trust.” Proceeds from energy account for about a third of budget revenue. That compares with 23 percent in 1996-1999 and an average of 50 percent in 2011-2014, according to Morgan Stanley. As much as a quarter of Russia’s GDP was linked to the energy industry last year, more than five times the share for agriculture.