# 1NC

# 1NC---Policy

## OFF

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T Subsets

#### ‘Core antitrust laws’ must be economy wide---the aff only effects a subset

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---creates a moral hazard to rush to small non-controversial tweaks that shreds limits and ground

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T Prohibit

#### ‘Prohibitions’ must cease behavior---the aff only regulates it

Broaddus ’50 [James; February 6; Judge on the Kansas City Court of Appeals, Missouri; Westlaw, “City of Meadville v. Caselman,” 240 Mo. App. 1220]

‘Under power conferred on cities of the fourth class ‘to regulate and license’ dramshops, there is no authority to wholly prohibit or suppress. Where there is mere power in a municipality to regulate in a state, with a general policy of conducting licensed saloons, authority to prohibit is excluded. ‘The difference between regulation and prohibition is clear and well marked. The former contemplates the continuance of the subject-matter in existence or in activity. The latter implies its entire destruction or cessation.’' (Citing text writers and cases.)

#### Substantial’ means in totality of circumstances

U.S. First Circuit Court of Appeals ’98 [United States Circuit Court; August 25; Federal Appeals Court of the First Circuit; Southwestern Learning, “Court Uses ‘Totality of Circumstances’ for Test of Substantial Abuse by Debtor,” http://www.swlearning.com/blaw/cases/court\_uses.html]

Decision Affirmed. The court joins other circuits in adopting the "totality of the circumstances" test as the measure of substantial abuse under the Bankruptcy Code. This is a flexible standard adopted by Congress to allow bankruptcy courts to consider the factors involved in each case and to prevent abuse of Chapter 7 filings. When there is evidence that the consumer can pay their debts, there is likely to be found substantial abuse.

#### Voting issue---allows minor tweaks that explode limits and moot access to high quality ground

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T Courts

#### ‘Antitrust Law’ excludes the courts

Bibikos ’19 [George; 2019; Founder of GA Bibikos LL.C., J.D. from Widener Commonwealth Law School; Supreme Court of Pennsylvania, “Commonwealth of Pennsylvania, Appelle, vs. Chesapeake Energy Corporation et al., Appellants,” https://paforciviljusticereform.org/wp-content/uploads/2020/11/PCCJR-Chesapeake.pdf]

The court’s decision therefore (a) alters the rights of parties in Pennsylvania accused of engaging in anticompetitive behavior to defend against those claims in federal court, (b) creates new causes of action under the Consumer Protection Law, and (c) creates new remedies for antitrust violations that defendants would not face in federal court. These decisions are inherently legislative in nature. See, e.g., State v. Philip Morris, Inc., Nos. 96122017 and CL211487, 1997 WL 540913, at \*6 (Md. Cir. Ct. May 21, 1997) (“Altering common law rights, creating new causes of action, and providing new remedies for wrongs is generally a legislative function, not a judicial function.”). If these decisions are legislative in nature, then they are outside the purview of the courts and the executive.

Moreover, when the General Assembly prescribes specific statutory duties and remedies, those provisions must be strictly followed, 1 Pa.C.S. § 1504, and the courts cannot “expand coverage to subsume other remedies.” See Nat’l R. R. Passenger Corp. v. Nat’l Ass’n of R.R. Passengers, 414 U.S. 453, 458 (1974) (“A frequently stated principle of statutory construction is that when legislation expressly provides a particular remedy or remedies, courts should not expand the coverage of the statute to subsume other remedies.”). If the Consumer Protection Law is designed to protect buyers in consumer transactions and sets forth specific remedies, the courts are unable to expand the statute to subsume antitrust remedies.

#### Voting issue---explodes into infinite precedent advantages and allows mechanisms that dodge core DA links

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Death Cult

#### **Invocation of death impacts is an obsession with body counts that culminates in genocidal violence---rejecting it is a gateway issue**

Bjork 93 [Rebecca Bjork, Former College Debater and Former Associate Professor at the University of Utah, Where She Taught Graduate and Undergraduate Courses in Communication and Women in Debate, Reflections on the Ongoing Struggle, Debater's Research Guide 1992-1993: Wake Forest University, Symposium, <http://groups.wfu.edu/debate/MiscSites/DRGArticles/Oudingetal1992Pollution.htm>]

#### While reflecting on my experiences as a woman in academic debate in preparation for this essay, I realized that I have been involved in debate for more than half of my life.  I debated for four years in high school, for four years in college, and I have been coaching intercollegiate debate for nine years.  Not surprisingly, much of my identity as an individual has been shaped by these experiences in debate.  I am a person who strongly believes that debate empowers people to be committed and involved individuals in the communities in which they live.  I am a person who thrives on the intellectual stimulation involved in teaching and traveling with the brightest students on my campus.  I am a person who looks forward to the opportunities for active engagement of ideas with debaters and coaches from around the country.  I am also, however, a college professor, a "feminist," and a peace activist who is increasingly frustrated and disturbed by some of the practices I see being perpetuated and rewarded in academic debate.  I find that I can no longer separate my involvement in debate from the rest of who I am as an individual. Northwestern I remember listening to a lecture a few years ago given by Tom Goodnight at the University summer debate camp.  Goodnight lamented what he saw as the debate community's participation in, and unthinking perpetuation of what he termed the "death culture."  He argued that the embracing of "big impact" arguments--nuclear war, environmental destruction, genocide, famine, and the like-by debaters and coaches signals a morbid and detached fascination with such events, one that views these real human tragedies as part of a "game" in which so-called "objective and neutral" advocates actively seek to find in their research the "impact to outweigh all other impacts"--the round-winning argument that will carry them to their goal of winning tournament X, Y, or Z. He concluded that our "use" of such events in this way is tantamount to a celebration of them; our detached, rational discussions reinforce a detached, rational viewpoint, when emotional and moral outrage may be a more appropriate response.  In the last few years, my academic research has led me to be persuaded by Goodnight's unspoken assumption; language is not merely some transparent tool used to transmit information, but rather is an incredibly powerful medium, the use of which inevitably has real political and material consequences. Given this assumption, I believe that it is important for us to examine the "discourse of debate practice:" that is, the language, discourses, and meanings that we, as a community of debaters and coaches, unthinkingly employ in academic debate.  If it is the case that the language we use has real implications for how we view the world, how we view others, and how we act in the world, then it is imperative that we critically examine our own discourse practices with an eye to how our language does violence to others.  I am shocked and surprised when I hear myself saying things like, "we killed them," or "take no prisoners," or "let's blow them out of the water."  I am tired of the "ideal" debater being defined as one who has mastered the art of verbal assault to the point where accusing opponents of lying, cheating, or being deliberately misleading is a sign of strength. But what I am most tired of is how women debaters are marginalized and rendered voiceless in such a discourse community.  Women who verbally assault their opponents are labeled "bitches" because it is not socially acceptable for women to be verbally aggressive.  Women who get angry and storm out of a room when a disappointing decision is rendered are labeled "hysterical" because, as we all know, women are more emotional then men.  I am tired of hearing comments like, "those 'girls' from school X aren't really interested in debate; they just want to meet men."  We can all point to examples (although only a few) of women who have succeeded at the top levels of debate.  But I find myself wondering how many more women gave up because they were tired of negotiating the mine field of discrimination, sexual harassment, and isolation they found in the debate community. As members of this community, however, we have great freedom to define it in whatever ways we see fit.  After all, what is debate except a collection of shared understandings and explicit or implicit rules for interaction?  What I am calling for is a critical examination of how we, as individual members of this community, characterize our activity, ourselves, and our interactions with others through language.  We must become aware of the ways in which our mostly hidden and unspoken assumptions about what "good" debate is function to exclude not only women, but ethnic minorities from the amazing intellectual opportunities that training in debate provides.  Our nation and indeed, our planet, faces incredibly difficult challenges in the years ahead.  I believe that it is not acceptable anymore for us to go along as we always have, assuming that things will straighten themselves out. If the rioting in Los Angeles taught us anything, it is that complacency breeds resentment and frustration.  We may not be able to change the world, but we can change our own community, and if we fail to do so, we give up the only real power that we have.

### 1NC---OFF

Antitrust PIC

#### The United States federal government should

#### the Sherman Act only applies extraterritorially where it does not offend the sovereignty of a foreign nation and extensively apply international comity analysis in all antitrust cases involving foreign parties; and

#### regulate imported products incorporating price-fixed components.

#### First plank generates UQ---solves uncertainty and perm is incoherent

Kava 19 [Samuel; 2019; J.D./M.B.A. Candidate, 2020, University of Maryland Francis King Carey School of Law and Johns Hopkins University Carey School of Business; Journal of Business & Technology Law; “The Extraterritorial Application of the Sherman Anti-Trust Act in the Age of Globalization: The Need to Amend the Foreign Trade Antitrust Improvements Act (FTAIA) & Vigorously Apply International Comity;” vol. 15, no. 1, p. 135-164]

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

B. International Comity Test

As was discussed in Part I.B., comity refers to "the respect nations afford each other by limiting the reach of their laws." 165 Prior to the Supreme Court case Hartford Fire Insurance Co., which narrowed the comity analysis to only situations where it would be impossible for a foreign entity to comply with both U.S. and foreign nation's laws, federal courts considered a host of factors to determine if the Sherman Anti-Trust Act was barred from applying extraterritorially. Section 403 of Restatement (Third) of the Foreign Relations Law of the United States provides eight factors a court should consider when deciding whether "a state may [or may] not exercise jurisdiction to prescribe law with respect to a person or activity having connections with another state." 166 These eight factors include: (1) the link of the activity to the territory of the regulating state; (2) the connection between the regulating state and the person principally responsible for the activity to be regulated; (3) the character, importance, extent, and degree of importance of the regulation to the regulating state; (4) the existence of justified expectations that might be protected or hurt by the regulation; (5) the importance of the regulation to the international political, legal, or economic system; (6) the extent to which the regulation is consistent with the traditions of the international system; (7) the extent to which another state may have an interest in regulating the activity; and (8) the likelihood of conflict with regulation by another state. 167

Justice Scalia, in his dissenting opinion in Hartford Fire Insurance Co., highlighted many of these factors and determined that international comity barred the Sherman Anti-Trust Act's extraterritorial application in that case. 168 However, the majority decided to narrow the comity analysis by only considering if "the non-U.S. law must require the action being challenged so that 'compliance with the laws of both countries is...impossible."' 169 This narrow comity analysis has led to the broadening of the Sherman Anti-Trust Acts extraterritorial application, which jeopardizes the economic well-being of the global economy. While some courts have disregarded the Supreme Court's narrow comity analysis, by claiming that the Supreme Court "left unclear whether it was saying that the only relevant comity factor in that case was conflict with foreign law...or whether the Court was more broadly rejecting balancing of comity interests in any case where there is no true conflict," Congress should expressly provide federal courts with a broad range of factors it should consider to ensure the United States respects the laws of other nations. 170 Specifically, Congress should amend the FTAIA by explicitly providing that the Sherman Anti-Trust Act only applies extraterritorially in cases where it does not offend the sovereignty of a foreign nation.

In essence, to ensure the economic prosperity of the global economy, the United States Congress should be proactive in amending the FTAIA. Specifically, Congress should prescribe a broad international comity test for courts to consider when deciding if the Sherman Anti-Trust Act should apply extraterritorially. If international comity is taken seriously, unlike its most recent application by the Supreme Court in Hartford Fire Insurance Co., there will be a greater degree of compliance by the international community and more certainty will be provided to consumers and producers. Moreover, federal courts should not wait until Congress amends the FTAIA. In fact, federal courts should, on its own accord, extensively apply an international comity analysis to every case where a foreign entity is involved. As was previously mentioned, some courts continue to apply a robust international comity analysis. Specifically, the Ninth Circuit Court of Appeals in Mujica v. Airscan Inc. considered:

[T]he location of the conduct in question, the nationality of the parties, the character of the conduct in question, the foreign policy interests of the United States, any public policy interests, the strength of the foreign governments' interests, and the adequacy of the alternative forum. 171

Thus, until the United States Congress takes the necessary step to amend the FTAIA, federal courts should consider applying an international comity analysis to all cases that involve an international entity. By adopting a broad international comity analysis: (1) foreign nations would be less likely to adopt burdensome blocking statutes, (2) consumers and producers would have more certainty through unified laws, (3) the global economy will continue to prosper because of the certainty and predictability of the law, and (4) foreign nations may become more amenable to enter into bi-lateral treaties with the United States.

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

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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

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States CP

#### The fifty states and relevant subnational entities should substantially increase prohibitions on imported products incorporating price-fixed components.

#### States solve

Arteaga 21 [Juan and Jordan Ludwig; January 28; former Deputy Assistant Attorney General for the U.S. Department of Justice’s Antitrust Division, J.D. from Columbia Law School; partner in the Antitrust and Competition Group at Crowell and Moring firm, J.D. from Loyola Law School; Global Competition Review, “The Role of US State Antitrust Enforcement,” <https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement>]

In the United States, competition laws have been implemented and enforced through a dual system where the state and federal governments play distinct, yet complementary, roles in regulating the competitive process. While the Department of Justice (DOJ) Antitrust Division and Federal Trade Commission (FTC) are widely viewed as the stewards of US antitrust laws, state attorneys general have long played an important, albeit varying, role within the United States’ antitrust enforcement regime. This has been especially true during the past 30 years because state attorneys general have become much more effective at coordinating their antitrust enforcement efforts to ensure that they have a meaningful seat at the table in any actions brought jointly with their federal counterparts or are able to bring their own actions when the DOJ and FTC decide not to do so.

Prior to the enactment of the first federal antitrust law – the Sherman Act – in 1890, state antitrust enforcement was quite robust in the United States because at least 26 states had already enacted some form of antitrust prohibition.[[2]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-126) In addition, state enforcers had often used general corporation law and common law restraint of trade principles to regulate anticompetitive business practices and transactions.[[3]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-125) This well-established state antitrust enforcement infrastructure – coupled with the fact that the Antitrust Division and FTC had only recently been created – permitted state attorneys general to continue playing a leading enforcement role for the first 30 years after the Sherman Act’s passage.[[4]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-124) Indeed, state attorneys general successfully prosecuted a number of the most consequential antitrust enforcement actions during this period.[[5]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-123)

In the early 1920s, however, state antitrust enforcers began playing a less prominent role because ‘the national dimension of the most important trusts, . . . as well as their ability to restructure in order to evade problematic state laws’, made clear that the federal government needed to step forward in order to adequately protect consumers and the competitive process.[[6]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-122) As a result, the DOJ and FTC – whose national jurisdiction and greater resources enabled them to tackle the most pressing competition issues of the time – displaced state attorneys general as the primary source of government antitrust enforcement within the United States.[[7]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-121) This largely remained true until the mid-1970s when Congress, in response to the DOJ and FTC’s perceived inactivity, passed two laws that expanded the authority of state attorneys general to enforce the federal antitrust laws and provided them with financial resources to do so.[[8]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-120)

In 1976, Congress passed the Hart-Scott-Rodino Antitrust Improvement Act, which, among other things, authorised state attorneys general to bring parens patriae suits (i.e., legal actions brought on behalf of natural persons residing within their states) seeking monetary (treble damages) and injunctive relief for Sherman Act violations.[[9]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-119) Congress also passed the Crime Control Act of 1976, which, among other things, provided state attorneys general with tens of millions in federal grants as ‘seed money’ for the creation of antitrust bureaus within their offices.[[10]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-118) These laws had their intended effect of reinvigorating state antitrust enforcement.

During the 1980s, for example, state attorneys general once again emerged as vigorous antitrust enforcers, especially with respect to the prosecution of resale price maintenance practices and other vertical restraints.[[11]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-117) The rise in the level and prominence of state antitrust enforcement during this period was largely due to a perceived enforcement void at the federal level, where the DOJ and FTC had mostly limited their focus to ‘prohibiting cartels and large horizontal mergers’.[[12]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-116) No longer content with ceding antitrust enforcement to federal enforcers, state attorneys general expanded their antitrust dockets from prosecuting purely ‘local matters, such as bid-rigging on state contracts’, to actively investigating and litigating matters with multistate and national implications.[[13]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-115) To help ensure that they had a larger seat at the antitrust enforcement table, state attorneys general also increased the coordination of their enforcement efforts and competition advocacy through organisations such as the National Association of Attorneys General (NAAG), which created a Multistate Antitrust Task Force and issued state Vertical Restraints and Horizontal Merger Guidelines during this period.[[14]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-114)

### 1NC---OFF

Con Con CP

#### The United States, through a limited constitutional convention, should substantially increase prohibitions on anticompetitive business practices by the private sector by at least expanding the scope of the Sherman Antitrust Act of 1890 to include imported products incorporating price-fixed components.

#### Solves, causes follow on, and avoid politics

Cooper ’21 [Charlie; 2021; President of Get Money Out Maryland and Retired Human Services Administrator; Get Money Out Maryland, “A Convention of States is Wise and Safe,” <https://www.getmoneyoutmd.org/peoples_convention>]

When Congress fails to represent the people who elected them, the U.S. Constitution provides a path for the people to propose a Constitutional amendment through the states. Article V lays out two equal alternatives:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States..."

Thus there are only two ways to amend the U.S. Constitution:

* A proposal passed by two-thirds of each chamber of Congress, then ratified by three-quarters of the states
* A proposal passed by a convention called by two-thirds of the states, then ratified by three-quarters of the states

As former U.S. Supreme Court Justice Antonin Scalia said about this second option: "[When] the Congress is simply unwilling to give attention to many issues which it knows the people are concerned with—and which issues involve restrictions upon the federal government’s own power—I think the founders foresaw that and they provided this method in order to enable a convention to remedy that.”

In a 2016 report, the Congressional Research Service noted that an Article V Convention “was included [in the Constitution] to provide the people, through applications by their state legislatures, with the means to call a convention having the authority to consider and propose changes to the Constitution, particularly if Congress proved incapable of, or unwilling to, initiate amendments on its own."

All 27 Amendments to the Constitution were passed using the first of the two methods: Congress proposed an amendment, then two-thirds of state legislatures ratified it. So why is a convention of states necessary to obtain a 28th Amendment? As George Mason argued when he proposed the convention language: It is necessary when Congress itself is the problem.

The 17th Amendment is the best example of a convention campaign working effectively to add an amendment to the U.S. Constitution. The 17th Amendment, which allows for the popular election of U.S. Senators, came about in reaction to Senators being appointed by state legislatures until the early 1900s. That process was widely recognized as corrupt due to the disproportionate influence of wealthy individuals and special interests. In fact, the Senate became so corrupt that individual senators took nicknames such as the "Coal Senator," the "Bank Senator," and the "Oil Senator."

Citizens responded to this overt venality by using every tool of democracy available including petitions, local legislation, ballot referendums, educational campaigns, resolutions calling on Congress to propose a Constitutional amendment, and finally, after all else failed, applying for an Article V Convention to propose an amendment.

When that movement was just one state shy of the two-thirds needed to force a convention on this topic, Congress reacted by proposing an amendment requiring the direct election of U.S. Senators for the states to ratify—resulting in the 17th Amendment to the U.S. Constitution. The Congressional Research Service has called this technique the "prodding effect." It worked then, and it could work today.

Arguments Against an Article V Convention

Both left- and right-leaning groups—Common Cause and the John Birch Society among them—have argued vehemently against the use of Article V Conventions. They say correctly that such a convention has never been used to amend the Constitution. Never having held an Article V Convention, however, is hardly a reason to avoid one, since the framers provided this Constitutional alternative in anticipation of a time when Congress fails to represent the people. Opponents also fear the prospect of a "runaway" convention, where any topic could be proposed, possibly threatening the process for ratifying amendments or the Constitution itself. See authoritative answers to these arguments below.

Experts Respond

The Constitution’s framers foresaw a time—when Congress itself is the problem—for citizens to have the Constitutional authority to pursue an amendment through the states. That time is now: Supreme Court rulings in Citizens United and other cases have created no-holds-barred politics in which Big Money steamrolls the democratic process. A Congress that is the result of this increasingly lawless system can hardly be expected to propose an amendment to dismantle that system without an extraordinary level of public pressure. A citizens’ drive toward a convention of states under Article V would apply such pressure.

Government and legal agencies have responded to critics opposing a convention of states:

* Criticism: Individual delegates could bring up matters unrelated to those the convention was originally called to address.

Response #1: For a convention to stray from its original topic, delegates would have to propose topics that were not included in the original resolution approved by their state legislatures. Nine states to date have made it a felony for any delegate to a state-called convention to call for or vote on any topic that was not part of the original convention topic.

Response #2: The Justice Department concluded in 1987 that Article V Conventions can be called "for limited purposes, and that a variety of practical means to enforce such limitations are available." In addition, "Congress may decline to designate the mode of ratification for those proposed amendments that it determines are outside the scope of the subject matter limitation and therefore beyond the authority of the convention to propose."

### 1NC---OFF

Court PTX DA

#### The Court will decline to overturn abortion precedent now---it hinges on a centrist bloc cajoled by Robert’s political capital

Robinson ’21 [Kimberly; June 18; Reporter; Bloomberg Law, “Barrett Channels Roberts’ ‘Go-Slow’ Approach in Landmark Cases,” <https://news.bloomberglaw.com/us-law-week/barrett-channels-roberts-go-slow-approach-in-landmark-cases>]

The U.S. Supreme Court’s newest justice is showing signs that she’s more aligned with John Roberts and Brett Kavanaugh in the center than she is with her other conservative colleagues, refusing to support broad rulings that could shake the court’s credibility.

Amy Coney Barrett is “starting to show her stripes” as a moderate who prefers small movements in the law, not huge shifts, South Texas College of Law Houston professor [Josh Blackman](https://www.stcl.edu/about-us/faculty/josh-blackman/) said.

The justices handed down victories to both liberals and conservatives on Thursday saving the [Affordable Care Act](https://www.supremecourt.gov/opinions/20pdf/19-840_6jfm.pdf) again but siding with a religious group in the latest battle over [LGBT protections](https://www.supremecourt.gov/opinions/20pdf/19-123_g3bi.pdf).

Roberts, the chief justice, is viewed as an institutionalist who wants to conserve the public’s confidence in the court. So far, he favors incremental shifts in the law. “That’s been one of the Chief’s primary goals all along,” said Case Western Reserve law professor [Jonathan Adler](https://case.edu/law/our-school/faculty-directory/jonathan-h-adler).

He recently gained an ally in Kavanaugh in this pursuit, and it appears Barrett may join their ranks.

The court as a whole has has largely agreed in cases this year. The unanimous decision in the LGBT case was the 25th time the justices were unanimous in 41 rulings so far this term. There are 15 to go in coming days.

But the big test for Barrett will be next term starting in October when the justices will tackle hot-button issues like guns, abortion, and possibly affirmative action.

“It is a very conservative Court, even if we will only get glimpses of it this year,” said UC Berkeley law school Dean [Erwin Chemerinsky](https://www.law.berkeley.edu/our-faculty/faculty-profiles/erwin-chemerinsky/).

Kicking the Can

Both the Affordable Care Act and LGBT rulings were “very, very narrow,” Georgia State law professor [EricSegall](https://law.gsu.edu/profile/eric-j-segall/) said.

In the Obamacare case, California v. Texas, the 7-2 majority handed down a procedural ruling to avoid undoing the landmark 2010 law. The justices said red states led by Texas didn’t have a legal basis—or standing—to challenge it.

Only Justices Samuel Alito and Neil Gorsuch would have voted to gut the act, long a priority of Republicans.

The LGBT ruling, while unanimous in its outcome, was splintered in its reasoning. Hiding under the 9-0 breakdown was a dispute about whether to overturn the court’s divisive ruling in Employment Division v. Smith, which sparked the passage of the bipartisan Religious Freedom Protection Act and mini state versions across the country.

The court in Smith refused to require an exception from Oregon’s prohibition on peyote, saying religious objectors don’t get a free pass on “generally applicable” laws.

On opposite ends in the court’s LGBT ruling were the liberal justices—Stephen Breyer, Sonia Sotomayor, and Elena Kagan—along with Roberts, who wanted to uphold the court’s precedent in Smith, and the court’s most conservative members—Clarence Thomas, Alito, and Gorsuch—who wanted it overruled once and for all.

In the middle was Barrett, joined by Kavanaugh, who acknowledged Smith‘s shortcomings but was concerned with the fallout should the court overrule it. “Yet what should replace Smith?” Barrett asked in a short concurrence.

Both cases were a punt, Blackman said, with the issues likely to return to the court at some point in the future.

End of the World

But the ACA and LGBT cases, along with the extraordinary agreement all term, suggests a majority of the justices don’t think it’s the right time to make major changes in the law.

“In the throes of everything"—the pandemic, Barrett’s first term, Kavanaugh’s biting confirmation, calls for Breyer to retire, and the caustic 2020 presidential election—"they didn’t want to shock the world this year,” Segall said.

“Preserving the court’s own political capital is incredibly important to the justices because they know their only capital is the confidence of the American people,” he added.

Adler said the court has developed a sort of 3-3-3 split—that is, three liberals, three conservative justices willing to chuck precedents they don’t agree with, and three conservative justices hesitant to overturn cases they may disagree with. Roberts, Kavanaugh, and now, apparently, Barrett make up that last group.

Adler said that split will create some interesting pressures for the three justices in the middle next term, when—as Segall said—"the world will end.”

The end of the world was a reference—in part—to the court’s abortion case, which could call into question the landmark ruling in Roe v. Wade and later cases.

#### Antitrust expansion is judicial activism---crushes capital and legitimacy

Yoo ’17 [John; 2017; Professor of Law at the University of California at Berkeley, Visiting Scholar at the American Enterprise Institute; University of Chicago Law Review, “Taming Judicial Activism: Judge Robert Bork's Coercing Virtue,” vol. 80]

Judge Bork describes that as law crosses borders, judicial activism spreads with it.11 He sees both phenomena as two sides of the coin, where the legalization of global affairs encourages judges to impose their own policy preferences.12 Extending a theme that runs consistently through his work on antitrust and constitutional law, Bork argues that judges possess neither democratic legitimacy nor special expertise to incorporate international norms. 13 Anyone who cares about democratic accountability should pay attention when unaccountable judges use judicial review to advance policy goals that would never survive at the ballot box. 14 Naturally, Bork does all this in his characteristically acerbic style.

Coercing Virtue is noteworthy for challenging internationalists-those who favor automatic American adoption of international law-on their own turf. Judge Bork does not only rely on the intentions of the Framers of the Constitution. He also looks at jurisprudence abroad to evaluate judicial decisions at home. Coercing Virtue is a comparative study that examines the convergence of judicial activism in the United States, Canada, and Israel.15 It shows that a dialogue among legal elites in these countries has led to both the import and export of judicial activism. 16 Judicial activism, indeed, has gone global.

Coercing Virtue influenced my work. In Taming Globalization, Professor Ku and I build on Judge Bork's legacy by examining globalization's effects on American constitutional law.17 We argue that globalization has placed pressure on federalism and separations of powers. 18 Like Judge Bork, we find several recent Supreme Court cases in the field wanting, particularly those relying on international and foreign legal sources as authority.19 To preserve the American bedrock principle of popular sovereignty, we argue for rejuvenating non-self-executing treaties and limiting Missouri v Holland.20 These foreign-affairs doctrines would limit judicial discretion and place the authority to adopt international law in the elected branches of government. Where Coercing Virtue diagnosed the problem, we hoped to identify solutions for the American constitutional and political system.

II. The Antidemocratic New Class

Coercing Virtue goes beyond the analysis of doctrine to seek the political underpinnings of the movement toward judicial activism on a global scale. Judge Bork takes issue with the cultural left, which he believes has commandeered the courts to advance its policy agenda.21 Members of the New Class, as Judge Bork calls it, "traffic, at wholesale or retail, in ideas, words, or images and have at best meager practical experience of the subjects on which they expound."22 According to Judge Bork, the New Class possesses an "impulse toward socialism" that manifests itself in both economic and cultural aspects of life.23 Because the New Class often operates as a political minority in individual countries, it must find ways to circumvent the results of elections.24 The judiciary makes for an ideal weapon because it allows a minority to win policies that cannot command majorities of the electorate.25

If confined to the ivory tower, socialist programs would pose little danger. But, Judge Bork argues, activist judges have taken up the New Class's agenda.26 Without any authority to make political choices, the courts must invent constitutional meaning to advance the cause of the New Class.27 Activist judges, he explains, "decide cases in ways that have no plausible connection to the law they purport to be applying, or [ ] stretch or even contradict the meaning of that law."28 "They arrive at results by announcing principles that were never contemplated by those who wrote and voted for the law."29

The critical question for conservatives is, why do judges adopt the New Class's agenda in the first place? Even if judges have discretion to choose between adopting an international law norm or not, they could always choose to defer to the political branches. It is here that Judge Bork's foray into political science and sociology becomes necessary. Lawyers and judges, he believes, have fallen sway to the siren song of the professoriate.30 Indeed, judges are "certified members of the intelligentsia," having passed through its training grounds of colleges and law schools.31 "The prestige of a judge depends on being thought well of in universities, law schools, and the media, all bastions of the New Class."32 Professors may think up destructive socialist ideas, and pundits may popularize them, but without the judges they would remain the fodder of debate societies. 33 Judges are the sharp end of the intellectuals' spear.

Judge Bork believes that judges became the engine room for the New Class. When activist judges take hold in a country, they shift its culture faster to the left.34 And when activist judges begin to copy similar examples from other countries, they accelerate the process even faster. The defects of judicial activism, he explains, will only become magnified, including the loss of democratic self-rule, the imposition of cultural values held by a minority, and the politicization of law.35 International law in the hands of such judges will be used to outmaneuver the US democratic process. 36 Judge Bork suspects that a kind of "sinister element" may exist in international law because the New Class may hope to have their views adopted abroad and then imposed here in the United States.37

#### Backsliding on reproductive freedom tips hotspots into global war and crushes diplomatic leverage---extinction

Emond ’19 [Rachel; September 23; Scoville Fellow at the Center for Arms Control and Non-Proliferation; Inkstick Media, “How Anti-Choice Policies Increase the Likelihood of War,” <https://inkstickmedia.com/how-anti-choice-policies-increase-the-likelihood-of-war/>]

The political discourse surrounding abortion and health care has dominated election cycles and governance in the United States for quite some time, but its impact doesn’t end at the border. In some fragile communities throughout the world, the politicization of access to abortions in the United States could lead them into conflict.

Just three days after his inauguration in 2017, President Trump [signed](https://www.kff.org/global-health-policy/fact-sheet/mexico-city-policy-explainer/) an extremely restrictive anti-choice policy that will likely have wide-reaching negative impacts on global peace and security and US influence abroad.

This policy is actually an updated version of the “Mexico City Policy,” the Reagan-era act that prohibited non-governmental organizations that provide abortion-related services from receiving any US federal funding related to family planning and reproductive health.

The Trump Administration’s version of the Mexico City Policy has gone a step further. It prohibits foreign non-governmental organizations that provide abortion-related services from receiving any form of US global health assistance.

Beyond family planning and reproductive health, US global health assistance also includes funding for organizations doing work related to maternal and child health; nutrition; HIV under the US President’s Emergency Plan for AIDS Relief (PEPFAR); prevention and treatment of malaria, tuberculosis and other diseases; and hygiene programs. Many of the organizations that receive US global health assistance also receive aid from non-US sources, and use those alternative sources of funding to pay for reproductive health programs and abortion-related services. The Trump Administration’s policy would take that option off the table, should an organization want to continue receiving US funds.

Opponents of the policy have dubbed it the “Global Gag Rule,” because of the way it prevents local-level health care providers from not only providing abortions, but also from advocating for the legalization of abortion and educating about abortion as an option. Originally reported by Casey Quackenbush in TIME, some critics say the policy “holds life-saving aid hostage to ideology.”

Throughout the last 33 years, the Mexico City Policy has been a political football between Administrations: repealed by Democrats and dutifully reinstated by Republicans. This process forces a domestically politicized issue onto the international stage and in practice, this policy can actually have dangerous effects on US security.

In communities in which conflict already exists or tensions are high, inadequate access to health care can exacerbate the prevailing issues. The reverse is also true. During an outbreak of violence, health issues, such as communicable disease outbreaks and maternal mortality all rise.

According to the World Health Organization, “Investing in health is investing in peace. Health needs and contributes to physical, psychological, social and economic security. Investing in health can reduce the risk of conflict as well as mitigate its impact… Placing social services high on the political agenda helps maintain social stability, and reduce militarization in situations where the risk of violent conflict is high.”

Recent publications by the [United States Institute of Peace](https://www.usip.org/sites/default/files/SR_301.pdf), the [World Health Organization](https://www.who.int/social_determinants/resources/csdh_media/promoting_equity_conflict_2007_en.pdf), and the journal on [Health Research Policy and Systems](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6376698/), have reported about the positive impact that effective health systems and equitable access to those systems has on reducing drivers of fragility, such as conflict or overall mortality rates. That is why development experts and global advocates for women’s rights believe that the newly expanded Mexico City Policy will affect the world’s most vulnerable individuals in the world’s most fragile communities.

Advocates of this policy contend that the effects of it will only be felt by abortion providers. In reality, it isn’t quite so simple.

In states such as [Madagascar](https://www.washingtonpost.com/graphics/2018/world/how-a-change-in-us-abortion-policy-reverberated-around-the-globe/?utm_term=.9c3fe386b27f), Kenya, and [Colombia](https://foreignpolicy.com/2019/06/19/how-trumps-global-gag-rule-is-killing-women-colombia/), those living in rural communities often depend on non-governmental organizations for their healthcare. These services are provided by clinics that provide a multitude of services, including those related to sexual and reproductive health, tuberculosis, HIV/AIDs, and malaria. Because the aid they receive is intermingled, it can be difficult for these organizations to completely change their service model in order to sign and comply with the US Mexico City Policy. When organizations either cannot or choose not to sign on to the policy, clinics end up closing. This severely limits already at-risk individuals from access to even the most basic of health needs.

Ironically, since the Mexico City Policy is cutting off access to family planning services, including contraception, it might actually be increasing demand for abortions. Since its most recent implementation, the Mexico City Policy has already resulted in tens of millions of dollars in [funding cuts](https://www.washingtonpost.com/graphics/2018/world/how-a-change-in-us-abortion-policy-reverberated-around-the-globe/?utm_term=.9c3fe386b27f). At the same time, there has been a [40% increase in abortions](https://www.theguardian.com/global-development/2019/jun/27/global-gag-rule-africa-abortion-study) in some African countries. Looking ahead, some experts are [estimating](https://www.vox.com/policy-and-politics/2017/5/24/15681216/trump-budget-cuts-funding-global-family-planning-famine-relief) this policy could [lead](https://www.vox.com/policy-and-politics/2017/5/24/15681216/trump-budget-cuts-funding-global-family-planning-famine-relief) to 15,000 maternal deaths, 8 million unwanted pregnancies, and up to 26 million fewer women and families with access to contraception and family planning services.

While the Mexico City Policy does not change the total amount of health-related aid appropriated by Congress, the policy considerably weakens the ability that local health providers have to effectively serve their communities. The on-again/off-again nature of the policy causes [extreme instability](https://reliefweb.int/report/world/donor-conditions-and-their-implications-humanitarian-response) among local healthcare providers, many of which are the sole location for such services in a region. This instability [leads to](https://reliefweb.int/report/world/donor-conditions-and-their-implications-humanitarian-response) staff layoffs, higher transaction costs, and confusion about access to care. It also prevents healthcare providers from conducting any long-term planning to better meet the needs of a community.

No matter the intention of its supporters, the Mexico City Policy damages the health care infrastructure in the countries that rely on American aid the most. This, in turn, increases the likelihood of conflict in these communities and severely undermines American soft power.

Soft power efforts — like the promotion of freedom, democracy, and human rights — have been a hallmark of the US foreign policy strategy for the [last 70 years](https://fas.org/sgp/crs/row/R44891.pdf).

One of the primary ways the United States has historically strengthened national security, promoted US values abroad, and improved its global influence is through investments in global development, including public health. In Fiscal Year 2019, the US contributed [$11 billion](https://www.kff.org/global-health-policy/fact-sheet/breaking-down-the-u-s-global-health-budget-by-program-area/) to global health funding through the US Agency for International Development (USAID) — more than any other contributor in the world. That funding is now entangled with the Mexico City Policy, directly undermining the goals of USAID. Further, in the developing world, the United States is now in constant competition with growing Chinese influence. By enacting policies that negate the reach of US soft power, the Trump Administration is actually weakening US security.

The US House of Representatives has made a move to end this dangerous policy. In the FY20 funding bill for the Department of State, Foreign Operations, and Related Programs (SFOPS), the House Appropriations Committee included a [permanent repeal](https://www.kff.org/news-summary/house-appropriations-committee-approves-fy-2020-state-foreign-operations-sfops-appropriations-bill/) of the Mexico City Policy, which was ultimately passed by the entire chamber. This repeal is sure to be a point of contention between the House and the Senate when coming to an agreement on a final funding package.

No matter what happens in Congress, the most heavily affected health care providers stay optimistic that they will eventually find the funding they need to operate in the interest of their communities. Even if they do, the damage to US influence is likely to last.

Advocates of the Mexico City Policy have clearly not thought through the implications of their policies or are not interested in the instability the policy has unleashed. Personal ideologies that are not even the law of the land in the United States should not take precedence over American security. There is no room for debate — comprehensive global health assistance is a fundamental factor in conflict prevention and stability. It is in the security interest of the US government to empower local health providers, allowing them to decide how best to serve their fragile communities. It’s time for the Mexico City Policy to be repealed and never replaced.

### 1NC---OFF

FTC Tradeoff DA

#### The FTC will enforce ‘right to repair’ now---prevents agricultural decline

Minter ’21 [Adam; July 11; Columnist and author; Bloomberg, “Americans Must Reclaim Their Right to Repair,” <https://www.bloomberg.com/opinion/articles/2021-07-11/americans-must-reclaim-their-right-to-repair>]

When the Apple II personal computer was shipped in 1977, it came with a [detailed manual](https://archive.org/details/Apple_II_Mini_Manual/page/n49/mode/2up) for upgrading and repairing the device. Parts were readily available from Apple Inc. (and, later, other manufacturers), and if Apple owners didn’t want to fix or upgrade at home, they could find plenty of small, competitive repair businesses to do the work for them.

That was then. These days, Apple’s products arrive sealed shut, often with [proprietary screws](https://www.ifixit.com/News/9905/bit-history-the-pentalobe). Service manuals, circuit-board schematics and repair parts are [reserved](https://www.ifixit.com/News/43179/apple-endangers-our-business-model-gets-a-repairability-point-for-it) for Apple’s technicians, shops and a handful of “authorized” partners. With no access to parts, manuals or indie repair shops, consumers pay much more to keep their devices running.

President Joe Biden’s new executive order to promote competition encourages the Federal Trade Commission to end such anti-competitive repair monopolies. It’s a contentious move. Apple and the makers of other technological products from farm tractors to [35mm cameras](https://www.ifixit.com/News/1349/how-nikon-is-killing-camera-repair) argue that their repair monopolies are good for consumers. But as these monopolies have grown, their toll on consumers, the environment and American productivity and innovation has risen. Biden’s recognition of a “right to repair” can help lower these costs and, at the same time, spur new kinds of growth across the economy.

Repair has always been a part of American life. The first prairie farmers had no option but to repair their own carts and plows. When mechanization came along, farmers became expert technicians — so skilled that companies often consulted them on tractor designs. During the past 15 years, as computers have been integrated into expensive farm equipment, that relationship has broken down. The handful of remaining implement manufacturers make sure that only dealerships, with specialized software tools, can diagnose problems. Those same tools are often also needed to install parts and authorize repairs.

The costs to farmers can be significant. Paying a Deere & Co dealership to plug in a computer to clear an error code on a tractor or combine can cost [hundreds of dollars](https://www.vice.com/en/article/xykkkd/why-american-farmers-are-hacking-their-tractors-with-ukrainian-firmware) — not including transporting the tractor to the dealership. Worse, by limiting access to crucial diagnostic and repair tools, manufacturers cause significant delays during harvest, planting and other busy periods. At certain times, a piece of equipment immobilized for even a few hours can cost a farmer thousands of dollars.

As farmers lose money, farm manufacturers with parts and service businesses [profit handsomely](https://uspirg.org/feature/usp/deere-headlights). From 2013 to 2019, Deere & Co annual sales of new equipment declined 19%, to $23.7 billion, while sales of parts increased 22%, to $6.7 billion. Harvester manufacturers aren’t the only ones who’ve spotted a growth market in restricting access to repair. In 2019, Apple’s Tim Cook [conceded](https://www.apple.com/newsroom/2019/01/letter-from-tim-cook-to-apple-investors/) that lower-cost iPhone battery replacements had negatively impacted new iPhone sales. More expensive repairs, on the other hand, lead customers to think they may as well buy a new phone.

That’s bad for the buyers of Apple’s expensive new phones and even worse for lower-income consumers who rely on secondhand devices. Lack of competition in repair markets raises the cost of owning older devices, and ultimately accelerates their untimely, wasteful disposal.

The first calls to roll back manufacturer restrictions on repair, in the early 2010s, were focused on cars. But the problem now encompasses everything from phones to farm equipment. Since 2014, [32 states](https://www.repair.org/legislation) have considered so-called Fair Repair bills. Earlier this year, the New York legislature became the [first](https://states.repair.org/states/newyork/) to pass one.

But manufacturers have pushed hard to defeat such legislation. In 2017, Apple warned Nebraska lawmakers that Fair Repair “would make it very easy for hackers to relocate to Nebraska.” [TechNet](http://technet.org/), a trade group that represents Apple, Amazon Inc. and Google, has [warned](https://www.bloomberg.com/news/articles/2021-05-20/microsoft-and-apple-wage-war-on-gadget-right-to-repair-laws) several states that Fair Repair legislation would somehow jeopardize the safety of devices. (TechNet did not respond to requests for examples of such consumer safety threats.)

The federal government has not bought these arguments. In May, the Federal Trade Commission [reported](https://www.ftc.gov/news-events/blogs/business-blog/2021/05/nixing-fix-report-explores-consumer-repair-issues) that “many of the explanations manufacturers gave for repair restrictions aren’t well-founded.” Biden’s executive order now encourages the FTC to “limit powerful equipment manufacturers from restricting people’s ability to use independent repair shops or do DIY repairs.”

#### 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.

#### Extinction

Castellaw ’18 [John; March 14; Lieutenant General in the United States Marine Corps, member of the Center for Climate and Security’s Advisory Board, teaching fellow in the College of Business and Global Affairs at the University of Tennessee; Senate Committee on Foreign Relations, “Why Food Security Matters,” <https://www.foreign.senate.gov/imo/media/doc/031418_Castellaw_Testimony.pdf>]

Food Security Is Critical to Our National Security

The United States faces many threats to our National Security. These threats include continuing wars with extremist elements such as ISIS and potential wars with rogue state North Korea or regional nuclear power Iran. The heated economic and diplomatic competition with Russia and a surging China could spiral out of control. Concurrently, we face threats to our future security posed by growing civil strife, famine, and refugee and migration challenges which create incubators for extremist and anti-American government factions. Our response cannot be one dimensional but instead must be nuanced and comprehensive, employing “hard” as well as “soft” power in a National Security Strategy combining all elements of National Power, including a Food Security Strategy.

An American Food Security Strategy is an imperative factor in reducing the multiple threats impacting our National wellbeing. Recent history has shown that reliable food supplies and stable prices produce more stable and secure countries. Conversely, food insecurity, particularly in poorer countries, can lead to instability, unrest, and violence. Food insecurity drives mass migration around the world from the Middle East, to Africa, to Southeast Asia, destabilizing neighboring populations, generating conflicts, and threatening our own security by disrupting our economic, military, and diplomatic relationships. Food system shocks from extreme food-price volatility can be correlated with protests and riots. Food price related protests toppled governments in Haiti and Madagascar in 2007 and 2008. In 2010 and in 2011, food prices and grievances related to food policy were one of the major drivers of the Arab Spring uprisings.

These conclusions are based on my decades of experience while serving as a Marine around the world and from a lifetime as a steward of the soil on my family farm in Tennessee. I see food security strategy in military terms as either being “defensive” or “offensive”. “Defensive” includes those actions we take to protect our agricultural infrastructure including crops, livestock and the food chain here in the United States. Conversely, the “Offensive” side of food security takes the initiative to deal with food security issues overseas and this is where I will spend most of my time today.

There is a good reason for our success on the “defensive” here at home in ensuring our own food security. As my good friend and former Tennessee Deputy Agriculture Commissioner Louis Buck points out to me, American agriculture has always been about public/private enterprise. The Morrill Act of 1862 – showing our Country’s foresight and confidence in the future even in the dark days of our Civil War – created our Land Grant University model of teaching, research and extension. And equally importantly, we have a private sector that values individual initiative, unleashing an unparalleled vitality. With that vitality driving innovation, our farmers and ranchers leverage the expertise and information from the public sector to manage risks and seek profits from deployed capital. But above all, American farmers and ranchers are our “citizen soldiers” on the front lines here at home fighting to guarantee our food security.

America is also blessed with fertile soil, water availability, moderate climate, and the advanced technology to successfully utilize our abundance. Whether I walk the corn fields of Indiana or the cotton fields of Tennessee, I see agricultural technology in use that is amazing. Soon after I retired from the Marines and came home to the family farm, I climbed into the cab of a self-propelled sprayer. Settling into the seat was like strapping into the cockpit of one of the aircraft I flew, except the sprayer had more computing power and better data links. All these factors, public and private, natural and manmade, hard work and innovation, combine to provide the American people with the widest choices in the world of wholesome foods to eat and clothes to wear.

## Adv---Uncertainty

### 1NC---AT: Heg

#### Hegemony incentivizes rapid escalation---competitive decline creates incentives to wait and de-escalate

Hal Brands 18, the Henry Kissinger Distinguished Professor at Johns Hopkins-SAIS, senior fellow at the Center for Strategic and Budgetary Assessments, 10/24/18, “Danger: Falling Powers,” <https://www.the-american-interest.com/2018/10/24/danger-falling-powers/>

There is, then, no disputing that rising powers can have profoundly disruptive effects. Yet such powers might not actually be the most aggressive or risk-prone type of revisionist state. After all, if a country’s position is steadily improving over time, why risk messing it all up through reckless policies that precipitate a premature showdown? Why not lay low until the geopolitical balance has become still more favorable? Why not wait until one has surpassed the reigning hegemon altogether and other countries defer to one’s wishes without a shot being fired? So while a rising revisionist power may be tempted to assert itself, it should also have good reason to avoid going for broke.

Now imagine an alternative scenario. A revisionist power—perhaps an authoritarian power—has been gaining influence and ratcheting its ambitions upward. Its leaders have cultivated intense nationalism as a pillar of their domestic legitimacy; they have promised the populace that past insults will be avenged and sacrifices will be rewarded with geopolitical greatness and global prestige. Yet then the country’s potential peaks, either because it has reached its natural limit or because of some unforeseen development, and the balance of power starts to shift in unfavorable ways. It becomes clear to the country’s leadership that it may not be able to accomplish the goals it has set and fulfill the promises it has made, and that the situation will only further worsen with time. A roll of the iron dice now seems more attractive: It may be the only chance the nation has to claim geopolitical spoils before it is too late.

In this scenario, it is not rising power that makes the revisionist state so dangerous, but the temptation to act before decline sets in. In this sense, the dynamic bears a resemblance to the famous Davies J-Curve theory of revolution, wherein a populace is held to be more inclined to revolt not when it is maximally oppressed but rather when raised expectations are shown to be in vain.

#### Multipolarity is inevitable---balanced multipolarity is stabilizing, but imbalances trigger conflict

Jennifer Lind 19, Associate Professor of Government at Dartmouth College and an Associate Fellow at Chatham House; and William C. Wohlforth, the Daniel Webster Professor of Government at Dartmouth College, March/April 2019, “The Future of the Liberal Order Is Conservative,” Foreign Affairs, https://www.foreignaffairs.com/articles/2019-02-12/future-liberal-order-conservative

A conservative order would also entail drawing clearer lines between official efforts to promote democracy and those undertaken independently by civil society groups. By example and activism, vibrant civil societies in the United States and other liberal countries can do much to further democracy abroad. When governments get in the game, however, the results tend to backfire. As the political scientists Alexander Downes and Lindsey O’Rourke found in their comprehensive study, foreign-imposed regime change rarely leads to improved relations and frequently has the opposite effect. Liberal states should stand ready to help when a foreign government itself seeks assistance. But when one resists help, it is best to stay out. Meddling will only aggravate that government’s concerns about violations of sovereignty and tar opposition forces with the charge of being foreign pawns.

Far from ceding power to illiberal great powers, a strategy of conservatism would directly address those external threats. Part of the reason those countries contest the order is that it exacerbates their insecurities. Restraining the order’s expansionist impulses would reveal just how much of illiberal states’ current revisionism is defensive in nature and how much is driven by sheer ambition. It could also stymie potential balancing against the order by illiberal states—China, Iran, Russia, and others. Although these revisionists have many divergent geopolitical and economic interests that currently limit their cooperation, the more their rulers worry that their grip on power is under threat from a liberal order, the more they will be inclined to overcome their differences and team up to check liberal powers. Reduce that fear, and there will be more opportunities for the liberal states to divide and rule, or at least divide and deter.

#### Chinese-led world order solves global peace. Specifically, waves of secessionist conflict.

Griffiths 16 Ryan, Senior Lecturer, University of Sydney, Phd Columbia, “States, Nations, and Territorial Stability: Why Chinese Hegemony Would Be Better for International Order” Security Studies Volume 25, 2016 - Issue 3

How would a future period of Chinese hegemony compare with the current international order or orders of the past? I have argued that Chinese hegemony would privilege territorial integrity at the expense of self-determination. The result would be an international order that would resemble earlier periods in some ways and be unique in others. Sovereign norms would once again be dominant and liberal norms would be subordinated to the right of states. One result of this shift would be a decline, if not disappearance, in nonconsensual secession. However, since a Chinese hegemon is likely to hold on to the territorial integrity norm, conquest would also remain rare. The overall result would be a surprisingly stable international order, a Pax Sinica. To consider this argument it is useful to place this Pax Sinica in historical perspective (See Table 1). Given its emphasis on sovereignty and its internal fragmentary pressures, China would shift the normative balance to a point where secession is only legal in the presence of sovereign consent. Importantly, that move would jettison the constitutive process of statehood, since self-determination would be elevated to a positive right only in the presence of consent. The difficult decision of choosing who counts would be simplified by effectively allocating that choice to sovereign states. Not unlike the pre-Napoleonic era, sovereignty would prevail and the arc of history would bend back toward the right of states. Importantly, this would not simply be a return to the 1800s. The politics of recognition in the 19th century possessed a liberal undercurrent and, as Fabry argues, the United States and UK would often disregard the sovereignty of states when recognizing breakaway regions that had prevailed over their central governments. In truth, Chinese hegemony would resemble the 18th century more than the 19th, when states hewed closely to the sovereign principle that recognition should only be given in cases of consent. The notion that minority nations should be able to self-determine, that individuals selecting into a group should have rights, was not yet on the map. The liberal tradition was only just emerging and the sovereign tradition was relatively unchallenged. The Pax Sinica would bear those same conservative features. However, Chinese hegemony would also bear modern features. The main difference is the very conception of sovereignty and the corollary development of the norm of territorial integrity. Should the norm of territorial integrity be supported by a Chinese power, state death would remain a rare occurrence. Unlike the 18th and 19th centuries where the number of states was gradually reduced through conquest and accession, very few states would exit the system unless they voluntarily chose to unify with other states. Thus the Pax Sinica would be rather stable. The number of states may gradually increase, but it would be limited to those cases where the sovereign gave its consent—that is, controlled proliferation. This anticipated focus on territorial stability under Chinese hegemony is consistent with both contemporary and historical political doctrine. The Confucian emphasis on a strong and stable state is echoed in recent political slogans like “Stability and Harmony.” There are conservative, statist overtones in China's policies without any commensurate emphasis on liberal norms. Unlike the United States, Chinese exceptionalism does not promote a set of universal values in its foreign policy. Meanwhile, recent scholarship has looked into the past to examine what previous periods of Chinese regional dominance say about patterns in international order. One common finding is that imperial China tended to emphasize patterns of informal rule where other polities remained sovereign, yet informally subordinate. Indeed, David C. Kang finds that the China-centered international order that existed in East Asia from the 14th to the 19th centuries—the so-called Tribute System—was characterized by stable borders and infrequent wars of conquest, at least where recognized political units like Vietnam and Korea were concerned. The hegemon showed little tolerance for unrecognized, tribal, and/or institutionally dissimilar groups, especially on the western and northern frontiers. Of course, past behavior is not a perfect indicator of future performance, but that approach to international order privileges recognized states and emphasizes the sovereign territorial grid in a manner where the hegemon can exert power and influence without formal conquest. Essentially, there is continuity between China's imperial past and what this paper predicts for the future should it become a hegemon. I began the article by claiming that the Pax Sinica would be better for international order. In making this claim I define “better” in narrow terms emphasizing territorial stability, which can be assessed in several ways. How often do either external aggressors or internal separatists shift sovereign borders through violence? What is the frequency of secessionist civil war? How much international discord is there on the topic of secession and recognition? This is the ledger I use when comparing the Pax Sinica with the post-1945 American-led order. There are many other factors, to be sure, and critics might point to a number of ways in which Chinese hegemony would be worse. For example, they may question the support for human rights under Chinese leadership. I do not argue that Chinese hegemony would be better in all ways—there are pros and cons to any order—but I contend that there are net benefits where territorial stability is concerned. Analyzed under these terms the key differences between the American order and the imagined Chinese order have to do with the politics of secession and sovereign recognition. International order matters because it determines diplomatic practices and shapes behavior. It sets the rules of the game. The American-led order over the last seventy years has attempted to balance the norms of territorial integrity and self-determination by establishing rules for what nations are eligible for independence. But, as Fabry notes, that is an enormously challenging project because developing clear rules that separate the lucky from the unlucky requires that states derive agreed-upon criteria in a constitutive process. Given the politics and conflicting principles of international life (and the evolving nature of normative arguments), inconsistency, ambiguity, and accusations of hypocrisy are unavoidable. The resulting political space creates uncertainty for states and nationalist movements over when self-determination applies and when it should be subordinated to territorial integrity. Incidents like the Ukrainian crisis cast a shadow over separatist crises elsewhere. The leadership in Azerbaijan detects double standards in American policy, wondering why it “punishes Russia for annexing Crimea, but not Armenia for similar behavior in Karabakh.” Such uncertainly can makes states feel vulnerable, as it has in Azerbaijan, change the incentives for key actors, and increase the chance of conflict. Secessionist civil war is a common feature of contemporary times. Scholars estimate that at least half of the civil wars since 1945 have involved secessionism, and Barbara F. Walter argues that secessionism is the chief source of violence in the world today. Erica Chenowith and Maria Stephan find that secessionism is one of the few (if only) forms of political protest where violent tactics are more effective than nonviolent. Meanwhile, Tanisha Fazal and I identify fifty-five secessionist movements as of 2011 and record that many of these movements feel they have a reasonable chance of gaining independence in light of the somewhat flexible practices surrounding recognition. Given the strategic environment in which secessionists operate, where violence can be effective and where sovereignty is thought to be obtainable, it should come as no surprise that conflict is common. In regard to territorial stability, the concern of contemporary times is not traditional territorial conquest, but the threat posed by state fragmentation. This is where Chinese hegemony ought to improve international order. That is not to say secessionist conflict would completely disappear during the Pax Sinica. Some committed groups may fight the state because they hope to pressure the government into giving concessions ranging from full sovereign recognition to lesser forms of local autonomy to increased political participation. Some disillusioned groups may even redirect secessionist efforts toward regime change. Many of the causes of civil war would remain. The difference is that secessionists would no longer perceive that they could bypass the central government and convince the international community that they meet one of the criteria for recognition. This possibility has very real implications. For example, a secessionist conflict on the island of Bougainville during the 1990s resulted in the deaths of an estimated twenty thousand people (ten percent of the population). During that period the secessionist leadership networked with other secessionist movements like the East Timorese and explored different ways to secure international recognition that would circumvent the government of Papua New Guinea (PNG). They first highlighted their imperial/administrative history, trying to make the case that they were eligible for independence via the rules surrounding decolonization. When that failed they mounted a publicity campaign that aimed to win international sympathy, especially in Australia, by documenting civilian casualties. That campaign, and the international pressure it brought to bear on the PNG government, helped Bougainville to win a peace agreement in 2001 that promised autonomy and a future referendum on independence. Although every conflict has a local dimension, the strategies and tactics employed, and the very willingness of groups to continue fighting, are shaped by the possibilities inherent in the international recognition regime. Relative to a consent-based order, the current constitutive regime creates incentives to challenge the state in ways that can yield both wanted and unwanted violence. One could argue that I undervalue the merits of flexibility and ambiguousness, and that from a design perspective the ideal international recognition regime ought to temper a clear set of rules with a degree of latitude to cover exceptional cases. After all, every independence movement is unique in its own way and it will be difficult if not impossible to develop a decision rule that is fair to all. I concede that the ideal regime would balance clarity with flexibility, but the contemporary regime does not meet this ideal. The current order is not the design of some normative architect, but the product of the push and pull of politics and diplomacy. Ultimate recognition is not bestowed by some overarching legal body; it rests in the hands of individual sovereign states with diverse interests. The Chinese order I forecast is far from ideal, but it has advantages over the current order. By necessity this is a somewhat conjectural argument because gross comparisons of international orders, especially orders in the future, do not permit tight counterfactual analysis. In that sense, mine is a thought experiment not unlike Fabry's comparison between a recognition regime based on de facto statehood and one built on a constitutive process. I advance a plausible argument by highlighting the strengths and weaknesses of different international orders, and argue for the superiority of one over the other given a specified ledger of comparison. A strengthening of the territorial integrity norm, and a clear, unambiguous set of rules that removes the constitutive process of recognition, and permits independence only in cases of sovereign consent, would make for a better international order.

#### Secessionism goes global and nuclear—the western model makes it worse.

Fearon 4- Department of Political Science Stanford University (James, “Separatist Wars, Partition, and World Order” <https://web.stanford.edu/group/fearon-research/cgi-bin/wordpress/wp-content/uploads/2013/10/Separatist-Wars-Partition-and-World-Order.pdf>)

Civil wars of separatist nationalism raged around the globe in the 1990s, in the Balkans, India, Russia, Azerbaijan, Sudan, Indonesia, Britain (Northern Ireland), Turkey, Georgia, the Philippines, and Burma, to name only some of the more prominent examples. These wars have caused considerable loss of life, massive refugee crises, economic devastation, significant strains on great power relations and important international institutions like NATO and the United Nations, and a significant risk of nuclear war in South Asia. What should be done? Thus far, the western powers’ approach has been ad hoc, with little public discussion of the broader implications of particular cases and the problems for the international system posed by separatist nationalism.1 At least five sorts of ad hoc responses can be identified: 1. The imposition of weak international protectorates by stronger states through international organizations, as at Dayton, over Kosovo, Northern Iraq, and, earlier, Cyprus. 2. Disapproval but little or no direct action, either due to lack of interest (Kurds in Turkey, Tamils in Sri Lanka, Southerners in Sudan, Tuaregs in Mali, and many other such cases) or due to the power of the states involved (Russia/Chechnya, China/Tibet, India/Kashmir). 3. Weak international attempts to facilitate partition when this is by mutual consent of some sort (East Timor, Eritrea, the Czech Republic and Slovakia, the West Bank in a halting way). 4. Stable cease-fires and de facto partitions, as in Nagorno-Karabagh and Somaliland. 5. Some efforts to help negotiate power-sharing agreements, as in Northern Ireland and Angola (the latter with a largely ethnic but not separatist war). That international responses to wars of separatist nationalism have been ad hoc is not surprising. International relations is the realm of the ad hoc, and even if it were possible it is hard to imagine a general, one-size-fits-all approach that would make sense. But the lack of discussion about the broader implications of different possible policies in particular cases is surprising. Here is a possible explanation. For the western powers, separatist nationalism is so perplexing and fundamental a problem that it has to be ignored as a general phenomenon. The problem is that the overwhelmingly accepted diagnosis of the cause of separatist nationalism implies a policy remedy no major power can stomach. In brief, the standard diagnosis is Wilsonianism, the theory that separatist nationalism stems from bad borders and incompatible cultures. Wilsonianism holds that violent separatism arises when state borders are not properly aligned with national groups, which are fixed, preexisting entities. Separatism is due to the injustice of depriving proper nations of proper states. If one accepts this, then the remedy for nationalist wars is obvious. Just redraw the borders. Impose partitions. And indeed with each nationalist war foreign policy analysts in the U.S. and elsewhere have called for partition as the obvious and proper solution.2 In the wake of the intense killing and brutality in Bosnia and Kosovo, partition has often seemed, reasonably, “inevitable.” Even if these people lived together once, analysts say, how can they live together now? If one accepts the general diagnosis, the argument for partition seems inescapably strong. So why not do it? Why aren’t the major powers leaping on partition as the obvious solution, rather than setting up costly and ineffectual protectorates? Are there any good reasons to oppose partition, or are the western powers just misguided, cowardly, or transfixed by a naive and dangerous commitment to multiculturalism (Mearsheimer and Van Evera 1995; Mearsheimer and Pape 1993)? I argue in this paper that there are indeed good reasons to be skeptical of partition as a general solution to nationalist wars. The most important of these, and the least explored, are two types of incentive effects. First, ad hoc partition applied to one trouble spot may help produce more violent separatist nationalist movements elsewhere, in addition to making existing nationalist wars more difficult to resolve. The Wilsonian diagnosis is wrong. The world is not composed of a fixed number of true nations, so that peace can be had by properly sorting them into states. Rather, there is literally no end of cultural difference in the world suitable for politicization in the form of nationalist insurgencies. As long as controlling a recognized state apparatus is a desirable thing and “nationhood” is understood to ground claims to a state, ambitious individuals will try to put together nationalist movements to claim statehood. A (de facto) policy of partition that says, in effect, “You may get a state if you can get a bloody enough nationalist insurgency going” provides the wrong incentives. The more general point is that whether partition is good idea depends in part on one’s theory of what causes separatist nationalism. I will argue that the dominant theory of Wilsonianism is misleading, and implies ad hoc “solutions” that states are right to shy away from.

#### U.S hard power decline is key to Indian regional leadership – creates strategic space and necessitates a strong mediator

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Notwithstanding NIC’s emphasis on the emerging disorder in the region and beyond, Chinese hegemony in the Indo-Pacific appears to be some way off. One may not dispute the decline in American power and more so its willingness to engage in the region, but to suggest that China will automatically replace United States as the regional hegemon is far-fetched. The current strategic flux surely does make the region and the globe more chaotic but it also offers opportunities to other rising powers like India. For one, it provides India greater strategic space which if used judiciously may help in extracting concessions from the Chinese. If history is any guide to Chinese behaviour, the alignment of international politics has always been a major determinant of Chinese behaviour vis-a-vis New Delhi. For example, after the Sino-Soviet clashes of March 1969, India and China began their first dialogue after the 1962 war. By using China’s sensitivity over its perceived vulnerability in a hegemonic contest with the US, India may profit from this strategic flux. It will also allow her to increase [her] position in the Indo-Pacific’s new regional order and to create substantive partnerships with countries like Japan and South Korea which New Delhi needs for its own economic development. Finally, any rising power like India needs regional followers. As China’s power increases and perceptions of American decline get further entrenched in the region, India’s efforts to mediate and stand for a liberal regional order may increase its influence especially with the Association of South-East Asian Nations (ASEAN) countries. Increasing uncertainty, as the NIC report suggests, brings disorder but such situations also raise the value of key swing states like India. For rising powers, some disorder is also a virtue.

#### Indian regional leadership is essential for effective governance of the Indian Ocean – solves trade disruptions, food supply shocks, and independently accesses extremism

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The Indian Ocean is important for three reasons. First, it enjoys a privileged location at the crossroads of global trade, connecting the major engines of the international economy in the Northern Atlantic and Asia-Pacific. This is particularly important in an era in which global shipping has burgeoned. Today, the almost 90,000 vessels in the world’s commercial fleet transport 9.84 billion tonnes per year. This represents an almost four-fold increase in the volume of commercial shipping since 1970.[[1]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn1)  The energy flows through the Indian Ocean are of particular consequence. Some 36 million barrels per day—equivalent to about 40 per cent of the world’s oil supply and 64 per cent of oil trade—travel through the entryways into and out of the Indian Ocean, including the Straits of Malacca and Hormuz and the Bab-el-Mandeb.[[2]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn2)

But the Indian Ocean is more than just a conduit for commerce. The Ocean’s vast drainage basin is important in its own right, home to some two billion people. This creates opportunities, especially given the high rates of economic growth around the Indian Ocean rim, including in India, Bangladesh, Southeast Asia, and Eastern and Southern Africa.  However, the densely populated littoral is also vulnerable to natural or environmental disasters. Two of the most devastating natural disasters in recent memory occurred in the Indian Ocean rim: the 2004 tsunami that killed 228,000 people, and Cyclone Nargis that hit Myanmar in 2008 and took 138,300 lives.[[3]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn3)

Finally, the Indian Ocean is rich in natural resources. Forty per cent of the world’s offshore oil production takes place in the Indian Ocean basin.[[4]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn4) Fishing in the Indian Ocean now accounts for almost 15 per cent of the world’s total and has increased some 13-fold between 1950 and 2010 to 11.5 million tonnes. Aquaculture in the region has also grown 12-fold since 1980. Although global fishing is reaching its natural limitations, the Indian Ocean may be able to sustain increases in production. Mineral resources are equally important, with nodules containing nickel, cobalt, and iron, and massive sulphide deposits of manganese, copper, iron, zinc, silver, and gold present in sizeable quantities on the sea bed. Indian Ocean coastal sediments are also important sources of titanium, zirconium, tin, zinc, and copper. Additionally, various rare earth elements are present, even if their extraction is not always commercially feasible.[[5]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn5)

The challenges of securing the free passage of trade and energy, ensuring the sustainable and equitable exploitation of fishing and mineral resources, and managing humanitarian assistance and disaster relief (HADR) operations would be daunting enough even if the Indian Ocean was not so contested. Beginning in 2005, pirates operating mostly from Somalia began to hijack commercial ships with alarming regularity, with such incidents peaking in 2010. Following global attention and the growing notoriety of Somali piracy, a series of steps were taken by industry and various governments. These included naval operations, transnational coordination, and security measures taken by the shipping industry. These developments resulted in a sharp drop in incidents in 2012. Nonetheless, as late as 2012, maritime piracy was costing the global economy between $5.7 and $6.1 billion, the bulk of which was borne by industry.[[6]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn6)  Non-state actors such as pirates are not the only entities contesting the Indian Ocean. With an eye on securing trade routes, resource rights, and commercial interests, the naval forces of maritime states in the Indian Ocean region and beyond are becoming increasingly active.

India’s Importance in the Indian Ocean

The Indian Ocean holds particular importance for India, as the littoral’s most populous country. Indeed, for the rest of the Ocean’s littoral states, and even those outside the region, India’s leadership role will be important in determining the strategic future. India is geographically located at the Ocean’s centre, and has over 7,500 kilometres of coastline. “India is at the crossroads of the Indian Ocean,” Prime Minister Narendra Modi declared in a speech in Mauritius in 2015. “The Indian Ocean Region is at the top of our policy priorities.”[[7]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn7) The Ocean has long been a key determining factor of India’s cultural footprint, with people, religion, goods, and customs spreading from India to Africa, the Middle East, and Southeast Asia and vice-versa.  India’s approach after independence was initially defined by the British withdrawal from east of Suez and Prime Minister Indira Gandhi calls for a zone of peace.[[8]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn8) Only after the late 1990s, under the BJP-led government of Prime Minister Atal Behari Vajpayee and the Congress-led government of  Manmohan Singh, did the possibilities of openings in and around the Indian Ocean come to be seriously contemplated.[[9]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn9)

Today, 95 per cent of India’s trade by volume and 68 per cent of trade by value come via the Indian Ocean.[[10]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn10)  Additionally, 3.28 million barrels per day—or nearly 80 per cent of India’s crude oil requirement—is imported by sea via the Indian Ocean. Taking into account India’s offshore oil production and petroleum exports, India’s sea dependence for oil is about 93 per cent, according to the Indian Navy.[[11]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn11) India is also the fourth-largest importer of liquefied natural gas (LNG), with about 45 per cent coming by sea.[[12]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn12)

Moreover, India is heavily dependent on the resources of the Indian Ocean. India captured 4.1 million tonnes of fish in 2008, placing it sixth in the world and its fishing and aquaculture industries employ some 14 million people.[[13]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn13) Fisheries and aquaculture industries are also a major source of exports. India’s maritime exports grew 55 times in volume between 1962 and 2012 and fisheries exports now account for Rs. 16,600 crore or about $2.5 billion.[[14]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn14)

Mineral resource extraction is also important. In 1987, India received exclusive rights to explore the Central Indian Ocean and has since explored four million square miles and established two mining sites. In 2013, the Geological Survey of India acquired a deep sea exploration ship Samudra Ratnakar from South Korea, boosting its survey capabilities.[[15]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn15) In 2014, the International Seabed Authority issued licenses for the Indian Ocean ridge, opening up new opportunities for deep seabed mining. This region is estimated to have massive reserves of manganese, as well as cobalt, nickel, and copper, all of which are scarce on Indian soil. However, such deep sea exploration will require further investments in remotely operated vehicles and processing facilities.[[16]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn16)

Finally, there is a strong security dimension to India’s engagement with the Indian Ocean, beyond traditional naval considerations. One of the worst terrorist attacks in recent Indian memory—the 2008 assault on Mumbai in which 164 people were killed—was perpetrated by terrorists arriving by sea. Smuggling, illegal fishing, and human trafficking are all also major concerns.[[17]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn17) The revelations about the A.Q. Khan network have highlighted the need for greater vigilance concerning the proliferation by sea of weapons of mass destruction – and even possible interdiction.[[18]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn18)And while piracy has declined noticeably in the Indian Ocean since 2013, due in part to the efforts of countries like India, it could once again prove a threat to Indian commerce.[[19]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn19)

India has also been playing a more active role in humanitarian and disaster relief operations. These have often focused on rescuing citizens of India from conflict zones, although India has helped citizens of many other countries in the process. A recent example in the Indian Ocean region is Operation Raahat in Yemen.[[20]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn20) Indian efforts have also extended to disaster relief in other countries, including assistance to Indonesia and Sri Lanka following the 2004 tsunami, to Myanmar after Cyclone Nargis, to Bangladesh after Cyclone Sidr, and to Sri Lanka after Cyclone Roanu. Relative to other countries in the region, India has advantages in terms of capabilities. These include better maritime domain awareness, and military equipment in the form of transport aircraft, helicopters, and support vessels that can help deliver food, water, and medical supplies.[[21]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn21)

Securing Shared Interests

An overview of the importance of the Indian Ocean and India’s priorities indicates a close alignment between Indian and global interests. The Indian Ocean can, as some have argued, be India’s ocean.[[22]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn22) But that need not come at the expense of others. The shared interests relating to the region are essentially five-fold: (i) preserving freedom of navigation for commercial shipping, (ii) sustainably and equitably harnessing the Indian Ocean’s natural resources, (iii) establishing protocols for enhancing disaster prevention and relief as well as search and rescue operations, (iv) countering piracy, terrorism, smuggling, and illegal weapons proliferation, and (v) managing international naval competition.

These overlap with India’s objectives, as outlined by Indian Prime Minister Modi in 2015 under the banner of SAGAR (Security and Growth for All in the Region). “Our goal,” he said, “is to seek a climate of trust and transparency; respect for international maritime rules and norms by all countries; sensitivity to each other`s interests; peaceful resolution of maritime issues; and increase in maritime cooperation.”[[23]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn23)  India’s Indian Ocean policy, he said, would be based on building up India’s own capabilities, helping regional partners with capacity building, collective action, sustainable development, and cooperation with non-Indian Ocean region actors to ensure greater transparency, rule of law, and the peaceful resolution of disputes. He also laid out the objective of integrated maritime security coordination between India, Sri Lanka, the Maldives, Seychelles and Mauritius, initiated in 2011 as a trilateral India-Sri Lanka-Maldives arrangement.[[24]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn24) India’s security efforts in the Indian Ocean have already begun to take concrete shape with the transfer of the Indian-made patrol vessel Barracuda to Mauritius, the deployment of P-8I aircraft to Seychelles for surveillance of its exclusive economic zone, the agreements to develop connectivity infrastructure on Assumption Island in Seychelles and Agaléga in Mauritius.[[25]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn25)

In the near future, collective steps will need to be taken to prevent unnecessary—and possibly ruinous—maritime competition in the Indian Ocean. Greater Indian and international efforts must be made to ensure transparency concerning naval activity and the development of potential dual-use facilities, which can be used for both civilian and military purposes.[[26]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn26) Indian leadership will also be necessary if international coordination and cooperation is to improve, whether on sustainable resource extraction, humanitarian measures, or Indian Ocean governance. Some institutions have already been established with these objectives in mind. India has thrown its weight behind the Indian Ocean Naval Symposium, which has 35 members and seeks to “increase maritime co-operation among navies” of the Indian Ocean littoral states. Meanwhile, the Indian Ocean Rim Association—which has traditionally emphasized maritime security, trade, cultural promotion, tourism, and fisheries, but has recently diversified into resource management and governance—involves 21 states.[[27]](https://www.brookings.edu/opinions/indian-ocean-region-a-pivot-for-indias-growth/" \l "_ftn27) (See Figure 1)

#### Negative trade expectations cause conflict between superpowers – goes nuclear

Tønnesson 15 - Stein Tønnesson 15, Research Professor, Peace Research Institute Oslo; Leader of East Asia Peace program, Uppsala University, 2015, “Deterrence, interdependence and Sino–US peace,” International Area Studies Review, Vol. 18, No. 3, p. 297-311

Several recent works on China and Sino–US relations have made substantial contributions to the current understanding of how and under what circumstances a combination of nuclear deterrence and economic interdependence may reduce the risk of war between major powers. At least four conclusions can be drawn from the review above: first, those who say that interdependence may both inhibit and drive conflict are right. Interdependence raises the cost of conflict for all sides but asymmetrical or unbalanced dependencies and negative trade expectations may generate tensions leading to trade wars among inter-dependent states that in turn increase the risk of military conflict (Copeland, 2015: 1, 14, 437; Roach, 2014). The risk may increase if one of the interdependent countries is governed by an inward-looking socio-economic coalition (Solingen, 2015); second, the risk of war between China and the US should not just be analysed bilaterally but include their allies and partners. Third party countries could drag China or the US into confrontation; third, in this context it is of some comfort that the three main economic powers in Northeast Asia (China, Japan and South Korea) are all deeply integrated economically through production networks within a global system of trade and finance (Ravenhill, 2014; Yoshimatsu, 2014: 576); and fourth, decisions for war and peace are taken by very few people, who act on the basis of their future expectations. International relations theory must be supplemented by foreign policy analysis in order to assess the value attributed by national decision-makers to economic development and their assessments of risks and opportunities. If leaders on either side of the Atlantic begin to seriously fear or anticipate their own nation’s decline then they may blame this on external dependence, appeal to anti-foreign sentiments, contemplate the use of force to gain respect or credibility, adopt protectionist policies, and ultimately refuse to be deterred by either nuclear arms or prospects of socioeconomic calamities. Such a dangerous shift could happen abruptly, i.e. under the instigation of actions by a third party – or against a third party. Yet as long as there is both nuclear deterrence and interdependence, the tensions in East Asia are unlikely to escalate to war. As Chan (2013) says, all states in the region are aware that they cannot count on support from either China or the US if they make provocative moves. The greatest risk is not that a territorial dispute leads to war under present circumstances but that changes in the world economy alter those circumstances in ways that render inter-state peace more precarious. If China and the US fail to rebalance their financial and trading relations (Roach, 2014) then a trade war could result, interrupting transnational production networks, provoking social distress, and exacerbating nationalist emotions. This could have unforeseen consequences in the field of security, with nuclear deterrence remaining the only factor to protect the world from Armageddon, and unreliably so. Deterrence could lose its credibility: one of the two great powers might gamble that the other yield in a cyber-war or conventional limited war, or third party countries might engage in conflict with each other, with a view to obliging Washington or Beijing to intervene.

#### Food crisis causes lashout in the East China Sea

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China knows it has a looming food security crisis, which could unleash popular unrest and threaten the government’s legitimacy at home. Expanding fisheries production, then, is part of a broader strategy of regime survival—and it’s getting more aggressive, with illegal fishing by Chinese trawlers steadily increasing throughout the world and especially in China’s East Asia neighborhood. In the past decade, South Korea apprehended 4,600 Chinese fishing vessels operating illegally in its waters, while illegal Chinese trawlers are consistently caught in Indonesian, Philippine, Japanese, Korean and even Russian waters. Other countries aren’t taking China’s actions lightly. Last fall, over 200 Chinese boats were spotted illegally poaching coral in Japanese waters, during a period of high tensions between the two governments over the disputed Senkaku Islands, claimed by China as the Diaoyu. In retribution, the Japanese coast guard later refused to offer refuge to Chinese boats seeking shelter from an oncoming typhoon. A few weeks ago, the Philippines lodged a formal complaint with the Chinese Embassy in Manila after a Chinese ship allegedly rammed three Filipino boats and over 25 Chinese boats caught endangered giant clams in the rich and highly disputed Scarborough Shoal in the South China Sea. The importance of food security to rising powers like China cannot be understated. Its own depleting fisheries are in part driving Beijing to claim territory in the exclusive economic zones of Japan, Vietnam and the Philippines in the South China Sea. As the world’s population and middle classes continue to expand, and with them global fish consumption, conflicts over natural resources and food supplies are only going to increase in number and, potentially, in violence. China’s behavior should be considered an early warning sign of the security implications that unmanaged fisheries and illegal fishing could have on future conflict. Unilaterally, countries are beginning to adopt harsher measures to combat illegal fishing. Indonesia’s newly elected president, Joko Widodo, has embarked on what he has called a “shock therapy” policy for illegal fishing in Indonesian waters that involves sinking all illegal fishing boats—an unusually punitive response that, to little surprise, is provoking outrage among neighboring nations whose fishermen are apprehended. The island nation of Palau in the Pacific outlawed commercial fishing entirely from its exclusive economic zone and is in the process of deploying drones to patrol for illegal fishing in its waters. South Korea, under pressure from the United States and the European Union, plans to increase its maximum penalty for illegal fishing to five times the value of an illegal catch. The challenge with decreasing fish stocks and increasing conflict over finite resources is a classic case of the tragedy of the commons leading to a more conflict-prone world. A large part of the longer-term solution is changing consumption habits and managing the resources that the world currently possesses in a more balanced manner. An immediate step to mitigate the negative consequences of overfishing is enforcing and implementing existing regional and international agreements, like the Port State Measures Agreement, adopted in 2009 by the United Nations Food and Agriculture Organization. The treaty cracks down on illegal fishing by forcing countries to enact tighter controls on foreign-flagged vessels at their ports. But nongovernmental organizations and the private technology sector are stepping up, too. The nonprofit Pew Charitable Trusts has launched a major initiative, the Ending Illegal Fishing Project, which, among other strategies, has deployed a live satellite-tracking database that monitors the movements of fishing vessels in real time and, upon detecting suspicious movement, can alert authorities of an illegal fishing threat. Google is in the process of launching a similar project, the Global Fishing Watch. Additionally, a number of companies that manufacture drones are partnering with countries like Belize, which now uses drones to patrol its coral reefs. Naval conflict has traditionally been shaped by grand strategy, such as competition over sea routes and maritime access. In the future, however, as populations grow and fish stocks dwindle, conflict could be over the riches that lie beneath the ocean’s surface—and peace dependent on how well they are managed.

## Adv---Cartels

### 1NC---AT: Cartels

#### Breaking up cartels is *regressive* not *progressive*

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Monopoly is not free money to corporations—it has to be purchased. As Richard Posner has shown, one of the significant social costs of monopoly is that firms invest considerable sums of money in attempting to acquire monopoly profits and, once they have them, to retain them.68 In neoclassical economic terms, these expenditures to obtain monopoly rents are considered economic waste since they benefit neither consumers nor producers.69 In more practical terms, the cost of acquiring and maintaining monopoly power is a significant drag on the profitability of monopoly to shareholders. Empirical work has cast doubt on whether firms in concentrated industries earn greater average profits than other firms,70 implying either that increases in concentration do not create market power or market power is not cheap to acquire and maintain. If firms are spending a large share of their rents to obtain monopoly power, the remaining margins left for shareholders may be relatively small. Monopoly rents are not captured uniformly by the owners of capital (i.e., shareholders) but are distributed in various complex ways throughout the firm.71 Perhaps executive suite managers benefit disproportionately at the expense not only of the firm’s customers but also its shareholders; for example, they could leverage short-run income gains from antitrust violations to justify higher compensation even though shareholders do not realize long-term value. The evidence on that will be considered in a moment. But it is also possible that monopoly rents are captured by midlevel managers at the expense of both senior managers and shareholders. For example, midlevel managers and other firm employees may expend considerable firm resources to exclude rivals simply to obtain John Hicks’s famous “quiet life”72 or internally expend monopoly profits through the wastefulness and sloth qualities of monopoly identified by Judge Learned Hand in his famous Alcoa decision.73 Indeed, it is a common assumption in antitrust law that many monopolists do not show high economic profits on their balance sheets, as Alcoa did not, but rather internally dissipate monopoly rents through complacency.74 In such cases, the shareholder regressivity effect from product market monopoly would shrink or vanish altogether. Further evidence against the claim that shareholders are regressively grabbing a large share of monopoly rents comes from another progressive critique of antitrust law—that large corporate mergers do not in fact produce positive returns to the shareholders of the acquiring firm, but rather negative ones.75 These claims are generally based on economic studies showing that the shareholders of acquiring firms experience negative returns in various windows after the relevant corporate acquisitions.76 In light of such studies, progressives claim that corporate mergers are often not genuine efforts to create efficiencies and hence build wealth for the benefit of shareholders, but rather “kingdom building” exercises by narcissistic CEOs.77 If that claim is correct, then shareholders do not reap a large share of the monopoly profits attributable to anticompetitive mergers.78 Turning now to top corporate managers, the question is whether managers are in fact able to extract significant monopoly profits in terms of executive compensation. There is no clear evidence that they are. Empirical studies find that the relationship between increases in product market competition and managerial compensation is ambiguous.79 For instance, a study by Patricia Funk & Gabrielle Wanzenreid found a decrease in executive compensation with an increase in competition in industries such as paper, wood products, petroleum, chemicals, plastics, and minerals but an increase in executive compensation with increases in competition in the metal product manufacturing, machinery, computers and electronics, electrical equipment, transportation equipment, furniture, and general manufacturing industries.80 No general effect on increasing compensation was observed. Other literature suggests that, if anything, increases in product market competition might increase managerial compensation. A leading critique of corporate compensation claims that prevailing corporate compensation structures inflate managerial compensation by disproportionately rewarding managers based on general market profitability rather than individual corporate performance.81 Other literature shows that the use of relative performance evaluations, which compensate managers based on the performance of their own company compared to the performance of other firms in the same industry, decreases as the competitiveness of the industry increases.82 The intuition behind these empirical results is that compensating senior managers based on the negative performance of peer firms induces those managers to take actions that dilute the profitability of the industry.83 Hence, from a principal-agent perspective, a more competitive market structure may increase the principal’s incentive to reward managers in ways that may lead to more inflated pay structures. Antitrust enforcement that increased market competitiveness could produce the unintended byproduct of increased executive compensation. In sum, the argument that senior managers are the primary beneficiaries of anticompetitive market structures is weak, at best. And while shareholders may capture some of the gains from monopoly pricing, any such regressivity effect is weaker than assumed in the monopoly regressivity claim. b. The Labor Monopoly Wage Premium and Spillovers Outside the Firm Contrary to the assumption that shareholders and senior managers are capturing virtually all of the monopoly rents obtained by corporations, the evidence suggests that a significant amount of rent sharing occurs within the firm. As Mark Roe has noted, “[e]mployees of monopoly firms can, and do, ally with capital to split the rents, to facilitate constricting production and raising price, and to seek barriers to competitive entry.”84 Empirical evidence shows that nonunion employees see higher wages as the market concentration of their industry increases and also that higher seller concentration leads to stronger unionization, which in turn leads to higher wages.85 The monopoly labor wage premium has been observed across a variety of industries.86 For present purposes, the monopoly labor wage premium is important because it suggests the ability of blue-collar workers to extract significant monopoly rents from their employers, thus counterbalancing any regressive effects from shareholder or senior management rent extraction.87 Consistent with the evidence that increases in market power yield higher wages for blue-collar employees, there is evidence of labor union support for large corporate mergers that raise serious competitive issues. For example, the Communication Workers of America came out in favor of the AT&T and T-Mobile merger that the Federal Communications Commission and the Justice Department both opposed, and that AT&T and Deutsche Telekom, T-Mobile’s parent corporation, ultimately withdrew from.88 An editorial published in the Huffington Post explained that progressives should support the proposed merger “[b]ecause AT&T is the ONLY unionized wireless company in the country and the merger would ensure that 20,000+ T-Mobile workers would have the chance to join the 43,000 currently unionized AT&T Mobility employees with decent wages and legal protections on the job.”89 Similarly, the three airline employee unions supported American Airlines’ questionable merger with US Airways, believing that employees would fare better in the combined company.90 A related point concerns the differentiating effects among different classes of workers from increases in product market competition. Such competition may increase wage inequality by shifting demand in favor of skilled labor at the expense of unskilled labor, with the effect that a wage gap grows between skilled and unskilled labor.91 Such instances of income stratification have ambiguous effects on the overall distribution of wealth but would likely be regressive on net since they would shift down the average salaries of workers at the lowest end of the income distribution. The progressive effects of market power–enhancing mergers may go beyond the financially quantifiable and spill outside the boundaries of the firm. Civil rights organizations have supported controversial mergers, arguing that the combined firm would cater better to the needs of minorities. For example, the Reverend Al Sharpton played a leading role in supporting the Comcast and NBC Universal merger, arguing that the deal would enhance racial diversity in broadcasting.92 The NAACP supported the AT&T and T-Mobile merger, arguing that AT&T had been a progressive corporate citizen that would bring a better culture to T-Mobile’s employment conditions and contracting practices.93 It also supported the Sirius and XM merger, which resulted in a monopoly in satellite radio.94 Other civil rights organizations have similarly weighed in favor of mergers ultimately challenged on antitrust grounds.95 At a minimum, the monopoly labor wage premium and evidence of union and civil rights organization support for competitively controversial corporate mergers should call into question the progressive argument that stronger merger enforcement would advance progressive wealth redistribution. Many interests within and without the firm have an opportunity to extract monopoly rents or otherwise benefit from business reorganizations that contribute to the creation of market power. c. Noncorporate Subjects of Antitrust Law The progressive argument for enhanced antitrust enforcement on wealth inequality grounds assumes that large corporate actors are the principal subjects of antitrust law and enforcement. However, apart from a portion of section 7 of the Clayton Act, which applies solely to the acquisition of securities,96 the prohibition of the antitrust laws is not limited to corporate entities but applies generally. The antitrust laws apply to any persons who engage in anticompetitive behavior, whether large corporations or hot dog vendors on opposite street corners.97 This point is not merely theoretical. The antitrust laws extensively regulate the market behavior of noncorporate actors. It bears recalling that out of the first thirteen successful antitrust cases, only one involved a combination of capitalists, with the majority involving labor combinations.98 Since that time, the creation of statutory and nonstatutory labor exemptions from the antitrust laws has mitigated—if not entirely stopped—the direct use of antitrust law against labor organizations.99 However, a wide swath of antitrust enforcement continues to be focused on noncorporate actors, with confounding effects for claims about the regressivity of market power exercises. Many of the producers whose commercial arrangements antitrust authorities have challenged in recent decades are not large corporations but professionals such as doctors, dentists, engineers, lawyers, real estate brokers, stock brokers, and small business owners involved in trade associations.100 While in some cases members of the petty bourgeoisie and professional classes may be wealthier on average than their clients, thus implying regressive effects from antitrust violations, in many cases the effects of the antitrust violations are likely progressive, since the regulated classes would otherwise extract income from clients up the income distribution from themselves. As with most of these questions, the effects on income distribution are simply too complex to ascertain economy-wide. In the past several years, a large portion of the Federal Trade Commission’s (FTC) docket has centered on anticompetitive rules and practices by trade associations organizing and regulating middle class professions. Take, for instance, the FTC’s 2014 enforcement action against the Music TeachersNational Association based on an ethical rule prohibiting music teachers from soliciting clients from rival teachers.101 According to the Bureau of Labor Statistics, music, art, and drama teachers average a squarely middle-class income of $66,260.102 In recent years, the FTC has also brought an enforcement action against property managers,103 with an average annual income of $65,880,104 and legal support professionals,105 with an average annual income of $52,830.106 Professional lighting and sign managers107 and ice-skating coaches108 have also felt the FTC’s wrath over anticompetitive agreements in the last two years. The Justice Department has brought similar suits. For example, in 2005 it successfully sued to enjoin the National Association of Realtors from preventing its members from using password-protected Internet sites that enabled the brokers’ customers to search for and receive real estate “multiple listing services” listings over the Internet.109 If the Justice Department’s factual allegations were correct, the Association’s restriction inhibited competition among brokers that would have “place[d] downward pressure on brokers’ commission rates.”110 In other words, the restriction facilitated a wealth transfer from home sellers to realtors. The median income of home sellers, who typically bear the incidence of real estate commissions, is approximately $97,500111 and that of realtors is $43,430.112 Thus, on average, higher commissions would allow realtors to extract income from clients with more than double their income. The effect of the antitrust enforcement decision was to redistribute that income back up to the sellers. The effects of antitrust enforcement on noncorporate, middle-class actors cannot be dismissed as insignificant. In the Realtors case, the Justice Department alleged that virtual office website brokers, whose activities the challenged rule tended to suppress, had offered discounted commission rates that had saved their customers tens of millions of dollars in commissions.113 Given the sheer volume of existing home sales in the United States—$1.2 trillion per year114—even a comparatively small change in broker commission rates due to increased competition would have very significant economic effects. For example, a reduction in the average broker commission from 5.5% to 4.5%115 would redistribute $12 billion annually from brokers to their clients with strongly regressive effects. To be clear, my point here is not to criticize the agencies for bringing antitrust cases with regressive wealth redistribution effects. There are many sound reasons for agencies to bring these cases. Rather, the point is that claims that the chief beneficiaries of monopoly power are large corporate shareholders and managers is altogether too facile. The actual operation of the antitrust laws, both in terms of the cases that are publicly brought and their often invisible deterring effects, is considerably broader. 2. Who Pays Monopoly Rents? Contemporary antitrust enforcement is justified as protecting the welfare of “consumers.”116 In antitrust parlance, the consumer has become a ubiquitous shorthand identification. Any purchaser is effectively a “consumer” in antitrust discourse. Thus, antitrust institutions fret about losses of consumer welfare when antitrust violations lead to price increases, whether or not there is evidence that consumers in the proper sense end up paying higher prices.117 For present purposes, the distinction between “consumer welfare” as a slogan and actual regressive overcharges to end consumers is important because anticompetitive conditions in many markets have little effect on actual consumers in the sense of the consumer/producer dichotomy assumed by those who argue that antitrust violations are regressive. And, even when genuine consumers—in the sense of household customers—are the purchaser, there is no general case that exercises of market power tend to be regressive. a. Taxpayers and Third-Party Payers The first difficulty in equating overcharges to “consumers” with regressive excises by wealthy corporations is that the purchasers to whom monopolists sell are often not household customers but large intermediary organizations, which may distribute the incidence of monopoly charges progressively. This is particularly true of government purchasers and the health care insurance system, which amount to large swaths of the economy. In the United States, federal government spending accounted for $3.5 trillion or nearly one-fourth of GDP in 2013.118 State and local governments accounted for another $1.58 and $1.77 trillion respectively.119 Many of these expenditures go to buying goods and services in markets. The World Bank calculates that general government final consumption (all government expenditures for purchases of goods and services) in the United States was 15% of GDP in 2013.120 In large slices of the economy (i.e., defense, health care, building materials and contracting, and education) the government is the purchaser and payer.121 Of course, taxpayers are the ultimate shareholders of the government and end up paying its bills. Putting aside generational issues created by deficit spending and debt (which raise their own questions of equality), monopoly overcharges in public procurement are passed through to taxpayers in accordance with the distributional baseline of the tax code. Thus, as to large segments of the economy, the regressivity or progressivity of antitrust violations simply mirrors the regressivity or progressivity of the tax code (at least on the incidence of the overcharge side of the ledger).122 To the extent that the tax code is progressive, which the U.S. tax system generally is,123 antitrust violations involving public procurement (imagine, for example, anticompetitive mergers in the defense industry or bid rigging for public works projects) could have progressive rather than regressive effects.124 Health care, which antitrust law has had a great deal to say about in recent years,125 is another major segment of the economy in which the consumer is often not the direct or even necessarily the ultimate payer. Rather, health care spending is largely mediated through a complex, regulated insurance system with significant redistributive effects. Health care spending in the United States accounted for 17.1% of the economy in 2013.126 Of this, public spending (Medicare and Medicaid) amounted to around one trillion dollars in 2014, which is already included in the previously discussed governmental expenditure figure.127 Private health insurance amounted to $991 billion and out-of-pocket expenditures amounted to $329.8 billion.128 Overcharges to private health insurers result in premium increases that operate very much like a tax, since they are borne by third-party payers regardless of present consumption. Monopoly overcharges mirror the progressivity or regressivity of the underlying system of health insurance premiums and related tax credits. The Affordable Care Act is designed to have highly progressive wealth redistribution effects.129 This implies that exercises of market power that increase costs to health insurers (for example, reverse payment settlements between pharmaceutical companies)130 will be passed on to consumers progressively, with the wealthy bearing a high share of the costs. Together, general government final consumption and health care constitute approximately a quarter of the entire economy. To the extent that those systems act as progressive wealth redistribution vehicles, exercises of market power in those segments reduce the wealth of the wealthy proportionately more than the wealth of the poor and may thus reduce wealth inequality. b. Intercorporate Effects A second significant factor determining whether household purchasers bear the brunt of monopoly rents concerns the space between the household purchaser and the antitrust violator in the production and distribution chain. Many antitrust violations occur in input markets considerably upstream from end consumers. In such cases, before affecting a consumer’s pocketbook, an overcharge would need to be passed through a chain of other companies—intermediate manufacturers, assemblers, wholesalers, retailers, and so forth. Even if household purchasers ended up absorbing a significant share of the overcharges, the net effect of the overcharge could be to reduce inequality, depending on the relative wealth of the upstream business interests. Proponents of the thesis that exercises of market power tend to operate directly on household consumers seem to have in mind circumstances where large corporations violate the antitrust laws and then sell their products directly to consumers. However, that paradigm is not reflective of many of the most serious violations of antitrust law. For example, John Connor and Gustav Helmers’s study of international cartels found that 62% of all affected sales were in industrial intermediate goods—which would not be purchased directly by consumers—and only 10% of affected sales were in goods manufactured for consumers.131 In other words, the vast majority of collusive behavior by firms occurs in markets far upstream from household customers. The extent to which upstream overcharges are passed through to end consumers or are instead absorbed by upstream firms is a function of elasticities in the distribution chain and a sharply contested issue in private antitrust litigation and merger analysis.132 Unless the pass-on rate is one (or greater, as is possible in some instances), some share of monopoly overcharges will not be borne by consumers but by other producers. If the intermediary producer is wealthier than the upstream antitrust violator, the amount of overcharge absorbed by the intermediary could have progressive wealth effects. Even where the pass-through rate is relatively high and all producers are wealthier than all consumers, it is possible for a monopoly overcharge absorbed in part by an intermediate firm that is substantially wealthier (in terms of households benefited by changes in its wealth) than the upstream antitrust violator to result in a reduction in the inequality coefficient. This could occur if the households affected by changes in the wealth of the upstream firm were closer in wealth to the end consumers than to the households affected by changes in the wealth of the intermediary firm. To illustrate, imagine a family-owned business representing households at the 60th percentile of the wealth distribution selling inputs to a large corporation representing households at the 90th percentile of the wealth distribution, which in turn passes on 70% of the overcharge to consumers representing household wealth at the 50th percentile and absorbs the remaining 30%. Suppose the upstream firm obtains market power through an antitrust violation and charges its corporate customer an inflated price. Every dollar of overcharge redirects 30 cents of income from the 90th percentile to the 60th percentile and 70 cents of income from the 50th percentile to the 60th percentile. If the magnitude of any transfer of wealth between two entities is calculated as the product of the difference in wealth between the two entities and the magnitude of the transfer, then the net effect of this antitrust violation would be progressive.133 Exercises of market power have attenuated ripple effects on the economy. In only a relatively small share of cases does an overcharge payment flow directly from a consumer to an antitrust violator without being distributed among various exploiting or exploited business interests. Differences in wealth between the positively and negatively affected business interests would need to be taken into account of before establishing the net wealth redistribution effects of the challenged conduct. Antitrust violations have significant intercorporate effects. Those effects significantly complicate any effort to make general pronouncements about the wealth redistribution consequences of antitrust violations or antitrust enforcement. c. Wealthy and Poor Consumers Notwithstanding the points emphasized in the previous two sections, it is clear that household consumers do end up bearing some of the brunt of antitrust violations. But it is a long leap from that recognition to the claim that antitrust violations are regressive. The relatively wealthy can be exploited through the exercise of market power at least as much as—and perhaps proportionately more than—the relatively poor. Anticompetitive conduct is by no means limited to markets involving sales to primarily lower income individuals. One can readily identify examples of antitrust violations in industries producing goods or services sold primarily to the wealthy; for example, gem-quality diamonds,134 stock brokerage services,135 auctioning of high-end art,136 and luxury watches.137 Picking on just one market, anticompetitive actions have a storied history in the luxury automobile industry. Recently, federal prosecutors in New York recommended the indictment for price fixing of Mercedes-Benz dealers in New York, New Jersey, and Connecticut;138 while Chinese competition officials mulled bringing price fixing charges against BMW and Audi.139 Reaching back in automotive history, Rolls-Royce secretly acquired Bentley during the Great Depression, largely to forestall competition from its closest rival.140 And, to pick a famous monopolization case, one can ponder the wealth distribution effects in Aspen, Colorado—playground of the rich and famous—when the Aspen Skiing Company decided to jettison its cooperation with the rival mountain owned by Highlands.141 In all of these cases—and many others—the modal customer for the relevant good or service was likely to be in the upper stratum of the income distribution.142 Looking economy-wide, the effects of increases in market power on the distribution of wealth are subtle. Consumers in the top quintile of household wealth spend four times as much as consumers in the bottom quintile.143 So, if monopolists extracted equal proportions of wealth from every consumer dollar spent, the burden of monopoly pricing would fall four times as heavily on the wealthiest income stratum than on the least wealthy stratum. However, the effect of monopoly pricing could still be regressive in the sense of increasing the gap in relative wealth between the rich and the poor. Monopoly rent extraction operates essentially like sales taxes, which are known to have regressive properties,144 because spending as a share of income decreases with increases in income (since the rich save a considerably greater percentage of their income than do the poor).145 But monopoly pricing probably does not have the regressive characteristics of a sales tax First, the regressive effect of sales taxes arises because unspent wealth is not subject to the tax. In the case of monopoly power, however, there is no reason to exclude unspent wealth from the rent-extraction capacity of monopolists. Rents can be extracted from unspent wealth due to monopolistic conditions in the banking, brokerage, investment products, and financial services industries. Indeed, anticompetitive conditions in the banking and financial services industries are among the chief complaints of progressives today.146 If the general level of monopolistic rent extraction on unspent wealth is equal to the level of monopolistic rent extraction on consumer spending, then the regressivity of the sales tax would vanish altogether for monopoly rent extraction.147 Second, the regressivity of the sales tax arises from the tax’s flat rate, but monopolists do not extract equal proportions of wealth from rich and poor consumers for every dollar spent. To the contrary, economic theory holds that market power permits monopolists to price discriminate and do so primarily to the disadvantage of the wealthy. Acts that create market power may thus permit the selling firm to charge different prices to different classes of consumers based on their varying demand elasticities and to do so in progressive ways. Price discrimination through the exercise of market power is a pervasive concern of modern antitrust policy.148 For example, the Justice Department and FTC’s 2010 Horizontal Merger Guidelines repeatedly stress the concern that market power acquired through mergers will facilitate price discrimination.149 Whether or not price discrimination is economically efficient,150 it usually has progressive wealth effects, since the wealthy are less price elastic than the poor for most goods and services.151 As firms acquire market power through anticompetitive acts and begin to increase their prices, they often do so employing pricing schemes that extract significantly more monopolistic rents from the wealthy than from the poor. To the extent that antitrust enforcement creates more competitive markets and more competitive markets diminish price discrimination, the effect in many instances could be to decrease the prices paid by the rich while reducing less, keeping flat, or even decreasing the prices paid by the comparatively less wealthy. Magnitude and Computability of the Crosscutting Effects The analysis presented thus far shows that monopoly pricing has complex crosscutting effects, some progressive and some regressive, on the distribution of wealth. In some ways exercises of market power increase wealth inequality, but in other ways such exercises create greater equality. In order to draw any firm conclusions regarding the net effect on wealth distribution of market power exercises and antitrust enforcement, one would need to prove the relative magnitudes of the crosscutting effects. That is a task that, to my knowledge, has never been undertaken and could not likely be done with anything approaching statistical rigor. Part of the difficulty in calculating a net effect on progressivity or regressivity arises from the dynamic interaction between various crosscutting factors. For example, simultaneous increases in the marginal income tax rate and in antitrust enforcement in the defense industry could have offsetting effects on the distribution of income, with the tax increase extracting proportionately more income from the wealthy and the antitrust enforcement in effect rebating some of those tax increases back to those same wealthy taxpayers.152 Laxity in merger policy could initially enrich shareholders and senior managers but eventually make it easier for unions to organize against the monopoly employers and to extract a significant share of the rents for the benefit of blue-collar workers.153 Antitrust enforcement that dissuaded manufacturers from restricting the resale freedom of their distributors might initially transfer economic power from large upstream firms to smaller downstream firms but eventually incentivize the manufacturers to integrate forward into distribution, eliminating smaller, independent distributors altogether.154 Even if a particular instance of antitrust enforcement would appear to have progressive wealth redistribution effects in the short run, its hydraulic pressures on the economy and interaction with other crosscutting effects could cause offsetting regressive effects.155 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 There is something odd in the monopoly regressivity claim that lax antitrust enforcement contributes to wealth inequality. The critique implicitly assumes that more market competition—the virtue that antitrust law is supposed to produce— means more equality.157 But that assumption cannot be squared with a plethora of redistributive social welfare programs, which are predicated on the assumption that when income is based solely on the value of the participants’ marginal contributions to impersonal markets, gross income inequality results. For example, if competition achieved a desirable income distribution, then minimum wage laws would be unnecessary. Those laws are necessary because the interaction between downstream product market competition and upstream competition for labor inputs results in wages that are deemed socially unacceptable.158 Organizing unions had to be exempted from the antitrust laws because requiring competition for employment among the laboring classes would result in lower income and poorer working conditions.159 The entire social welfare state is predicated on redirecting the paths of markets from the outcomes otherwise determined by competitive exchange. The arc of competition does not inherently bend toward equality. To the contrary, competition tends to concentrate wealth in the hands of those with the resources valued most by the market. To the extent that resources are unevenly distributed—think of intelligence, skill, family upbringing, and educational opportunity—competition often exacerbates inequality as compared to systems that allocate wealth based on some principle of equal desert. As previously noted, for example, increased product market competition tends to lead to wage increases for skilled workers and wage reductions for unskilled workers.160 Similarly, unregulated markets for executive talent lead to high wages for corporate managers based on competitive benchmarking.161 Further, increases in product market competition might lead to an increase in CEO compensation since managerial talent might be most valuable to corporations when product market competition intensifies.162 In sum, competition tends to distribute wealth unevenly and regulatory intervention is often required to alter these inequality effects.

### 1NC---AT: Inequality

#### Inequality doesn’t cause diversionary war

Gal Ariely 15, senior lecturer in the Department of Politics & Government, Ben-Gurion University of the Negev, PhD from the University of Haifa’s School of Political Sciences, “Does National Identification Always Lead to Chauvinism? A Cross-national Analysis of Contextual Explanations,” Globalizations, 2015, https://s3.amazonaws.com/academia.edu.documents/43980028/Ariely\_Globalizations\_2015.pdf?AWSAccessKeyId=AKIAIWOWYYGZ2Y53UL3A&Expires=1515397197&Signature=78lnbbHNRVjhLgOKyRPKm%2BK8M1o%3D&response-content-disposition=inline%3B%20filename%3DDoes\_National\_Identification\_Always\_Lead.pdf

With respect to internal explanations, the effects of income inequality and ethnic diversity are presented in Table 3. Models 3.1 and 3.2 indicate that neither directly affects chauvinism. H4 is therefore not supported. The results suggest, however, that both have a negative effect on the national-identification slopes. Contrary to our expectations, countries with higher levels of economic and ethnic division appear to exhibit a weaker relation between national identification and chauvinism. While these findings might seem to contradict H5, the pattern was caused by outliers. After excluding South Africa—the most unequal and ethnic diverse country in our sample—the effect of ethnic diversity is not even of borderline significance. After excluding Chile—the most unequal country in our sample—the interaction effects for economic inequality were also far from significant. The results, therefore, do not support H5.21¶ Conclusions¶ During the historic phone call between President Obama and Iranian President Sheikh Hasan Rouhani in September 2013, the latter stated that his country’s nuclear program ‘represents Iran’s national dignity’.22 This declaration reflects the common perception that Iran’s nuclear program mobilizes Iranians in support of resisting further national humiliation at the hands of foreigners (Moshirzadeh, 2007). This reflects the important role national feelings play in the contemporary international arena. Evidence from other examples—such as the Israeli-Palestine conflict—indicates that national identity serves as a key factor in conflict resolution. The prominence of national feelings is not limited to the Middle East, their effect on public attitudes towards international issues, and conflicts also being manifest in the West (Billig, 1995; Kinder & Kam, 2010).¶ It is thus hardly surprising that scholars seeking to develop a better understanding of conflicts adopt a social-psychology perspective, replacing the deterministic view that identification with one’s in-group necessarily leads to antagonism towards out-groups with an examination of the broader social context. In line with this approach, the present paper focuses on the way in which political and social contexts encourage chauvinistic views towards the international arena and how they affect the relation between national identification and chauvinism.¶ Integrating various social and psychological theories, we investigated two external contextual explanations (globalization and conflict) and an internal explanation (social division). Employing cross-national survey data, we examined the relation between national identification and chauvinism across 33 countries. The findings indicate that a positive relationship exists between national identification and chauvinism across most of the countries, although the level differs from country to country. Using a multilevel regression analysis, we tested to see whether globalization, conflict, and social division correlate with this variation. The results indicate that social and political contexts are related to chauvinism and the ways national identifi- cation and chauvinism are linked. Although a closer relation exists between national identification and chauvinism in more globalized countries, globalization failed to explain the variation in chauvinism itself. These findings support the notion that globalization highlights the importance of national identity (Calhoun, 2007; Castells, 2011). While those sections of globalized societies that are attached to their country also tend to resist international cooperation and endorse hostile views, the complexity of the phenomenon—as evinced by the divergent findings of previous studies (e.g. Jung, 2008; Norris & Inglehart, 2009)—calls for further research of this interpretation. The fact that the current study is cross-sectional must also be taken into account, the findings adducing the relation but not the causal relations between the variables. In contrast to experimental studies, the present design is similarly limited in its ability to offer a robust control for alternative explanations.¶ Another external factor found to be relevant—to a certain degree—was conflict. Countries that suffered large numbers of deaths in conflicts and mobilized resources and personnel exhibited higher levels of chauvinism. When other indices for conflict were used, however, these results were not replicated. A possible explanation for this finding lies in the inherent limitation in the way in which conflicts are measured across various countries. Measuring international conflicts is a challenging task (Anderton & Carter, 2011). While the ways of measuring conflict were chosen because they reflect different dimensions of conflict in order to be representative of a wide range of countries, the problem of comparability cannot be ignored. An alternative explanation may derive from the fact that only deaths from conflict and resources/personnel mobilization are sufficiently significant to contribute to chauvinism. The limitations of our measurements of conflict and research design mean that this idea must remain speculative, however. In addition, it is important to emphasize that the sample of countries is also limited as many countries are not involved in conflict and there is also limited variation in the types of conflicts.¶ Contrary to what the divisionary theory of national mobilization would lead us to expect, neither economic inequality nor ethnic diversity were related to chauvinism or affected the relation between national identification and chauvinism. This finding might also be explained by the limitation of the current research design. The number of countries included in the ISSP 2003 National Identity Module being relatively small and the sample only covering countries with available survey data, the results relate solely to this specific sample of countries. Across another set of countries, social division might play a far more significant role. Another explanation might be the meaning given to national identification and chauvinism across the countries. While evidence exists for the comparability of the scales across most of the countries, the divergent meaning probably attributed to them in Germany, the United States, and Israel might form an additional limitation.

### 1NC---AT: Disease

#### Pandemics won’t cause human extinction

Sebastian Farquhar 17. Director at Oxford's Global Priorities Project, Owen Cotton-Barratt, a Lecturer in Mathematics at St Hugh’s College, Oxford, John Halstead, Stefan Schubert, Haydn Belfield, Andrew Snyder-Beattie, 01-23-17, "Existential Risk Diplomacy and Governance", GLOBAL PRIORITIES PROJECT 2017, https://www.fhi.ox.ac.uk/wp-content/uploads/Existential-Risks-2017-01-23.pdf

1.1.3 Engineered pandemics For most of human history, natural pandemics have posed the greatest risk of mass global fatalities.37 However, there are some reasons to believe that natural pandemics are very unlikely to cause human extinction. Analysis of the International Union for Conservation of Nature (IUCN) red list database has shown that of the 833 recorded plant and animal species extinctions known to have occurred since 1500, less than 4% (31 species) were ascribed to infectious disease.38 None of the mammals and amphibians on this list were globally dispersed, and other factors aside from infectious disease also contributed to their extinction. It therefore seems that our own species, which is very numerous, globally dispersed, and capable of a rational response to problems, is very unlikely to be killed off by a natural pandemic. One underlying explanation for this is that highly lethal pathogens can kill their hosts before they have a chance to spread, so there is a selective pressure for pathogens not to be highly lethal. Therefore, pathogens are likely to co-evolve with their hosts rather than kill all possible hosts.39

### 1NC---AT: Failed States

#### No impact to failed states

Mazarr 14– Michael J. Mazarr, Professor of National Security Strategy at the National War College, January/February 2014, “The Rise and Fall of the Failed-State Paradigm,” http://www.foreignaffairs.com/articles/140347/michael-j-mazarr/the-rise-and-fall-of-the-failed-state-paradigm

The threat posed by weak and fragile states, for example, turned out to be both **less urgent** and more complex and diffuse than was originally suggested. Foreign Policy’s Failed States Index for 2013 is not exactly a roster of national security priorities; of its top 20 weak states, very few (Afghanistan, Iraq, and Pakistan) boast geostrategic significance, and they do so mostly because of their connection to terrorism. But even the threat of terrorism isn’t highly correlated with the current roster of weak states; only one of the top 20, Sudan, appears on the State Department’s list of state sponsors of terrorism, and most other weak states have only a marginal connection to terrorism at best. A lack of definitional rigor posed a second problem. There has never been a coherent set of factors that define failed states: As the political scientist Charles Call argued in a powerful 2008 corrective, the concept resulted in the “agglomeration of diverse criteria” that worked to “throw a monolithic cloak over disparate problems that require tailored solutions.” This basic methodological flaw would distort state-building missions for years, as outside powers forced generic, universal solutions onto very distinct contexts. The specified dangers were never unique to weak states, moreover, nor would state-building campaigns necessarily have mitigated them. Take terrorism. The most effective terrorists tend to be products of the middle class, oft

en from nations such as Saudi Arabia, Germany, and the United Kingdom, not impoverished citizens of failed states. And terrorist groups operating in weak states can shift their bases of operations: if Afghanistan becomes too risky, they can uproot themselves and move to Somalia, Yemen, or even Europe. As a result, “stabilizing” three or four sources of extremist violence **would not render the U**nited **S**tates **secure**. The same could be said of threats such as organized crime, which finds comfortable homes in functioning but troubled states in Asia, eastern Europe, and Latin America. As the scholar Stewart Patrick noted in a 2006 examination of the purported threats issuing from weak states, “What is **striking is how little empirical evidence underpins** these **assertions** and policy developments. Analysts and **policymakers** alike have simply **presumed** the existence of **a blanket connection** between state weakness and threats to the national security of developed countries and have begun to recommend and implement policy responses.” And although interconnectedness and interdependence may create risks, the dangers in such a world are more likely to come from strong, well-governed states with imperfect regulations than weak ones with governance deficiencies. Financial volatility that can shake the foundations of leading nations and cyberattacks that could destabilize energy or information networks pose more immediate and persistent risks than, say, terrorism.

### 1NC---AT: ROL

#### No nuke terror or escalation

Weiss 15 (Leonard, visiting scholar at the Center for International Security and Cooperation at Stanford University, and a member of the National Advisory Board of the Center for Arms Control and Non-Proliferation in Washington, DC, former professor of applied mathematics and engineering at Brown University and the University of Maryland, “On fear and nuclear terrorism,” *Bulletin of the Atomic Scientists*, March/April 2015, Vol. 71, No. 2, p. 75-87]

If the fear of nuclear war has thus had some positive effects, the fear of nuclear terrorism has had mainly negative effects on the lives of millions of people around the world, including in the United States, and even affects negatively the prospects for a more peaceful world. Although there has been much commentary on the interest that Osama bin Laden, when he was alive, reportedly expressed in obtaining nuclear weapons (see Mowatt-Larssen, 2010), and some terrorists no doubt desire to obtain such weapons, evidence of any terrorist group working seriously toward the theft of nuclear weapons or the acquisition of such weapons by other means is virtually nonexistent. This may be due to a combination of reasons. Terrorists understand that it is not hard to terrorize a population without committing mass murder: In 2002, a single sniper in the Washington, DC area, operating within his own automobile and with one accomplice, killed 10 people and changed the behavior of virtually the entire populace of the city over a period of three weeks by instilling fear of being a randomly chosen shooting victim when out shopping. Terrorists who believe the commission of violence helps their cause have access to many explosive materials and conventional weapons to ply their “trade.” If public sympathy is important to their cause, an apparent plan or commission of mass murder is not going to help them, and indeed will make their enemies even more implacable, reducing the prospects of achieving their goals. The acquisition of nuclear weapons by terrorists is not like the acquisition of conventional weapons; it requires significant time, planning, resources, and expertise, with no guarantees that an acquired device would work. It requires putting aside at least some aspects of a group’s more immediate activities and goals for an attempted operation that no terrorist group has previously accomplished. While absence of evidence does not mean evidence of absence (as then-Secretary of Defense Donald Rumsfeld kept reminding us during the search for Saddam’s nonexistent nuclear weapons), it is reasonable to conclude that the fear of nuclear terrorism has swamped realistic consideration of the threat. As Brian Jenkins, a longtime observer of terrorist groups, wrote in 2008: Nuclear terrorism … turns out to be a world of truly worrisome particles of truth. Yet it is also a world of fantasies, nightmares, urban legends, fakes, hoaxes, scams, stings, mysterious substances, terrorist boasts, sensational claims, description of vast conspiracies, allegations of coverups, lurid headlines, layers of misinformation and disinformation. Much is inconclusive or contradictory. Only the terror is real. (Jenkins, 2008: 26) The three ways terrorists might get a nuke To illustrate in more detail how fear has distorted the threat of nuclear terrorism, consider the three possibilities for terrorists to obtain a nuclear weapon: steal one; be given one created by a nuclear weapon state; manufacture one. None of these possibilities has a high probability of occurring. Stealing nukes. Nothing is better protected in a nuclear weapon state than the weapons themselves, which have multiple layers of safeguards that, in the United States, include intelligence and surveillance, electronic locks (including so-called “permissive action links” that prevent detonation unless a code is entered into the lock), gated and locked storage facilities, armed guards, and teams of elite responders if an attempt at theft were to occur. We know that most weapon states have such protections, and there is no reason to believe that such protections are missing in the remaining states, since no weapon state would want to put itself at risk of an unintended nuclear detonation of its own weapons by a malevolent agent. Thus, the likelihood of an unauthorized agent secretly planning a theft, without being discovered, and getting access to weapons with the intent and physical ability to carry them off in the face of such layers of protection is extremely low—but it isn’t impossible, especially in the case where the thief is an insider. The insider threat helped give credibility to the stories, circulating about 20 years ago, that there were “loose nukes” in the USSR, based on some statements by a Soviet general who claimed the regime could not account for more than 40 “suitcase nukes” that had been built. The Russian government denied the claim, and at this point there is no evidence that any nukes were ever loose. Now, it is unclear if any such weapon would even work after 20 years of corrosion of both the nuclear and non-nuclear materials in the device and the radioactive decay of certain isotopes. Because of the large number of terrorist groups operating in its geographic vicinity, Pakistan is frequently suggested as a possible candidate for scenarios in which a terrorist group either seizes a weapon via collaboration with insiders sympathetic to its cause, or in which terrorists “inherit” nuclear weapons by taking over the arsenal of a failed nuclear state that has devolved into chaos. Attacks by a terrorist group on a Pakistani military base, at Kamra, which is believed to house nuclear weapons in some form, have been referenced in connection with such security concerns (Nelson and Hussain, 2012). However, the Kamra base contained US fighter planes, including F-16s, used to bomb Taliban bases in tribal areas bordering Afghanistan, so the planes, not nuclear weapons, were the likely target of the terrorists, and in any case the mission was a failure. Moreover, Pakistan is not about to collapse, and the Pakistanis are known to have received major international assistance in technologies for protecting their weapons from unauthorized use, store them in somewhat disassembled fashion at multiple locations, and have a sophisticated nuclear security structure in place (see Gregory, 2013; Khan, 2012). However, the weapons are assembled at times of high tension in the region, and, to keep a degree of uncertainty in their location, they are moved from place to place, making them more vulnerable to seizure at such times (Goldberg and Ambinder, 2011). (It should be noted that US nuclear weapons were subject to such risks during various times when the weapons traveled US highways in disguised trucks and accompanying vehicles, but such travel and the possibility of terrorist seizure was never mentioned publicly.) Such scenarios of seizure in Pakistan would require a major security breakdown within the army leading to a takeover of weapons by a nihilistic terrorist group with little warning, while army loyalists along with India and other interested parties (like the United States) stand by and do not intervene. This is not a particularly realistic scenario, but it’s also not a reason to conclude that Pakistan’s nuclear arsenal is of no concern. It is, not only because of an internal threat, but especially because it raises the possibility of nuclear war with India. For this and other reasons, intelligence agencies in multiple countries spend considerable resources tracking the Pakistani nuclear situation to reduce the likelihood of surprises. But any consideration of Pakistan’s nuclear arsenal does bring home (once again) the folly of US policy in the 1980s, when stopping the Pakistani nuclear program was put on a back burner in order to prosecute the Cold War against the Soviets in Afghanistan (which ultimately led to the establishment of Al Qaeda). Some of the loudest voices expressing concern about nuclear terrorism belong to former senior government officials who supported US assistance to the mujahideen and the accompanying diminution of US opposition to Pakistan’s nuclear activities. Acquiring nukes as a gift. Following the shock of 9/11, government officials and the media imagined many scenarios in which terrorists obtain nuclear weapons; one of those scenarios involves a weapon state using a terrorist group for delivery of a nuclear weapon. There are at least two reasons why this scenario is unlikely: First, once a weapon state loses control of a weapon, it cannot be sure the weapon will be used by the terrorist group as intended. Second, the state cannot be sure that the transfer of the weapon has been undetected either before or after the fact of its detonation (see Lieber and Press, 2013). The use of the weapon by a terrorist group will ultimately result in the transferring nation becoming a nuclear target just as if it had itself detonated the device. This is a powerful deterrent to such a transfer, making the transfer a low-probability event.Although these first two ways in which terrorists might obtain a nuclear weapon have very small probabilities of occurring (there is no available data suggesting that terrorist groups have produced plans for stealing a weapon, nor has there been any public information suggesting that any nuclear weapon state has seriously considered providing a nuclear weapon to a sub-national group), the probabilities cannot be said to be zero as long as nuclear weapons exist. Manufacturing a nuclear weapon. To accomplish this, a terrorist group would have to obtain an appropriate amount of one of the two most popular materials for nuclear weapons, highly enriched uranium (HEU) or plutonium separated from fuel used in a production reactor or a power reactor. Weapon-grade plutonium is found in weapon manufacturing facilities in nuclear weapon states and is very highly protected until it is inserted in a weapon. Reactor-grade plutonium, although still capable of being weaponized, is less protected, and in that sense is a more attractive target for a terrorist, especially since it has been produced and stored in prodigious quantities in a number of nuclear weapon states and non-weapon states, particularly Japan. But terrorist use of plutonium for a nuclear explosive device would require the construction of an implosion weapon, requiring the fashioning of an appropriate explosive lens of TNT, a notoriously difficult technical problem. And if a high nuclear yield (much greater than 1 kiloton) is desired, the use of reactor-grade plutonium would require a still more sophisticated design. Moreover, if the plutonium is only available through chemical separation from some (presumably stolen) spent fuel rods, additional technical complications present themselves. There is at least one study showing that a small team of people with the appropriate technical skills and equipment could, in principle, build a plutonium-based nuclear explosive device (Mark et al., 1986). But even if one discounts the high probability that the plan would be discovered at some stage (missing plutonium or spent fuel rods would put the authorities and intelligence operations under high alert), translating this into a real-world situation suggests an extremely low probability of technical success. More likely, according to one well-known weapon designer,4 would be the death of the person or persons in the attempt to build the device. There is the possibility of an insider threat; in one example, a team of people working at a reactor or reprocessing site could conspire to steal some material and try to hide the diversion as MUF (materials unaccounted for) within the nuclear safeguards system. But this scenario would require intimate knowledge of the materials accounting system on which safeguards in that state are based and adds another layer of complexity to an operation with low probability of success. The situation is different in the case of using highly enriched uranium, which presents fewer technical challenges. Here an implosion design is not necessary, and a “gun type” design is the more likely approach. Fear of this scenario has sometimes been promoted in the literature via the quotation of a famous statement by nuclear physicist Luis Alvarez that dropping a subcritical amount of HEU onto another subcritical amount from a distance of five feet could result in a nuclear yield. The probability of such a yield (and its size) would depend on the geometry of the HEU components and the amount of material. More likely than a substantial nuclear explosion from such a scenario would be a criticality accident that would release an intense burst of radiation, killing persons in the immediate vicinity, or (even less likely) a low-yield nuclear “fizzle” that could be quite damaging locally (like a large TNT explosion) but also carry a psychological effect because of its nuclear dimension. In any case, since the critical mass of a bare metal perfect sphere of pure U-235 is approximately 56 kilograms, stealing that much highly enriched material (and getting away without detection, an armed fight, or a criticality accident) is a major problem for any thief and one significantly greater than the stealing of small amounts of HEU and lower-enriched material that has been reported from time to time over the past two decades, mostly from former Soviet sites that have since had their security greatly strengthened. Moreover, fashioning the material into a form more useful or convenient for explosive purposes could likely mean a need for still more material than suggested above, plus a means for machining it, as would be the case for HEU fuel assemblies from a research reactor. In a recent paper, physics professor B. C. Reed discusses the feasibility of terrorists building a low-yield, gun-type fission weapon, but admittedly avoids the issue of whether the terrorists would likely have the technical ability to carry feasibility to realization and whether the terrorists are likely to be successful in stealing the needed material and hiding their project as it proceeds (Reed, 2014). But this is the crux of the nuclear terrorism issue. There is no argument about feasibility, which has been accepted for decades, even for plutonium-based weapons, ever since Ted Taylor first raised it in the early 1970s5 and a Senate subcommittee held hearings in the late 1970s on a weapon design created by a Harvard dropout from information he obtained from the public section of the Los Alamos National Laboratory library (Fialka, 1978). Likewise, no one can deny the terrible consequences of a nuclear explosion. The question is the level of risk, and what steps are acceptable in a democracy for reducing it. Although the attention in the literature given to nuclear terrorism scenarios involving HEU would suggest major attempts to obtain such material by terrorist groups, there is only one known case of a major theft of HEU. It involves a US government contractor processing HEU for the US Navy in Apollo, Pennsylvania in the 1970s at a time when security and materials accounting were extremely lax. The theft was almost surely carried out by agents of the Israeli government with the probable involvement of a person or persons working for the contractor, not a sub-national terrorist group intent on making its own weapons (Gilinsky and Mattson, 2010). The circumstances under which this theft occurred were unique, and there was significant information about the contractor’s relationship to Israel that should have rung alarm bells and would do so today. Although it involved a government and not a sub-national group, the theft underscores the importance of security and accounting of nuclear materials, especially because the technical requirements for making an HEU weapon are less daunting than for a plutonium weapon, and the probability of success by a terrorist group, though low, is certainly greater than zero. Over the past two decades, there has been a significant effort to increase protection of such materials, particularly in recent years through the efforts of nongovernmental organizations like the International Panel on Fissile Materials6 and advocates like Matthew Bunn working within the Obama administration (Bunn and Newman, 2008), though the administration has apparently not seen the need to make the materials as secure as the weapons themselves. Are terrorists even interested in making their own nuclear weapons? A recent paper (Friedman and Lewis, 2014) postulates a scenario by which terrorists might seize nuclear materials in Pakistan for fashioning a weapon. While jihadist sympathizers are known to have worked within the Pakistani nuclear establishment, there is little to no evidence that terrorist groups in or outside the region are seriously trying to obtain a nuclear capability. And Pakistan has been operating a uranium enrichment plant for its weapons program for nearly 30 years with no credible reports of diversion of HEU from the plant. There is one stark example of a terrorist organization that actually started a nuclear effort: the Aum Shinrikyo group. At its peak, this religious cult had a membership estimated in the tens of thousands spread over a variety of countries, including Japan; its members had scientific expertise in many areas; and the group was well funded. Aum Shinrikyo obtained access to natural uranium supplies, but the nuclear weapon effort stalled and was abandoned. The group was also interested in chemical weapons and did produce sarin nerve gas with which they attacked the Tokyo subway system, killing 13 persons. Aum Shinrikyo is now a small organization under continuing close surveillance. What about highly organized groups, designated appropriately as terrorist, that have acquired enough territory to enable them to operate in a quasi-governmental fashion, like the Islamic State (IS)? Such organizations are certainly dangerous, but how would nuclear terrorism fit in with a program for building and sustaining a new caliphate that would restore past glories of Islamic society, especially since, like any organized government, the Islamic State would itself be vulnerable to nuclear attack? Building a new Islamic state out of radioactive ashes is an unlikely ambition for such groups. However, now that it has become notorious, apocalyptic pronouncements in Western media may begin at any time, warning of the possible acquisition and use of nuclear weapons by IS. Even if a terror group were to achieve technical nuclear proficiency, the time, money, and infrastructure needed to build nuclear weapons creates significant risks of discovery that would put the group at risk of attack. Given the ease of obtaining conventional explosives and the ability to deploy them, a terrorist group is unlikely to exchange a big part of its operational program to engage in a risky nuclear development effort with such doubtful prospects. And, of course, 9/11 has heightened sensitivity to the need for protection, lowering further the probability of a successful effort.

### 1NC---AT: MENA

#### No MENA instability or great power draw in

Richard J. Evans 14. Regius Professor of History and President of Wolfson College, University of Cambridge. 1/25. "What Can 1914 Tell Us About 2014?" https://newrepublic.com/article/116347/what-pre-world-war-i-europe-can-tell-us-about-today

The Balkan states, much like nations of the Middle East today, to a degree stood proxy for larger powers, notably tsarist Russia, Germany and Austria-Hungary. They had come close to the brink during the first Balkan war in 1912-13, when Montenegro in alliance with Serbia attacked northern Albania, where there were virtually no Serbs or Montenegrins among the inhabitants. Austria-Hungary demanded Serbia’s with­drawal, Russia began to mobilise in support of the Serbs, and France declared its support for the Russians. The situation was defused only by a British intervention, resulting in an international conference that guaranteed independence for Albania. The whole episode was an ominous foretaste of what happened in August 1914. With the break-up of the alliance of the Balkan states in 1913, Bulgaria went over to the patronage of the Germans, while Russia’s only client left in the region was Serbia. Serbian ambitions had already prompted Austria-Hungary to annex Bosnia and Herzegovina, with their substantial population of Serbs, in 1908. It would be just as wrong to dismiss all of this as irrelevant to the ambitions and rivalries of the Great Powers, as Boris Johnson has done recently, as it would be to dismiss the violent antagonisms in today’s Middle East as unimportant to international relations on a wider scale. And yet the Balkan nations in the late 19th and early 20th centuries were no more mere puppets of Germany or Russia than the Middle Eastern states of today are puppets of America, Russia or China. As President Obama has discovered, trying to control Israeli governments is no easy task; he might tell the Israelis not to build any new Jewish settlements on the occupied West Bank but they carry on regardless. China and Russia might block western attempts to impose sanctions on the Assad regime in Syria and may continue supplying it with arms, but they have not been able to control it or stop its opponents, so they have become willing to explore ways of ending the conflict peaceably; their co-operation in the removal of chemical weapons signals their refusal to back the regime all the way. China supplies Iran with weapons and with nuclear technology but can do little to mediate its policy in the Middle East, and its approach is tempered by the need to keep up good relations with the United States. Not least because of the growing importance of economic ties with the west, Russia has bowed to international pressure for sanctions on Iran and has curbed its arms supplies to the country. In all of this, there are few indications that the world’s great powers today are being drawn into regional conflicts as closely as they were in 1914. One important reason for this lies in our changed attitudes to war. In Europe, the wars of the 19th century were limited in duration and scope, and seldom involved more than a handful of combatant nations. All told, deaths in battle between 1815 and 1914 were seven times fewer than combat deaths in the previous century. The wars of German unification in the 1860s, the Russo-Turkish war of 1877-78 and similar conflicts were swiftly resolved by decisive victories for one side or the other. Even the Crimean war of 1854-56 did not move much beyond the hinterland of the Black Sea. In the 19th century fear of the upheaval and destruction caused by the French revolutionary and Napoleonic wars brought the leading European states together time and again in what was known as the Concert of Europe to resolve potential conflicts through international conferences. Though it was severely damaged in the 1850s and 1860s, the Concert was patched together again in the 1870s, when the Congress of Berlin redrew the map of the Balkans, while another Berlin conference sorted out colonial rivalries (without, needless to say, consulting any of the millions of people about to be colonised) in 1884. These institutions, like the United Nations of today, provided a forum in which diplomats and statesmen could work together to avoid war, and they largely succeeded. If there is no sign that the UN, for all its inadequacies, is about to collapse, it is not least because the postwar settlement of 1945 rested on a general recognition that international co-operation in all fields had to be stronger than it was under the League of Nations, the UN’s ill-fated predecessor. The destruction caused by the Second World War, with its 50 million or more dead, its ruined cities, its genocides, its widespread negation of civilised values, had a far more powerful effect than the deaths caused by the First World War, which were (with exceptions, notably the genocide of a million or more Armenian civilians, killed by the Turks in 1915) largely confined to troops on active service. In 1945, Hiroshima and Nagasaki provided an additional, ter­rible warning of what would happen if the world went to war again.

# 2NC

## T

### Violation---Antitrust Laws---2NC

#### ‘Antitrust law’ excludes sectors---that’s the realm of regulations.

Maggiolino ’15 [Mariateresa; October 30; Law Professor at the University of Bocconi; Competition Law as Regulation, “The regulatory breakthrough of competition law: definitions and worries,” Ch. 1, p. 13]

40 While antitrust law – and, in particular, the provisions about anticompetitive arrangements and monopolistic conduct – is thought to work as an ex post means, i.e. as a surgeon’s knife that eradicates the evil that is actually plaguing the market, economic regulation is meant to serve as an ex ante tool, i.e. to dictate in advance what prophylaxis the market should follow to avoid any pain that medicine says will or could occur. In particular, while the Chicagoan conception of competition law cannot but be backward-looking and fact-based, i.e. focused on what the involved firms did (or are doing) and on what specific market scenarios characterized (or still characterize) their acts, sector-specific, rate-and-entry regulations are also forward-looking and theory-laden, i.e. focused on what firms are expected to do, and on what events are expected to happen according to the economic theory called on to explain how markets function and develop.

### Violation---Anticompetitive Practice---2NC

#### ‘On’ means prohibitions must target ‘anticompetitive business practices.’

Clapp ’20 [Joseph; January 29; J.D. at the McGeorge School of Law, Attorney at Aiman-Smith & Marcy; Brief on Appeal from a Judgment of the United States District Court for the Central District of California, “Sadashiv Mares, Plaintiff and Appellant, v. Swift Transportation CO. of Arizona, LLC Defendants and Appellees.,” WL 589275]

The key to the interpretation of the phrase “on CMV safety” lies in the interpretation of the preposition “on.” This preposition is not defined in the statute, and thus the Court should give the word its ordinary meaning. Taniguchi v. Kan Pac. Saipan, Ltd., 566 U.S. 560, 566 (2012). In one dictionary, the preposition “on” is defined as “having (the thing mentioned) as a topic,” or “having (the thing mentioned) as a target, aim, or focus.” The New Oxford American Dictionary 1224 (3d ed. 2010). In another, it is defined as indicating “the subject of study, discussion, or consideration.” http://www.merriam-webster.com/dictionary/on (definition 9d).

Thus, for a State law to fall within the meaning of the phrase “on CMV safety,” it must be a law whose *topic* or *subject* is CMV safety. But look at Wage Order 9, Section 12(A), the rest period provision. Nothing in that section mentions motor vehicles at all. Nothing in that section mentions commercial motor vehicles at all. Nothing in that section mentions the safety of commercial motor vehicles. The safety of commercial motor vehicles is simply not the topic or the subject of these \*23 provisions of the Wage Order.

Indeed, the FMCSA itself has previously recognized that California rest period laws are not laws “on CMV safety.” Back in 2008 the FMCSA was asked to preempt these same laws, but at that time it refused on the ground that:

“The meal and rest break rules for [commercial motor vehicle] drivers are simply one part of California's comprehensive regulations governing wages, hours and working conditions. Because these rules are in no sense regulations 'on commercial motor vehicle safety,' they are not subject to preemption under 49 U.S.C. 31141.” 73 Fed. Reg. 79204, 79205 (Dec. 24, 2008).

The FMCSA was right in 2008. In no sense are the California rest period laws narrowly targeted on CMV safety; instead, they are “broad laws pertaining to hundreds of different industries.” Dilts v. Penske Logistics, Inc., 769 F.3d 637, 647 (9th Cir. 2014). Indeed, “They are the normal background rules for almost all employers doing business in the state of California.” Id. Thus, according to the plain meaning of the statutory text, California's rest period laws are not included within the ambit of laws “on CMV safety.”

#### Those exclude individual harm.

Payne ’95 [Roy S; August 24; United States Magistrate Judge; Westlaw, “Giddens v. City of Shreveport,” 901 F. Supp. 1170]

In this context, “anticompetitive” is a term of art that refers “not to actions that merely injure individual competitors, but rather to actions that harm the competitive process.” Clamp–All Corp, 851 F.2d, at 486. “[T]he rule of reason requires plaintiffs to show that the defendants' actions amounted to a conspiracy against the market—a concerted attempt to ... reduce consumer welfare.” Consolidated Metal Products v. American Petroleum Institute, 846 F.2d 284, 293 (5th Cir.1988) (emphasis added). “Accordingly, a showing that the defendants harmed the plaintiffs is not enough to prove a violation of section 1 under the rule of reason.” Id.

12 In this case, plaintiffs fail to establish an anticompetitive practice within the meaning of antitrust law. The only types of towing and storage transactions at issue in this case are those in which the vehicle owner, for whatever reason, is unable or unwilling to participate in the decision of where his vehicle will be stored. Both before and after the amendment to the ordinance, the consumer simply did not participate in the storage decision. Thus, it is not possible to conclude that the change to a central storage facility, even if injurious to the business interests of some of the plaintiffs, reduced consumer welfare or bargaining power. Any instance where the consumer is involved in the decision of where his vehicle is to be stored is beyond the purview of this case (and there is of course no city ordinance which prohibits an owner from storing his vehicle at the location of his choice).

### Violation---AT: Expand---2NC

#### ‘Scope’ denotes a general range.

Johnson ’89 [William R; April 7; Justice on the New Hampshire Supreme Court; Westlaw, “Appeal of Rehabilitation Associates of New England,” 131 N.H. 560]

Neither “nature” nor “scope” are defined in RSA chapter 151–C and we therefore give the words their plain and ordinary meaning. See Leavitt v. Hamelin, 126 N.H. 670, 671, 495 A.2d 1286, 1287 (1985). The ordinary meaning of “nature” in the context of the “nature ... of the project” is “essential character.” WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1507 (unabridged ed. 1961). The term “scope,” as in “scope ... of the project,” denotes the “general range or extent of ... activity.” Id. at 2035. In the instant case, the “nature” of the project thus refers to its character as a comprehensive rehabilitation facility, including the treatment of head injuries. The “scope” of the project includes factors such as the number of beds and the total capital expenditure of the project.

## CP

### 2NC---AT: PDCP

#### Anti-trust is distinct from regulations---lit consensus

Crane 8—Visiting Professor, New York University School of Law (Daniel, “Technocracy and Antitrust,” Texas Law Review 86, no. 6 (May 2008): 1159-1222, dml)

It is common to describe antitrust and regulation as the two competing choices facing governments wishing to place controls on market economies. 133

FOOTNOTE 133. See, e.g., W. KIP VISCUSI, JOSEPH E. HARRINGTON, JR. & JOHN M. VERNON, ECONOMICS OF REGULATION AND ANTITRUST xviii (4th ed. 2005) ("The traditional emphasis of economics textbooks on business and government is on the character of regulations and antitrust policies.").

For example, as a judge on the First Circuit, Justice Breyer—a longtime fan of technocratic solutions 134—described antitrust and regulation as substitutable legal controls:

"[R]egulation" and "antitrust" typically aim at similar goals—i.e., low and economically efficient prices, innovation, and efficient production methods—but they seek to achieve these goals in very different ways. Economic regulators seek to achieve them directly by controlling prices through rules and regulations; antitrust seeks to achieve them indirectly by promoting and preserving a process that tends to bring them about. 135

Historically, bureaucratic regulation and adjudication under antitrust norms were considered the two primary choices for implementing controls on the behavior and structure of large commercial enterprises. 136 The regulatory model was associated with the Interstate Commerce Commission (ICC), which was created three years before the Sherman Act and had regulatory control over national railroads. 137 The ICC was the first independent regulatory body in the United States 138 and provided an early representation of the technocratic model. 139 The commissioners were to be railroad experts insulated from political influence who would engage in the technical business of rate setting, ex ante rule making, and general administration of the nation's railroads. 140

When the Sherman Act was framed three years later and the FTC Act twenty-seven years later, following the ICC model of regulation was a possibility. 141 But Congress chose not to create an antitrust regulatory body along the lines of the ICC. Instead of regulation as an antitrust mode, Congress chose adjudication. The Sherman and FTC Acts create highly generalized and open-textured antitrust norms—no restraints of trade, monopolization, or unfair trade practices 142—which the courts then flesh out through a process of common-law-like iteration in active disputes.143

#### “Expanding the scope” of “anti-trust laws” must be the DOJ and FTC.

Jarod Bona 21. Bona Law PC. "Five U.S. Antitrust Law Tips for Foreign Companies". Antitrust Attorney Blog. 1-16-2021. https://www.theantitrustattorney.com/five-u-s-antitrust-tips-foreign-companies/

1. Two federal and many state agencies enforce antitrust laws in the United States

The United States government has two separate antitrust agencies—the Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DOJ). The FTC is an independent federal agency controlled by several Commissioners, while the Antitrust Division of the DOJ is part of the Executive Branch, under the President.

Both of them enforce federal antitrust laws (among other laws). Their jurisdictions technically overlaps, but they tend to have informal agreements between each other for one or the other to handle certain industries or subjects. If you are part of a major industry, your antitrust lawyer may be able to tell you whether the DOJ or FTC is likely to oversee competition issues in your field.

## Adv---Uncertainty

### 2NC---OV

#### Comparatively outweighs the benefits of hegemony

Christopher Preble 16, vice president for defense and foreign policy studies at the Cato Institute. PhD in History from Temple University. With William Ruger. 2016. “The Problem With Primacy.” In “Our Foreign Policy Choices, Rethinking America’s Global Role” https://poseidon01.ssrn.com/delivery.php?ID=741072022102024090075118113101083026016056000029024069069123111076082080009064093108016120111006027011049007074022115108007102123042042011081092085100005025006088070001052041101115092080116097001012108114029011071004086091092118120095090091004096029029&EXT=pdf

Another key problem is that primacy inadvertently increases the risk of conflict. Allies are more willing to confront powerful rivals, because they are confident that the United States will rescue them if the confrontation turns ugly, a classic case of moral hazard, or what Barry Posen calls "reckless driving." Restraining our impulse to intervene militarily or diplomatically when Our vital national interests are not threatened would reduce the likelihood that Our friends and allies will engage in such reckless behavior in the first place. Libya and Georgia are only two cases of this problem. Plus, a more restrained U.S. foreign policy would provide a powerful incentive for allies to share the burden of defense. Primacy has not stopped rivals from challenging U.S. power. Russia and China, for example, have resisted the U.S. government's efforts to expand its influence in Europe and Asia. Indeed, by provoking security fears, primacy exacerbates the very sorts of problems that it claims to prevent, including nuclear proliferation. U.S. efforts at regime change and talk of an "axis of evil" that needed to be eliminated certainly provided additional incentives for States to develop nuclear weapons to deter U.S. actions (e.g„ North Korea). Meanwhile, efforts intended to smother security competition or hostile ideologies have destabilized vast regions, undermined Our counter- terrorism efforts, and even harmed those we were ostensibly trying to help. After U S. forces deposed the tyrant Saddam Hussein in 211)3, Iraq descended into chaos and has never recovered. The situation in Libya is not much better; the United States helped Overthrow Muammar el-Qaddafi in 2011, but violence still rages. The Islamic State, which Originated in Iraq, has now established a presence in Libya as well. It is clear that those interventions were counterproductive and have failed to make America safer and more secure.

#### Best data goes aff

**Monteiro ’14** (Nuno; 1/1/14; Ph.D. and M.A. in Political Science from the University of Chicago, M.A. in Political Science and Theory from the Catholic University of Portugal, B.A. in IR from University of Minho, Assistant Professor of Political Science at Yale University; Cambridge University Press, “Theory of Unipolar Politics,” p. 181-184) \*Edited for clarity

At the same time, the first two-and-a-half decades of our unipolar system have [has] been **anything but peaceful** in what concerns U.S, involvement in interstate conflict. U.S. forces have been employed in **four interstate wars** – Kuwait (1991), Kosovo (1999), Afghanistan (2001-), and Iraq (2oo3-2011) – in addition to many smaller interventions including Bosnia, Haiti, Somalia, and Sudan.5 As a result, the United States has been at war for **fifteen of the twenty-five years** since the end of the Cold War, In fact, the first two-and-a-half decades of unipolarity — representing around 1o percent of U.S. history account for more than 30 percent of the nation's total wartime.6 For critics of U.S. interventionism, "the central question [of contemporary international politics] is how to contain and moderate the use of military force by the United States."8 Table 5 presents a list of great powers divided into three periods: from 1816 to 1945, multipolarity; from 1946 to 1989, bipolarity; and unipolarity since 1990.9 Table 6 then presents summary data about the incidence of war during each of these periods. Unipolarity is **by far the most conflict prone** of all systems according to two important criteria: the percentage of years that great powers spend at war and the incidence of war involving great powers. In multipolarity, 18 percent of great-power years were spent at war versus 16 percent in bipolarity. In unipolarity, in contrast, a remarkable 64 percent of great-power years have been until now spent at war – **by far the highest percentage** in all systems. Furthermore, during multipolarity and bipolarity the probability that war involving a great power would, break out in any given year was, respectively, 4.2 percent and 3.4 percent. Under unipolarity, it is 16.o percent – or around **four times higher**. It might be argued that the higher number of years that great powers spent at war under unipolarity are merely the result of the long, grinding, and unforeseen occupations of Afghanistan and Iraq by U.S. forces.11 But even if these two wars had gone according to U.S. plans – if the Afghanistan War had ended in the spring of 2002 and the Iraq War in the summer of 2003 – unipolarity would still be particularly **prone to great-power involvement** in war. Even if the United States had not occupied either Afghanistan or Iraq, it would still have spent 16.0 percent of the post-Cold War years at war, which is about the same as the respective percentages for bipolar and multipolar systems. In other words, even if the United States had refrained from any military occupations, the frequency of its use of military force in major operations would still give us **no reason to believe** that unipolarity is any more peaceful than any other past configuration of the international system. As things turned out in both Afghanistan and Iraq, the last two-and-a-half decades saw a sharp increase in both the incidence of conflict and the percentage of great-power years spent at war. This is a particularly puzzling finding given that the current unipole – the United States – is a democracy in a world populated by more democracies than at any time in the past. In light of arguments about how democracies are better able to solve disputes peacefully, choose to engage only in those wars they can win, and tend to fight shorter wars, the United States should have spent fewer years at war than previous nondemocratic great powers.12 As we can see, post-Cold War history can be used in support of both the widespread claim that the overall level of conflict has declined and of the claim that the United States has experienced an **unprecedented level of involvement** in interstate war. Reality seems to be chafing against the view that unipolarity produces no incentives for confilict; at least in what concerns the unipole's involvement in interstate wars, the past two-and-a-half decades seem to point in **the opposite direction**.

### 2NC---T/C

#### Turns terror, development, ME stability, and nationalism

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In the wake of the terrorist attacks of September 11, 2001, the United States launched an international war on terrorism defined by military intervention, nation building, and efforts to reshape the politics of the Middle East. As of 2017, however, it has become clear that the American strategy has destabilized the Middle East while doing little to protect the United States from terrorism. After 15 years of considerable strategic consistency during the presidencies of George Bush and Barack Obama, Donald Trump now takes the reins having promised to “bomb the sh—” out of ISIS and “defeat them fast.” At the same time, however, Trump broke sharply in his campaign rhetoric from Republican orthodoxy on Iraq and Afghanistan. Whatever President Trump decides to do, an evaluation of the War on Terror should inform his policies. We argue that the War on Terror failed. This failure has two fundamental—and related—sources. The first is the inflated assessment of the terror threat facing the United States, which led to an expansive counterterrorism campaign that did not protect Americans from terrorist attacks. The second source of failure is the adoption of an aggressive strategy of military intervention. The lessons from the War on Terror indicate that it is time for the United States to take a different approach. Policymakers need to acknowledge that although terrorism is a serious concern, it represents only a modest security threat to the American homeland. Further, the United States should abandon the use of military intervention and nation building in the War on Terror. Instead, the United States should push regional partners to confront terrorist groups abroad, while the U.S. returns to an emphasis on the intelligence and law enforcement paradigm for combating the threat against the American homeland. In the wake of the terrorist attacks of September 11, 2001, the United States launched an international war on terrorism defined by military intervention, nation building, and efforts to reshape the politics of the Middle East. As of 2017, however, it has become clear that the American strategy has not delivered the intended results. After 15 years of considerable strategic consistency during the presidencies of George Bush and Barack Obama, Donald Trump now takes the reins, having made a more aggressive approach to ISIS a central plank first of his campaign and, potentially, of his presidency. Noting that America faces a “far greater threat than the people of our country understand,” he has vowed to “bomb the sh— out of ISIS”1 and promised to defeat “Radical Islamic Terrorism, just as we have defeated every threat we have faced in every age before.”2 At the same time, however, Trump has also broken sharply from Republican orthodoxy on Iraq and Afghanistan. He refers to “our current strategy of nation-building” as a “proven failure.” Additionally, he has downplayed the role of democracy promotion, suggesting, for example, that the Obama administration “should never have attempted to build a democracy in Libya.”3 Whatever President Trump decides to do, a dispassionate evaluation of the War on Terror to date should inform his policies. In this policy analysis, we argue that the War on Terror has been a failure. This failure has two fundamental — and related — sources. The first is the inflated assessment of the terrorist threat facing the United States, which led to an expansive counterterrorism campaign focused on a series of actions that have very little to do with protecting Americans from terrorist attacks. The second source of failure is the adoption of an aggressive strategy of military intervention. This is due in large part to the faulty assessment of the terrorism challenge. But it also stems from the widespread belief among Washington, D.C., elites in the indispensable nature of American power and the utility of military force in international politics. Together, these factors have produced an American strategy that is both ineffective and counterproductive. The inescapable conclusion of our analysis is that the staggering costs of the War on Terror have far outweighed the benefits. A recent study by Neta Crawford at Brown University puts the cost of the War on Terror (both money spent to date and required for future veterans’ benefits) at roughly $5 trillion — a truly astonishing number.4 Even if one believes American efforts have made the nation marginally safer, the United States could have achieved far greater improvements in safety and security at far less cost through other means. It is not hyperbole to say that the United States could have spent its money on almost any federal program aimed at saving lives and produced a vastly greater return on investment.5 A careful reading of the lessons from the past 15 years indicates that the United States should abandon the existing strategy in the Middle East for three reasons. First, military intervention and nation building efforts, even at current “light footprint” levels, cause more problems than they solve, including spawning more anti-American sentiment and creating, rather than diminishing, the conditions that lead to terrorism.6 Second, in contrast to the dire picture painted by many observers, including President Trump, the terrorism threat is too small to justify either the existing strategy or more military intervention. Finally, given the first two arguments, the costs of a forward-deployed strategy to fight terrorism are simply too high.7 Our analysis proceeds in four parts. In the first section we review the main objectives of the War on Terror and the key components of U.S. strategy designed to achieve them.8 In section two we document the failure of U.S. policies to achieve the goals articulated by both Presidents Bush and Obama. In section three we explain why War on Terror policies may have yielded the results they did, producing a set of important lessons learned to inform future policy. We conclude by arguing that the United States should ramp down its War on Terror, and we outline the principles of a “step back” strategy regarding ISIS and Islamist-inspired terrorism. U.S. Objectives and Strategy in the War on Terror In the 2003 National Strategy to Combat Terrorism, the Bush administration declared its central objectives in the War on Terror: “The intent of our national strategy is to stop terrorist attacks against the United States, its citizens, its interests, and our friends and allies around the world and ultimately, to create an international environment inhospitable to terrorists and all those who support them.”9 As many observers have noted, 9/11 prompted the Bush administration to radically overhaul the American approach to confronting terrorism. Prior to the attacks of 9/11, the U.S. government viewed domestic terrorism as a matter for law enforcement and international terrorism as a distant threat. Accordingly, American foreign policy focused very little on the issue of terrorism. When the United States did occasionally conduct foreign policy to retaliate for terrorism, such as the attacks on the Berlin disco or the U.S. embassies in Africa, the means were quite limited, as with the 1986 bombing of Libyan command-and-control sites or the 1998 cruise missile strikes in Afghanistan and Sudan. After the attacks of 9/11, terrorism took center stage in national security policy and the limited-response approach gave way to a far more aggressive and expansive strategy that the Bush administration in 2003 called the “4-D” strategy.10 The 4-D strategy to prevent terrorist attacks on the United States comprised four primary missions: to defeat terrorist organizations with global reach, to deny such organizations sanctuaries from which to operate and launch attacks, to diminish the conditions that give rise to the use of terrorism, and to defend the United States through “proactive” defense of the homeland. The logic of the Bush strategy was straightforward. In order to prevent attacks against the United States in the short term, al Qaeda and similar terrorist organizations had to be disrupted and their capabilities degraded. In the medium term, aggressive action against terrorist groups would help deter other groups from attacking and make potential state sponsors of terrorism think twice. In the longer term, security would best be achieved by eradicating the underlying conditions that the Bush administration (and later the Obama administration) believed had given rise to terrorism in the first place. Among these conditions were ethnic and religious conflict, corruption, poverty and lack of economic opportunity, and social and political oppression.11 Military Intervention Since 2001 the most important component of the international War on Terror has been direct military intervention. This decision to confront terrorism with military force, rather than through the more traditional law enforcement framework, has significantly shaped the War on Terror and helped determine its outcomes. At this point it is useful to be clear about terminology. The Department of Defense defines military intervention as “The deliberate act of a nation or a group of nations to introduce its military forces into the course of an existing controversy.”12 We further differentiate between direct and indirect military intervention. Direct military intervention involves sending American troops to fight, occupy, or defend territory in other nations or conducting air strikes (whether via drones or manned airplanes) or missile strikes. Examples of direct military intervention include the invasion and subsequent occupation of Afghanistan and Iraq, the far-flung American drone campaign, U.S. military support for Iraq in its efforts to retake territory from the Islamic State, and U.S. Special Forces supporting local counterterrorism efforts in Tunisia, Somalia, Mali, and Nigeria. Indirect military intervention, on the other hand, involves providing various kinds of support (intelligence, military equipment, advising, money, and training) to facilitate the use of military force by a third party. The effort to arm and train Syrian rebel groups to fight the Islamic State is one example of indirect military intervention. U.S. intelligence, arms sales, and logistical support for the Saudi intervention in Yemen is another. Both forms of military intervention, in turn, are distinct from the wide variety of nonmilitary tools available to the United States. Those tools can be noninterventionist, as in the case of economic sanctions, diplomacy and negotiations, and freezing terrorist groups’ financial assets. Others, however, such as nation building and democracy promotion, are certainly forms of intervention in the sense that they either require American military involvement (such as in Afghanistan and Iraq) or they feature a steady dose of American political pressure and financial assistance aimed at shaping outcomes in another nation. Although it has taken several forms, the central purposes of American military intervention — direct and indirect — have remained consistent since 2001. First and most simply, of course, the goal of military intervention has been to kill terrorists, destroy their organizations, and eliminate their ability to conduct terrorist operations. A critical foundation of this strategy was the belief that the United States could no longer wait until the threat was fully formed. Instead, the United States needed to begin preemptively striking with military force. Beginning with the 2002 National Security Strategy, the Bush administration put forth a doctrine of preventive action against terror threats, even if those threats were not yet imminent.13 As Bob Woodward reported, “Many in the Bush administration felt President Clinton’s prior responses to terror attacks had been weak and inadvertently emboldened terrorists. There would, therefore, be no Clintonian ‘reflexive pullback’ this time.”14 Instead, the Bush administration set the United States on an offensive path, seeking to destroy and defeat terror groups overseas so, as President Bush said, “we do not have to face them in the United States.”15 Second, U.S. officials have viewed the use of military force as a deterrent against future terrorism. Beyond the effort to destroy al Qaeda, the invasion of Afghanistan also served as punishment for the Taliban for harboring the terrorist group and a warning to other state sponsors of terrorism. Similarly, despite the fact that Iraq was not an al Qaeda sponsor, the Bush administration clearly viewed the invasion of Iraq as an important opportunity to show resolve in the “central front in the war on terror.”16 Third, officials have viewed military intervention as a critical tool to prop up weak governments and to prevent terrorist groups from taking territory and staking out safe harbors in weak states. The United States and its European allies have sought to help the newly formed National Unity Government in Libya by conducting air strikes against ISIS, for example. And in Yemen, the United States has conducted drone strikes against al Qaeda in the Arabian Peninsula since 2010 but more recently has provided military and intelligence assistance to Saudi Arabia as it intervenes in support of the embattled Yemeni government.17 It is important to note that the election of Barack Obama provoked little change at the strategic level. In addition to the continued fight against the Taliban and other jihadist groups in Afghanistan and the major efforts against ISIS in Syria and Iraq, the United States under Obama conducted drone strikes, air strikes, and Special Forces operations in Pakistan, Syria, Libya, Somalia, and Yemen.18 It is true that Obama pulled U.S. troops out of Iraq, a move that would later be criticized for spurring the rise of ISIS. But this was not inconsistent with the Bush approach. In the Status of Forces agreement that he signed with Iraq in 2008, Bush committed to withdraw all U.S. troops by 2011. Remaking the Middle East The United States has also invested heavily in efforts to remake and reshape the Middle East in pursuit of longer-run and more fundamental solutions to the root causes of terrorism. Both the Bush and Obama administrations argued that terrorism springs from unhealthy political and economic systems and that terrorist groups will flourish where states are too weak to exert effective control over their own territory.19 The result has been a long-term campaign that started with regime change to depose supporters of terrorism, evolved into democracy promotion and nation building to encourage the development of future allies and well-behaved nations, and finally has left the United States with the challenge of propping up weak and unstable governments. Buoyed by perceived early success in promoting democracy in Afghanistan, President Bush frequently articulated his conviction that America had a responsibility to liberate people.20 In 2003 President Bush announced what he called a “forward strategy for freedom in the Middle East.” After the first elections in Afghanistan and Iraq, President Bush intensified his calls for democracy in the Middle East, promoting it as a cornerstone of the War on Terror.21 Bush believed democracy could provide the transformation necessary to diminish the underlying conditions of terrorism and solve the problem of Islamic extremism.22 National strategy documents promulgated by both the Bush and Obama administrations have identified the promotion of democracy as the long-term solution in the fight against terror and the best way to achieve enduring security for America.23 Beyond regime change and democratization, the United States has also used nation building as a key tool for remaking the region. After disbanding them in 2003, for example, the United States helped rebuild and retrain the Iraqi security forces, although clearly with mixed results.24 Thanks to U.S. efforts, the Afghan security forces now number 350,000.25 As of late 2015, the United States has spent approximately $90 billion training and equipping the Afghan and Iraqi armies and police.26 The United States also has spent $104 billion to help Afghanistan rebuild since 2001 and $60 billion dollars to rebuild Iraq since 2003.27 To handle much of the implementation for these policies, the government established provincial reconstruction teams comprised of military and civilians from the Department of State, the United States Agency for International Development (USAID), and the Department of Agriculture. Those teams infused money and expertise into both countries, with projects ranging in scale from single, manually operated water pumps to hydroelectric dams. Additionally, the teams conducted training for Afghan and Iraqi government officials. Mission Not Accomplished: Assessing the War on Terror By any measure, the war on terrorism has been far-reaching. But despite the scale of this campaign the question remains: What does the United States have to show for all this effort? Measuring the effectiveness of the War on Terror is a tricky business; citizens and experts alike can reasonably argue about the most important determinants of success and failure. Assessments may vary based on the level of analysis being conducted and which outcomes are emphasized (e.g., lives lost, terrorists killed, the destruction of specific terrorist groups, etc.). Regardless of the definition used, however, every assessment should answer the critical question of whether the United States has reduced the terror threat since 9/11. Any assessment should also address whether or not the government has met the goals it set for itself and has pursued consistently for the past 15 years.28 Even by a conservative accounting, the War on Terror has been a failure. First, although the United States has not suffered another major terrorist attack since 9/11, there is no proof that intervention abroad had anything to do with that, despite killing thousands of terrorist group members. Nor has the War on Terror made Americans appreciably safer (nor made them feel safer) than they were before 9/11, in part because Americans were already exceptionally safe and in part because, again, offensive counterterrorism efforts have had little or no connection to the rate of terrorism in the U.S. homeland.29 In fact, the most likely case is that foreign intervention has made Americans somewhat less safe. Second, the United States has not destroyed or defeated al Qaeda, the Islamic State, or any other terror groups of global reach, regardless of how well or poorly the description applies to groups comprised of a few hundred or a few thousand people. Nor, finally, has the United States made a dent in diminishing the underlying conditions supposed to give rise to terrorism. Instead, more Americans have died from terror attacks and there have been more Islamist-inspired attacks within the homeland since 9/11 compared to the same period before, while the number of Islamist-inspired terror groups has proliferated since the War on Terror began. Moreover, the number of terror attacks worldwide has skyrocketed, indicating that the conditions driving the use of terrorism are very likely worse than ever. Figure 1: Islamist versus Non-Islamist Terror Events in the United States Source: Global Terrorism Database at the University of Maryland. In the next several sections we present more detailed discussion of American progress toward each of these key objectives. Objective #1: Preventing Terrorist Attacks in the United States The United States has fortunately not suffered a second major attack on its soil since September 11, 2001. Historically speaking, a major attack is an outlier. Outside of 9/11, terrorists have killed very few Americans in the homeland. Between 1986 and 2001 there were four Islamist-inspired terrorist attacks in the United States, which killed 10 Americans.30 Since the 9/11 attacks there have been eight attacks, killing 88.31As Figure 1 shows, the level of Islamist-inspired attacks has never come close to the rates of non-Islamist terrorism in the United States in the mid 1970s. These data reflect a modest increase with respect to the rate and lethality of Islamist-inspired terrorism since 9/11. But post-9/11 Islamist-inspired terrorism also remains almost invisible when viewed in relation to the more than 230,000 people murdered by fellow Americans during the same period.32 Islamist-inspired terrorists took the lives of less than one-tenth of 1 percent of American murder victims over the last 15 years.33 Americans who are not terrorists carry out nearly all murders in America. What is unclear from the figures alone, however, is what role the international War on Terror has played in shaping that trend. Broadly speaking, the data are consistent with three possible interpretations. The first is that the War on Terror has had little or no effect on Islamist-inspired terrorism against Americans. The second possibility is that the numbers would look far worse in the absence of the War on Terror. The third possibility is that the War on Terror has, in fact, set the conditions for the slight uptick in anti-American terrorism observed since 9/11. The “no effect” possibility comes in two versions. The first is that the 9/11 attacks, although spectacular, did not provide al Qaeda (or any other group) with sufficient strategic justification to repeat them or to work very hard to conduct other, smaller attacks against the United States.34 To date, for example, there is no evidence that any group has plotted or attempted another attack against the U.S. homeland on the scale of 9/11. Although the attacks certainly helped establish the al Qaeda “brand” globally, the attacks failed to convince the United States to leave the Middle East as al Qaeda had hoped.35 Given this, it may be that al Qaeda concluded its resources would produce a better return if applied elsewhere. Meanwhile, regional al Qaeda affiliates are even more devoted to local and regional priorities, as is the Islamic State, which has its hands full fighting on multiple fronts to seize and defend territory in Syria, Iraq, and elsewhere. The second possibility is that improved homeland defense, as opposed to international action, has helped prevent additional attacks. The United States responded to the 9/11 attacks by investing heavily in homeland security, upgrading airline security, hardening ports of entry and major government buildings, and improving intelligence and law enforcement coordination.36 Proponents of this argument also point to as many as 93 plots against the United States that have been foiled by American intelligence and homeland security efforts.37 Whereas al Qaeda had the element of surprise working for them in a significant way in 2001, the same was no longer true afterwards. But even here one has to question whether the United States has been lucky, as opposed to good. Many scholars have offered sharp criticisms of the American homeland security project, suggesting that, despite some improvements, the United States remains essentially as vulnerable as before to terrorists.38 And no matter how many critical nodes the United States attempts to protect, there are a nearly infinite number of potential ways to inflict significant numbers of casualties in such a large and open society. As former Central Intelligence Agency (CIA) Director George Tenet wondered in his autobiography, “it would be easy for al-Qaeda or another terrorist group to send suicide bombers to cause chaos in a half-dozen American shopping malls on any given day. Why haven’t they?”39 In their exhaustive investigation into post-9/11 terrorist plots, John Mueller and Mark Stewart point out that, despite the fact that 173 million foreigners enter the United States legally each year, al Qaeda has conducted exactly zero successful attacks since 9/11. To those who might argue that the United States has, in fact, disrupted many undisclosed plots, Mueller and Stewart argue: “if undisclosed plotters have been so able and so determined to commit violence, and if there are so many of them, why have they committed so little of it before being waylaid? And why were there so few plots in the months and years following 9/11, before enhanced security measures could be effectively deployed?”40 Mueller and Stewart also cite former CIA analyst and terrorism expert Marc Sageman, who told them, “As a member of the intelligence community, who kept abreast of all the plots in the U.S., I have not seen any significant terrorist plots that have been disrupted and not disclosed. On the contrary, the government goes out of its way to take credit for non-plots, such as their sting operations.”41 Contrary to concerns that al Qaeda and ISIS remain a major threat to the United States, historically major terrorist attacks outside of a war zone are quite rare. Before and since 9/11, the most catastrophic terror attacks have occurred almost exclusively in failing states or states at war. Prior to September 11, 2001, the most catastrophic global terror attack caused just over a third of the fatalities of 9/11. That attack occurred in Rwanda during the genocide of 1994, when 1,180 Tutsis seeking refuge in a church were targeted.42 The next most severe terror attack was only a sixth of the size, and it occurred in Iran during the Islamic revolution in 1979.43 Since 9/11, the most catastrophic attacks, ranging from 400 to 1,700 fatalities, have occurred in Iraq, Syria, Nepal, and the Democratic Republic of the Congo.44 The second interpretation of the data, touted by both the Bush and Obama administrations, is that the international war on terrorism — not simply improved homeland security efforts — has prevented acts of terrorism on U.S. soil. The argument here was twofold. First, by killing terrorists and disrupting or destroying their organizations, the United States made it impossible for those groups to strike the United States. Second, by demonstrating American resolve, the War on Terror served as a deterrent since terrorist groups realized the futility of conducting attacks against the United States. History has revealed serious gaps in the strategic logic of the War on Terror. First, despite unprecedented counterterrorism efforts across the Middle East and Northern Africa, the United States has clearly not managed to eliminate the terrorists or destroy their organizations. The initial military action in Afghanistan severely disrupted al Qaeda’s ability to operate there, but as the War on Terror expanded to Iraq and beyond, the limits of conventional warfare for counterterrorism became evident. Militaries are very good at destroying large groups of buildings and people and for taking and holding territory, but they are not designed to eradicate groups of loosely connected individuals who may, at any moment, melt into the civilian population. Even with drones and Special Forces, the ability of the United States to dismantle al Qaeda and its affiliates has proven quite limited. Moreover, the chaos sown by the invasions of Iraq and Afghanistan inadvertently helped spawn the birth and rapid growth of new jihadist groups, including the Islamic State. Second, the argument that U.S. international efforts have had a strong deterrent effect is highly suspect. It is difficult to imagine the United States having provided a more powerful statement of resolve than the invasions of Afghanistan and Iraq, complemented by a steady stream of drone strikes across at least seven different nations. The lesson to future terrorists should have been quite clear: if you attack the United States there will be nowhere to hide; the American military will kill you and, potentially, topple your country’s political regime. Nonetheless, in the wake of the concerted U.S. campaign, the jihadists appear undaunted, with the Islamic state emerging thanks in part to the chaos in Iraq. Today, the Islamic State’s rhetoric and actions align to make clear that the American (and allied) military presence is a far more powerful recruitment tool than it is a deterrent. During the 2015 attacks in Paris, for example, one of the attackers was heard blaming French President Hollande for intervening in Syria.45 Finally, the third possible interpretation of the data is that the War on Terror inadvertently fueled more anti-American terrorism. The argument here is that, had the United States conducted a limited intervention to disrupt al Qaeda, withdrawn quickly from Afghanistan, and not invaded Iraq, many, if not most, of the post-9/11 attacks would not have taken place. Without an ongoing American presence and an active military campaign helping to further radicalize and motivate potential jihadists, observers point out, it is reasonable to expect that there would have been far less incentive for al Qaeda and related groups to attack the United States. Further, had the United States not invaded Iraq, it is doubtful that ISIS would even exist.46 Table 1: Number of Islamist-inspired Terror Groups and Fighters Source: Department of State Country Reports on Terrorism 2000 through 2015, Stanford University’s Mapping Militant Organizations Project. This is not to argue that al Qaeda and ISIS would not still have some desire to strike at American targets even if the United States were not active in the Middle East, but as noted above, it is clear that the Islamic State, at least, is using the American presence in the Middle East as a justification for anti-American terrorism. If nothing else, continued American military action in the Middle East ensures that ISIS will remain highly visible in the news and in the minds of Americans, providing potential lone wolves in the United States inspiration to carry out future attacks. Objective #2: Destroy and Defeat al Qaeda and Terror Groups with Global Reach Although the level of terrorism aimed at Americans has increased only slightly since 2001, the number of Islamist-inspired terrorist groups and terror attacks in the Middle East and elsewhere has skyrocketed.47 Analysts might rightly question how global the reach of some of these new organizations truly is, but the government’s rhetoric over time suggests that we should include any terrorist group capable of launching or even inspiring attacks outside their own home nation. By this measure, the United States has failed to achieve its stated objective. Although American military intervention in Afghanistan and Pakistan effectively put the central al Qaeda organization out of business for some time, al Qaeda affiliates have proliferated around the world, one of which — al Qaeda in the Arabian Peninsula — is routinely identified as the most dangerous group operating today.48 Most troubling on this score, as noted, is that the war in Iraq inadvertently helped pave the way for the emergence of the Islamic State. The growth of the jihadist terrorist enterprise since 2001 has been stunning. When the War on Terror began, there were roughly 32,200 fighters comprising 13 Islamist-inspired terror organizations. By 2015, as Table 1 shows, the estimate had ballooned to more than 100,000 fighters spread across 44 Islamist-inspired terror groups.49 This growth has led to an even more explosive rise in violence — most of which has occurred in the Middle East and Africa. As Figure 2 indicates, there were 1,880 terror attacks worldwide in 2001 when the U.S. began its War on Terror. In 2015 the number was 14,806. Fatalities caused by terror attacks have also increased. As the below figure indicates, fatalities worldwide have risen to unprecedented levels. In 2015, 38,422 people were killed by terrorism — a staggering 397 percent increase from 2001. These figures strongly suggest that the War on Terror has not only failed to defeat al Qaeda and other major terrorist groups, but has also failed to contain the growth of Islamist-inspired terrorism more generally. The argument that things might have been worse in the absence of such an aggressive American effort rings hollow, especially given the manner in which the war in Iraq produced the chaos that gave ISIS room to operate and provided additional motivation and justification for anti-Western attacks. Further, a closer analysis of the chronology of the War on Terror provides support for the conclusion that the United States has made things worse rather than better. As Figure 3 shows, terror attacks rarely occurred before 9/11 in the seven countries in which the U.S. executed military operations as part of its War on Terror. Figure 2: Worldwide Terror — Attacks and Fatalities Source: Global Terrorism Database at the University of Maryland. To investigate the impact of U.S. military intervention, we compared the terror rates between War on Terror states, other Muslim majority countries, the United States, and the global average. Additionally, we created regression models to examine the significance, if any, of U.S. military strikes when controlling for other variables often used in the study of terrorism such as a state’s GDP per capita, economic growth rate, social fractionalization, polity, and education levels (see Appendix 1). As Table 2 reveals, the number of terror attacks rose an astonishing 1,900 percent in the seven countries that the United States either invaded or conducted air strikes in, while other Muslim majority states saw a much more modest 42 percent increase. The regression models also found that countries where the United States conducted air or drone strikes saw a dramatic increase in terror attacks compared to countries where the United States did not conduct strikes.50 Even more startling, the models showed the greatest effect when comparing drone strikes conducted in year one with the number of terror attacks carried out two years later, a finding consistent with the theory that U.S. strikes have a catalyzing effect on terror groups. In short, contrary to the intentions of the U.S. government, as the War on Terror has expanded, it has led to greater levels of terrorism. Figure 3:Terror Attacks Where the U.S. Fought the War on Terror, 1987-2015 Source: Global Terrorism Database at the University of Maryland Table 2: Terrorism Before and During the War on Terror: Average Number of Terror Attacks per Country, per Year Notes: “Before 9/11” captures all terror attacks from 1987-2000 (14 years). “After 9/11” captures all terror attacks from 2002-2015 (14 years). “Muslim Majority” includes all Muslim majority states except the seven War on Terror states. The list comes from the University of Michigan’s Center for the Education of Women http://www.cew.umich.edu/muslim\_majority. The list includes four entries that are not in the Global Terrorism Database. Three are not countries (Mayotte, Palestine, and the Turkish Republic of Northern Cyprus) and one is not in the database (Oman); no explanation could be found for Oman’s exclusion. “Global average” includes all states listed in the Global Terrorism Database, except for the seven War on Terror states — 199 total. Objective #3: Diminishing the Underlying Conditions that Cause Terrorism Neither the Bush nor the Obama administration imagined the War on Terror would be won quickly. Both acknowledged that changing the underlying context of instability and political conflict in the Middle East would take time. Unfortunately, no evidence exists to suggest that there is a single set of conditions which leads to terrorism, nor any evidence to suggest that terrorism will disappear once those conditions have changed. But even if we accept the argument, there has been little sign of progress toward diminishing the underlying conditions that facilitate terrorism, at least as defined by the U.S. government. From the perspective of U.S. strategy to date, diminishing the underlying conditions of terrorism includes both material and intangible aspects. The Bush administration’s 2003 strategy for combating terrorism set forth two objectives in this area: “partner with the international community to strengthen weak states and prevent the (re)emergence of terrorism … [and] win the war of ideas.”51 As to the former, subgoals include resolving regional disputes, fostering development, and bringing about market-based economies and good governance so that states can look after their people and control their borders. Winning the war of ideas involves assuring Muslims that American values are congruent with Islam and supporting moderate and modern Muslim governments. The Bush 2003 strategy document further states that solving the Israeli-Palestinian conflict is “a critical component to winning the war of ideas.”52 The Obama administration’s strategy contains many similar goals while differing in language: counter the ideology, diminish the drivers of violence, and break the cycle of state failure.53 Data show that the United States has failed to diminish the conditions that the government has argued produce terrorism.54 Afghanistan and Iraq have become even more corrupt since the United States began pouring in resources. In Afghanistan and Iraq’s first year in the Transparency International’s Corruption Perception Index (2003 and 2005), they occupied the 26th and 15th percentile, respectively. By 2016, they had plummeted to the fourth and sixth percentile. The average corruption percentile ranking for the seven countries in which the U.S. has conducted military operations has deteriorated by 14 percentage points.55 Additionally, six of the seven countries remain mired in Freedom House’s worst category — not free — although political rights and civil liberties have improved negligibly.56 Finally, in terms of weak and failed states, the State Fragility Index’s characterization of Afghanistan and Iraq remains unchanged. Before the War on Terror began, Afghanistan was in the worst category (extreme fragility) and Iraq was in the second worst (high), and they remain there today. Of the other five countries, three have worsened and two remain unchanged.57 Explaining Failure The failure of the War on Terror has two fundamental — and related — sources. The first is the inflated assessment of the terrorist threat facing the United States, which led to the decision to commit to an expansive counterterrorism campaign focused on a series of actions that have very little to do with protecting Americans from terrorist attacks. The second source of failure is the adoption of an aggressive strategy of military intervention, which was largely driven by the failure to define the terrorism challenge accurately. But it also stems from the widespread belief among Washington, D.C., elites in the indispensable nature of American power and the utility of military force in international politics. Together, these factors have promoted an American strategy that is both ineffective and counterproductive. Error #1: America’s Inflated Assessment of the Terrorist Threat The September 11 attacks were devastating, and given America’s lack of experience with such events, fear, confusion, and overreaction were understandable responses in the short run.58 But with the benefit of hindsight it is clear that the terrorist threat to the United States is, in fact, much smaller than originally imagined.59 Unfortunately, rather than correct the initial threat assessment, political leaders from both parties (and like-minded think tanks) have continued to portray terrorism as a very large, even existential, threat to the United States.60 This inflated view of the terrorist threat led directly to the excessive size, scope and ambition of the War on Terror. Rather than simply looking to punish al Qaeda for 9/11, the Bush administration quickly decided that the United States must not only destroy al Qaeda but all other terrorist groups with global reach and then eliminate the underlying conditions that gave rise to them. Declaring war on terrorism was an exercise in futility. Terrorism is not a disease that can be eradicated through vaccination, but a strategy that all kinds of people have chosen to use for all kinds of reasons in all sorts of places and situations. History shows that terrorism has been a hallmark of wealthy states as well as poor ones, of secular as well as religious groups, and of conservative as well as insurgent and progressive causes.61 The call to eliminate terrorism may play well politically, but it will never be a serious policy proposal no matter how many trillions of dollars the United States spends on it. This is not to deny that al Qaeda and the Islamic State pose a threat to Americans. They do. The question here, however, is whether the American response to 9/11 and the War on Terror — in particular the strategy of military intervention — has been an effective one. By defining the threat in inflated, even existential, terms, the United States has expanded the War on Terror far beyond the necessary boundaries, creating new problems while failing to resolve the original ones, all at a cost that is far too high. Error #2: Flawed Counterterrorism Strategy The American approach to fighting terrorism in the Middle East suffers from three related flaws. First, American intervention has aimed at the wrong target. Political grievances and competition for power in the Middle East, not a radical Islamist hatred of the West, are the primary sources of conflict both in the Middle East and between Islamist groups and the West. Unfortunately, since the beginning of the War on Terror, too many American officials have believed that the motivation for al Qaeda and ISIS terrorist attacks against the United States is primarily an anti-American ideology, hatred of our freedoms, or the desire to destroy the United States.62 Believing that this hatred of the United States is the “on button” for terrorism, America’s short-term strategy has centered on killing those terrorists, while the vision in the longer-term is a battle for the hearts and minds of the Muslim world in order to eliminate negative beliefs about the United States. This long-run strategy involves not only reshaping the narrative about Islam and the West but also reshaping Middle Eastern governments in the Western image. Tragically, this approach has the United States working the wrong problem entirely. The motivation for al Qaeda, its various affiliates, and ISIS are local and regional. They seek, along with many others, to control the political systems of the Middle East. It is true that both ISIS and al Qaeda have discussed the importance of striking the “far enemy” (the United States) as a strategy for recruitment and to weaken the “near enemy” (local Arab governments). But as Osama bin Laden and other jihadist leaders have made clear, the United States is implicated in their plans not because the jihadists hate its freedoms or because the destruction of the Western way of life is their goal, but because American foreign policy blocks their path to power in the Middle East.63 The second flaw in the American strategy is the reliance on military means. Misled by a misdiagnosis of the underlying problem, the United States has pursued an interventionist strategy focused overwhelmingly on destroying terrorist organizations and killing individual terrorists. Research has shown that this is rarely the path toward a permanent solution to terrorist groups.64 Over the past 15 years American efforts have produced short-term effects as jihadists scatter in the face of drone strikes and American intervention. In the longer run, however, military force is the wrong tool for the mission. As the former commander of U.S. forces in Afghanistan, General Stanley McChrystal, has famously noted, the United States can’t “kill its way out” of the war against terror groups such as ISIS and al Qaeda.65 American intervention has likely made things worse. The invasions of Afghanistan and Iraq, along with the toppling of Muammar el-Qaddafi in Libya and the U.S.-supported war in Yemen, have created chaos, allowing insurgent and terrorist groups more room to operate. Drone strikes, targeted killings, and the enduring American presence in these places have also generated more anger and resentment toward the United States, boosting jihadist propaganda and recruiting efforts.66 Nor is the resentment limited to the jihadists themselves. Public attitudes in many Muslim-majority countries toward the United States cratered in the wake of the 2003 invasion of Iraq and have remained dismal since then.67 In the absence of continued U.S. intervention, al Qaeda and ISIS would likely have had less motivation to carry out such attacks — at least in the United States. Faisal Shahzad, who attempted to set off a bomb in New York’s Times Square in 2010, illustrates the dynamic. In court, Shahzad explained his actions, “I want to plead guilty 100 times because unless the United States pulls out of Afghanistan and Iraq, until they stop drone strikes in Somalia, Pakistan and Yemen and stop attacking Muslim lands, we will attack the United States and be out to get them.”68 Shahzad’s words echo the repeated statements of terror leaders such as Osama bin Laden and Ayman al-Zawahiri.69 In various strategy documents they highlight the centrality of America (and Israel) to their recruiting success. The U.S. government seems to understand this, at least in theory. As early as 2004, a Defense Science Board report noted that “American actions and the flow of events have elevated the authority of the Jihadi insurgents and tended to ratify their legitimacy among Muslims, identifying both U.S. support of Israel and the American occupation of Iraq as examples.”70 A 2006 National Intelligence Estimate concluded “the American invasion and occupation of Iraq . . . helped spawn a new generation of Islamic radicalism.”71 A 2011 study of terrorist plots against the United States between 2001 and 2010 by the Los Angeles division of the Federal Bureau of Investigation (FBI) found the same: “Two central themes galvanized actors: anti-U.S. sentiment based on a perception that the United States was at war with Islam, and the belief that violent jihad was the righteous, and in fact, requisite response.”72 And finally, a 2012 study by the FBI concluded that the number-one motivation for homegrown terrorist attacks in the United States was radicalization caused by anger at American military intervention against Middle Eastern nations.73 Finally, American leaders also fell prey to the conceit that they could reshape the politics of other nations. Both the Bush and Obama administrations believed that terrorism emerges, in part or whole, from factors such as poverty, deprivation, and an inability to engage in the political process. Although academic research reveals these assumptions to be flawed, the notion that the United States will not be safe from terrorism until the Middle East is stable, prosperous, and democratic has been a motivating principle behind America’s longer-term strategy of regime change and nation building.74 Although it might benefit the United States if Middle Eastern countries evolved into Western-style democracies, there is no evidence that the United States itself can play a determining role in making it happen, especially via military intervention. The results to date from Afghanistan and Iraq suggest that not even massive American intervention is enough to ensure permanent, positive change.75 The real question is why anyone in the United States believes that it would be possible for Americans to reshape Middle Eastern governments and societies. The U.S. track record of military intervention in civil conflicts is long and tragic. Well before Afghanistan and Iraq, the United States imagined it could impose political solutions on the Philippines, Vietnam, and the Dominican Republic, just to name a few failures. Nor does military victory improve the odds. The results of efforts to impose democracy via military means are dismal.76 Postwar nation building, especially by outside powers mistrusted (or actively opposed) by local populations, likewise has a poor track record.77 The notion that the United States could topple Saddam Hussein, for example, and then impose a new political system and an effective (and nonsectarian) new military force was a dangerous fantasy. The United States often fails to achieve desired outcomes in its own domestic matters. It is difficult to see why U.S. officials have imagined they would succeed in achieving sweeping outcomes in another nation’s political system. Stepping Back from the War on Terror How should these lessons from the failure of the War on Terror inform President Trump’s strategy for confronting ISIS and Islamist-inspired terrorism moving forward? The United States confronts three basic strategic options for dealing with ISIS, al Qaeda, and future variants of jihadist terrorism. First, the United States can maintain the current course. The goal of such a strategy would be to contain and eventually defeat (or simply outlast) ISIS and other groups by continuing to rely heavily on local partners and without introducing much, if any, additional American firepower into the conflict. Those who favor the “steady on” approach tend to view terrorism as a moderate-sized threat and believe that the current strategy is slowly but steadily making progress against ISIS. This group generally agrees that major American intervention was counterproductive and believes local forces are the best suited to fight ISIS, but sees an important supporting role for the United States.78 Until Trump’s election, the weight of establishment opinion on both the right and left appeared to be roughly in line with the strategy followed by the Obama administration, with debate occurring over relatively minor adjustments to the strategy such as humanitarian corridors or no-fly zones. Second, the United States could choose to step up the fight. The goal of this strategy would be to increase — significantly — the American commitment to the maintenance of security and stability in Afghanistan, Iraq, Syria, and perhaps even Libya and Yemen. By bringing enough firepower and pressure to bear, supporters argue, the United States could destroy the Islamist-inspired terrorism threat, encourage the development of peaceful political systems, and prevent the reemergence of terrorism. Despite widespread support for the status quo there is also a substantial minority that favors stepping up the fight against ISIS.79 While the president’s rhetoric suggests little interest in nation building abroad, both his campaign promises and operating style indicate expanded military efforts in the War on Terror are likely. Those who prefer this option believe that the terrorism threat is large enough to justify a great deal more effort than the United States is currently making. Former National Security Adviser General Michael Flynn, for example, has written that the fight against terrorism is a world war.80 Like Flynn, most supporters for stepping up the fight believe that the current strategy is ineffective. The reasons given for the failure so far vary, but many believe that the central problem has been the unwillingness of the United States to commit enough military and political capital. The answer, from this view, is that the United States should do much more in the Middle East and surrounding region, including both bringing additional military pressure to bear and continuing the nation-building efforts in Afghanistan, Iraq, and elsewhere. Members of a bipartisan group, including retired Generals McChrystal and Petraeus, for example, recently called on the United States to make a “generational commitment” to Afghanistan and to invest substantially more in order to ensure security and stability there.81 Our analysis, however, clearly illustrates that the United States should rule out both the step-up option and the steady-on option. Neither ISIS nor the broader problem of Islamist-inspired terrorism represents enough of a threat to justify an expansive, aggressive, and costly series of overseas campaigns. Even under Obama, the “light footprint” approach continued to put thousands of Americans at risk carrying out nation building and terrorist killing missions that produce more problems than they solve, all at enormous financial cost. Instead, the United States should take a step back from the fight. Though we do not attempt here to consider all of the potential strategies or tactics, we argue that the right general direction for the United States is to reduce the level of military intervention, suspend efforts at nation building, and end direct efforts to dictate political outcomes in the Middle East. This approach would seek to reduce the incentive for anti-American terrorism by disengaging from what are primarily civil wars in the Middle East. Although the eventual details will depend on many factors, the Trump administration should embrace four main recommendations as it rethinks U.S. strategy: 1. Redefine the Objectives of the Fight against Terrorism to Align with the Limited Nature of the Threat In recognition that terrorism is a far more limited threat than U.S. officials have generally acknowledged, the first thing policymakers should do is right-size the goals of American counterterrorism strategy. Specifically, the United States must abandon the goal of destroying al Qaeda, its various affiliates, and ISIS, and the fantasy of eradicating the causes of terrorism. In addition, the United States should scale back its efforts to deny sanctuary to terrorist organizations, which have proven similarly hapless. The United States cannot rid the world of all terrorist organizations, eliminate the conditions that give rise to terrorism, nor can it prevent small groups from finding safe havens. As the past 15 years have made clear, the United States does not need to do any of these things to maintain a high level of security. Homeland security efforts may or may not have been necessary to prevent many attacks at home, but unlike foreign intervention, they did not make things worse. Instead of seeking victory in a War on Terror, the United States should work to manage the threat of terrorism, narrowing its counterterrorism strategy to focus primarily on the defense of the homeland. Intelligence services should continue to monitor global networks to track possible threats from terrorist organizations abroad but, since 2001, those threats have come overwhelmingly in the form of individuals who already live in the United States and are not members of al Qaeda or ISIS. In contrast to fighting a war on terrorism, the strategic management of terrorist threats requires recognizing that some amount of anti-American terrorism is inevitable. Although this is unpleasant to acknowledge, it is a necessary starting point for an effective strategy. 2. End Direct Military Intervention and Nation Building in the Greater Middle East The narrower goal of homeland defense does not require the United States to pursue the complete destruction of foreign terrorist organizations, the assassination of individual terrorist leaders, or the prevention of negative political and military outcomes in the Middle East or North Africa. Thus, the United States should withdraw its troops from Afghanistan, Iraq, Syria, and other nations. It should also end the drone campaigns carried out as part of the War on Terror throughout the region. Although there may be situations in the future that warrant direct military intervention against a terrorist organization, military strikes should not be a regular part of U.S. counterterrorism strategy. Likewise, the United States should cease coercive efforts to promote democracy and nation build in the Middle East. The military intervention and subsequent occupation and intrusive political pressure required for such efforts have created chaos and resentment and fueled additional terrorism, as events in Afghanistan, Iraq, Libya, Syria, and Yemen attest. And despite 15 years and an enormous investment of money and lives, U.S. efforts in Afghanistan and Iraq have produced little progress toward long-term peace and stability. There is little evidence that another 15 years will produce anything different. Advocates of intervention on both the left and the right will complain that such a withdrawal carries too much risk. It is certainly true that an American withdrawal will put added pressure on local actors to confront jihadist organizations. In the short run, especially, this may allow ISIS and various al Qaeda franchises the ability to function more freely. In the case of Afghanistan, it may even pave the way for the Taliban to retake nominal control of the country if the current government cannot secure its own territory. These objections ring hollow, however, in light of the American experience since 9/11. A decade and a half’s worth of evidence shows that the interventionist camp’s confidence in the effectiveness of military intervention is misplaced. Fifteen years of significant efforts have failed to stabilize the region or diminish the jihadist enterprise. Instead, the visible and militarized presence of the United States has helped feed the growth of terrorism and anti-American sentiment throughout the Middle East. Pulling U.S. troops out of the region, ending drone strikes, and withdrawing from the direct fight against ISIS will not only reduce casualties that stem from the military campaign, but may further reduce the likelihood of future terrorist attacks against the United States. 3. Support Regional Partners to Take the Lead in Confronting Terrorism through Indirect and Multilateral Channels Terrorism is not a big enough threat to warrant direct American military intervention. The United States should make it clear to its Middle Eastern partners that, although the United States opposes ISIS and supports the development of open societies in the Middle East, the tasks of dealing with terrorism and governance are regional responsibilities. What support the United States does provide, however, should be indirect and, whenever possible, should be provided through the United Nations or other multilateral institutions in order to defuse the “West versus Islam” narrative that the War on Terror has unfortunately reinforced. The fewer obvious signs of Western presence in the Middle East there are, the clearer it will be that the clash is not between the West and Islam, but between factions fighting for control of the Middle East.82

### 2NC---AT: Deterrence Solves

#### Reasons deterrence empirically worked are no longer true---dominance causes crises escalation

Fitzsimmons 17 – (Michael, Visiting Research Professor at the Strategic Studies Institute, U.S. Army War College; 11/6/17; THE FALSE ALLURE OF ESCALATION DOMINANCE; https://warontherocks.com/2017/11/false-allure-escalation-dominance/)

Is escalation dominance still relevant to U.S. strategy today? A debate on this question may soon be revived. In the next few months, the Trump administration will publish the results of its Nuclear Posture Review, the first comprehensive review of U.S. nuclear strategy and capabilities since 2010. Among the topics most worth watching is whether and how the review addresses U.S. strategy for managing escalation. Perhaps even more than the Obama administration’s team in 2010, the current Nuclear Posture Review authors must confront a growing risk of escalation from limited regional conflicts to nuclear war. Tensions with North Korea may pose the most obvious of such risks at the moment, but unfortunately, the problem is broader and more deeply rooted. Two related factors account for this growing risk. First, the erosion of U.S. conventional superiority — especially with the growing sophistication of “anti-access / area denial” capabilities — means adversaries may be increasingly tempted to engage in quick, limited, territorial aggression — a fait accompli — against a U.S. ally. For China, this could be over contested islands in the South or East China Seas or over Taiwan. For Russia, it could be anywhere in its “near abroad,” even against the Baltic NATO allies. On the Korean Peninsula, U.S. conventional superiority remains intact, but major gains in North Korea’s nuclear and missile capabilities could serve as a shield for a number of different limited provocations against South Korea. However, even where U.S. power projection advantages over regional challengers may be strained, they are still sufficiently robust to potentially foil or reverse an attack. So the result of this evolution in conventional military balances is a set of increasingly plausible scenarios in which a nuclear-armed power launches a limited attack on its neighbor, only to find itself on the verge of conventional defeat at the hands of the United States. The second risk driver is the presence, in precisely these limited-war scenarios, of asymmetric interests between the United States and its potential adversaries. In conflicts over, say, Taiwan, South Korea, or Lithuania, U.S. rivals could plausibly calculate that their resolve is decisively superior to that of the United States. While these conditions are not new, their danger is heightened when paired with the conventional balances described above. In such cases, nuclear threats or even limited nuclear use could become an aggressor’s last-ditch war-winning strategy. “Escalate to de-escalate,” as some Russians may (or may not) put it. Or, as Brad Roberts has put it, U.S. rivals have “nuclear theories of victory.” In light of these dynamics, there is a natural temptation for U.S. policymakers to seek solutions in a strategy like escalation dominance. Interest in the concept has waxed and waned over the past 50 years, peaking in the later part of the Cold War. Even then, many considered this level of ambition to be more dangerous than stabilizing in light of the approximate U.S.-Soviet parity in capabilities that prevailed then, and the concept was never codified explicitly in U.S. declaratory policy. But after the Cold War, U.S. planners effectively became, in Elbridge Colby’s words, “accustomed to escalation dominance,” thanks as much to the course of historic events as to deliberate strategy. Analysts often saw American escalation dominance as a key to regional stability. Today the concept continues to generate some interest among think tanks and other analysts focused on nuclear strategy and regional security issues. Escalation dominance may also exert some indirect influence on policymakers’ strategic thinking. Many military and civilian leaders are not steeped in details of nuclear strategy debates, but may find that the concept’s philosophy and intellectual pedigree resonates with their intuition about the need for dominance. Indeed, escalation dominance is superficially appealing. Its deterrent logic is easy to grasp. What could dissuade a regional challenger more effectively than comprehensive superiority? And it comports well with the strategic habits of mind ingrained in a generation of U.S. policy makers by unrivaled post-Cold War military superiority. Nevertheless, the concept has always suffered from serious flaws and is particularly poorly suited to the regional deterrence challenges the United States faces in the 21st century. At least five problems are cause for concern. Asymmetric stakes. As already noted, one of the key sources of escalation risk is the asymmetry of interests between prospective combatants. The most plausible scenarios of escalation involve core, vital interests of the challengers juxtaposed with American extended deterrence commitments to allies and partners. For instance, the United States seeks to deter a Chinese attack on Taiwan. But under extreme circumstances, Chinese leaders may well see the survival of their regime riding on a military victory, while U.S. stakes in protecting Taiwan lie in more abstract goals of maintaining stability, order, and deterrent credibility. Will the United States really engage in nuclear war over Taiwan? Or, in a NATO-Russia conflict, risk trading Virginia Beach for Vilnius? Such potential imbalance of interests is a long-standing problem of extended deterrence. Thomas Schelling famously observed that escalation may take the form of a “competition in risk taking,” and therefore may be governed at least as much by “balance of resolve” as by balance of capabilities. This poses a challenge for any escalation management strategy, but is especially problematic for escalation dominance, which relies heavily on superiority in capabilities. While theoretically plausible, establishing “dominant” resolve as well as dominant capabilities is a difficult standard to meet in a conflict where a capable, nuclear-armed rival has already gambled great stakes. Conventional balance. For escalation dominance to produce the desired deterrent effect, both parties must recognize one side’s superiority at multiple levels of escalation, below and above the nuclear threshold. Superiority itself is of no use if it goes unrecognized or doubted. On this point, escalation dominance faces another formidable obstacle. As alluded to above, the longstanding conventional capability gap between the United States and both China and Russia has shrunk in recent years. The match-ups are becoming too closely balanced to confidently predict that one side will prevail, especially in those fait accompli scenarios in which an adversary seeks a quick victory enabled by local tactical advantages. Even analysts who believe that relative regional shortfalls in U.S. conventional strength have been exaggerated could readily agree that America’s ability to dictate the pace and intensity of a conventional war has diminished. Information and decision-making challenges. Crisis decision-making is subject to a host of extra-rational factors and information limitations, which makes it difficult for actors to precisely evaluate their rivals’ escalation thresholds. In a crisis involving nuclear weapons, factors like time pressures, risk tolerance, incomplete or conflicting intelligence, and psychological stress are a few of the unpredictable elements that complicate fine-tuned chess moves of escalation. This is true regardless of one’s escalation management strategy, but its pathologies may be magnified by a strategy that depends on establishing and communicating superiority at every turn. The party asserting dominance may be more apt to underestimate its adversary’s resolve, while the ostensibly “dominated” party may become more risk-tolerant in the face of a tempting but fleeting opportunity for successful escalation of its own. Similarly, misperception of adversary behavior, intent, and communication is a common feature of international affairs and military history, including in cases of crisis escalation. Even if U.S. decision makers are confident of their own information and analysis, it is not possible to reliably discern adversary values and interpretations of thresholds. In a seminal 2008 study of escalation, RAND Corporation analysts concluded that, relative to the Cold War, “predicting how [U.S. opponents] will perceive U.S. actions is not dramatically easier and, in some cases, can be even more challenging.” Influence of new technologies. Rapidly improving and proliferating capabilities in long-range precision strike, and cyber and space operations have complicated the concept of an escalation “ladder.” Kahn’s original ladder with 44 rungs spanning conventional and nuclear war was already quite complex. Today, the menu of non-nuclear options available to strategic competitors to signal or attack each other has expanded dramatically. Whether the proper metaphor for 21st-century escalation is a ladder or a vortex or something else entirely, there is little doubt that contingency planning for escalation is harder than ever. Where in the hierarchy of escalation does a disabling but reversible Chinese attack on U.S. military satellites belong? Is a Russian cyber attack on the U.S. electrical grid more or less escalatory than missile strikes on European bases? This kind of complexity also compounds the challenges of misperception. If a shared framework among potential adversaries for understanding escalation thresholds was elusive in the Cold War, it is only farther from reach today. Peacetime provocation. Quite apart from the dynamics of crisis decision-making, pursuit of escalation dominance as a declaratory policy is, itself, escalatory. It could exacerbate unreasonable fears of U.S. aggression and prompt otherwise unnecessary arms races. This point is not simply a matter of taking the dovish side of the eternal security dilemma. There are certainly limits to the importance of declaratory policy, and U.S. challengers clearly have many motivations beyond reacting to U.S. provocation. Still, official discussion of managing escalation through dominance or comprehensive superiority supports the prevailing narrative of opponents of American power, and thereby may help empower those factions in the Chinese and Russian governments most dedicated to frustrating U.S. interests. Moreover, U.S. advocacy of escalation dominance may complicate alliance politics, undermine assurance, and impede cohesion within NATO. In combination, these factors make U.S. pursuit of escalation dominance a risky strategy.

### 2NC---AT: Revisionism

#### Defensive realism is descriptively accurate---offensive realism can no longer explain a complex system where legitimacy, economic ties, and MAD make offensive approaches counterproductive

Reuben Steph 13 {PhD in Security Studies and a Masters in International Studies. 4-18-2013. “Cooperative Ballistic Missile Defence for America, China, and Russia.” [https://www.tandfonline.com/doi/abs/10.1080/13523260.2013.771035?journalCode=fcsp20}//JM](https://www.tandfonline.com/doi/abs/10.1080/13523260.2013.771035?journalCode=fcsp20%7d//JM)

Defensive Realism and Programmatic Cooperation Shiping Tang’s social evolutionary approach has shown that the international system has transformed from one comprised primarily of offensive realist states to one comprised chiefly of defensive realist states.2 Tang’s analysis suggests that defensive realism is the most sophisticated and operable grand strategic paradigm for the contemporary international system, as a majority of states have been socialized into perceiving the use of military force to settle most disputes as illegitimate. Tang’s thesis is supported by the fact that general deterrence between states, rather than conflict, has become internalized while nuclear weapons and economic interdependencies have reduced the possibility of great power wars breaking out.3 In contrast, offensive realism, which calls for a self-conscious effort to contain rising powers – such as China and Russia – would prove costly and likely create a self-fulfilling prophecy of confrontation.4 As such, ballistic missile defence (BMD) cooperation will be difficult, if not impossible, based upon offensive realist assumptions unless it is a temporary alliance to counter a mutual threat posed by another great power. The emergence of a security community comprising the leading states in the system also represents a direct challenge to offensive realism’s core assumption that competition and conflict are endemic; if the modern system privileged offensive realism, security communities would never emerge. 5 No major alternative accounts for the vicissitudes of missile defence disputes with equal strength. Constructivist approaches can also support BMD cooperation.6 But it could just as easily impede or preclude it by emphasizing ideational differences between America, China, and Russia. Indeed, the worldview of many actors in the George W. Bush administration, especially the neoconservatives, had a constructivist bent as they held that the foreign policy of a state reflected the nature of its domestic regime.7 Thus, only democracies could be trusted.8 This reduced America’s willingness to engage illiberal rogue states, while its goal of democracy expansion appeared to lay the groundwork for future confrontation with Moscow and Beijing along ideological lines.9 Neoclassical realism is even more complementary, especially since it emphasizes the cost to states when socially constructed ideas and interests of domestic actors interfere with appreciation of the external environment and systemic constraint, leading to suboptimal policies and an inability to appreciate their negative effects.10 Although this article touches upon the effect of domestic politics and interests, it stresses the advantages of a defensive realist approach. Defensive realism leads us to consider the question of whether security is made better or worse by independent deployment of missile defence. Recognition that unilateral BMD created new security dilemmas, the core defensive realist concept, is evidence that it did not improve international security. This is the starting point to move towards a new cooperative approach to BMD in which defensive realist states can seek security without intentionally decreasing others’ security.11 In a defensive world, states may still pursue offensive strategies but the system punishes this behaviour.12 Therefore, because expansionism no longer pays, ‘the notion that security via defensive strategies is superior to security via offensive strategies logically becomes the next idea to spread among states’.13 Another significant and reinforcing outgrowth of this defensive realist world has been the emergence of what Patrick M. Morgan calls collective actor deterrence (CAD).14 CAD exists when a group of actors work through an institutionalized entity to uphold the regional or global status quo in the face of a threat to common norms and values. Together, they operate in the interests of system management and their united resources bolster deterrence, making future infringements less likely. There are significant obstacles to cooperation under unipolarity. The power of the unipolar state may be so great that even other great powers in the system may feel insecure as the hegemon threatens their political autonomy.15 Furthermore, even though a state may declare itself benign, it may not be trusted since a greedy state may use reassurance as a ploy to lure another into a false sense of security. Defensive armaments designed to signal one is a security seeker can be perceived as offensive in nature since a shield can facilitate the use of a sword (while fear that the unipolar state will transform into a future predator is increased if memories exist of it as a past predator).16 This applies to America’s Cold War-era relations with China (1949–1971) and Russia (1946–1991). States may also resist or ignore reassurance signals if they are extremely fearful and believe the hegemon may make additional requests of them at a later date, even if they comply with its demands.17

#### China wants to influence, not dominate the region -- peace in the region relies on the US.

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First, China is pursuing hegemony in East Asia, but not an exclusive hostile hegemony. It is not trying to extrude the United States from the region or deny American access there. The Chinese have long recognized the utility—and the benefits to China itself—of U.S. engagement with the region, and they have indicated receptivity to peaceful coexistence and overlapping spheres of influence with the United States there. Moreover, China is not trying to impose its political or economic system on its neighbors, and it does not seek to obstruct commercial freedom of navigation in the region (because no country is more dependent on freedom of the seas than China itself). In short, Beijing wants to extend its power and influence within East Asia, but not as part of a “winner-take-all” contest.

China does have unsettled and vexing sovereignty claims over Taiwan, most of the islands and other features in the East and South China Seas, and their adjacent waters. Although Beijing has demonstrated a willingness to use force in defense or pursuit of these claims, it is not looking for excuses to do so. Whether these disputes can be managed or resolved in a way that is mutually acceptable to the relevant parties and consistent with U.S. interests in the region is an open, long-term question. But that possibility should not be ruled out on the basis of—or made more difficult by—false assumptions of irreconcilable interests. On the contrary, it should be pursued on the basis of a recognition that all the parties want to avoid conflict—and that the sovereignty disputes in the region ultimately are not military problems requiring military solutions. And since Washington has never been opposed in principle to reunification between China and Taiwan as long as it is peaceful, and similarly takes no position on the ultimate sovereignty of the other disputed features, their long-term disposition need not be the litmus test of either U.S. or Chinese hegemony in the region.

Of course, China would prefer not to have forward-deployed U.S. military forces in the Western Pacific that could be used against it, but Beijing has long tolerated and arguably could indefinitely tolerate an American military presence in the region—unless that presence is clearly and exclusively aimed at coercing or containing China. It is also true that Beijing disagrees with American principles of military freedom of navigation in the region; and this constitutes a significant challenge in waters where China claims territorial jurisdiction in violation of the UN Commission on the Law of the Sea. But this should not be conflated with a Chinese desire or intention to exclusively “control” all the waters within the first island chain in the Western Pacific. The Chinese almost certainly recognize that exclusive control or “domination” of the neighborhood is not achievable at any reasonable cost, and that pursuing it would be counterproductive by inviting pushback and challenges that would negate the objective.

So what would Chinese “hegemony” in East Asia mean or look like? Beijing probably thinks in terms of something much like American primacy in the Western Hemisphere: a model in which China is generally recognized and acknowledged as the de facto central or primary power in the region, but has little need or incentive for militarily adventurism because the mutual benefits of economic interdependence prevail and the neighbors have no reason—and inherent disincentives—to challenge China’s vital interests or security. And as a parallel to China’s economic and diplomatic engagement in Latin America, Beijing would neither exclude nor be hostile to continued U.S. engagement in East Asia.

A standard counterargument to this relatively benign scenario is that Beijing would not be content with it for long because China’s strategic ambitions will expand as its capabilities grow. This is a valid hypothesis, but it usually overlooks the greater possibility that China’s external ambitions will expand not because its inherent capabilities have grown, but because Beijing sees the need to be more assertive in response to external challenges to Chinese interests or security. Indeed, much of China’s “assertiveness” within East Asia over the past decade—when Beijing probably would prefer to focus on domestic priorities—has been a reaction to such perceived challenges. Accordingly, Beijing’s willingness to settle for a narrowly-defined, peaceable version of regional preeminence will depend heavily on whether it perceives other countries—especially the United States—as trying to deny China this option and instead obstruct Chinese interests or security in the region.

#### Proven by when they had the most military power in the last 20 years and turned to cooperation.

Klaus Heinrich Raditio 19. IR Prof @ University of Sydney. 2019. “Conclusion.” Understanding China’s Behaviour in the South China Sea, Springer Singapore, pp. 185–190. Crossref, doi:10.1007/978-981-13-1283-0\_8.

The main findings of this thesis show strong support for defensive realism theory. During the period of de-escalation (1995 until between 2007 and 2009), China had the most advanced military power compared to other SCS claimants. However, instead of using force, China extended its cooperative behaviour which was successful in de-escalating the SCS tension. China demonstrated its serious commitment to stabilising the region by participating in several multilateral agreements: the 2002 DoC, the ASEAN TAC in 2003, and the JMSU in 2005. This fact is at odds with the offensive realism assumption that suggests China will pursue hegemonic ambition to resolve its dispute with other claimants.1

### 2NC---AT: Transition Wars

#### No transition wars

Paul K. MacDonald, Assistant Professor, Political Science, Willians College and Joseph M. Parent, Assistant Professor, Political Science, University of Miami, "Resurrecting Retrenchment: The Grand Strategic Consequences of U.S. Decline," POLICY BRIEF, Belfer Center for Science and International Affairs, Harvard University, 5--11, http://belfercenter.ksg.harvard.edu/files/macdonald-parent-may-2011-is-%20brief.pdf

To date, there has been no comprehensive study of great power retrenchment and no study that defends retrenchment as a probable or practical policy. Using historical data on gross domestic product, we identify eighteen cases of "acute relative decline" since 1870. Acute relative decline happens when a great power loses an ordinal ranking in global share of economic production, and this shift endures for five or more years. A comparison of these periods yields the following findings: Retrenchment is the most common response to decline. Great powers suffering from acute decline, such as the United Kingdom, used retrenchment to shore up their fading power in eleven to fifteen of the eighteen cases that we studied (61–83 percent). The rate of decline is the most important factor for explaining and predicting the magnitude of retrenchment. The faster a state falls, the more drastic the retrenchment policy it is likely to employ. The rate of decline is also the most important factor for explaining and predicting the forms that retrenchment takes. The faster a state falls, the more likely it is to renounce risky commitments, increase reliance on other states, cut military spending, and avoid starting or escalating international disputes. In more detail, secondary findings include the following: Democracy does not appear to inhibit retrenchment. Declining states are approximately equally likely to retrench regardless of regime type. Wars are infrequent during ordinal transitions. War broke out close to the transition point in between one and four of the eighteen cases (6–22 percent). Retrenching states rebound with some regularity. Six of the fifteen retrenching states (40 percent) managed to recapture their former rank. No state that failed to retrench can boast similar results. Declining great powers cut their military personnel and budgets significantly faster than other great powers. Over a five-year period, the average nondeclining state increased military personnel 2.1 percent—as compared with a 0.8 percent decrease in declining states. Likewise, the average nondeclining state increased military spending 8.4 percent—compared with 2.2 percent among declining states. Swift declines cause greater alliance agreements. Over a five-year period, the average great power signs 1.75 new alliance agreements—great powers undergoing large declines sign an average of 3.6 such agreements. Declining great powers are less likely to enter or escalate disputes. Compared to average great powers, they are 26 percent less likely to initiate an interstate dispute, 25 percent less likely to be embroiled in a dispute, and markedly less likely to escalate those disputes to high levels. IMPLICATIONS FOR POLICYMAKERS From the analysis above, three main implications follow for U.S. policy. First, we are likely to see retrenchment in U.S. foreign policy. With a declining share of relative power, the United States is ripe to shift burdens to allies, cut military expenditures, and stay out of international disputes. This will not be without risks and costs, but retrenchment is likely to be peaceful and is preferable to nonretrenchment. In short, U.S. policymakers should resist calls to maintain a sizable overseas posture because they fear that a more moderate policy might harm U.S. prestige or credibility with American allies. A humble foreign policy and more modest overseas presence can be as (if not more) effective in restoring U.S. credibility and reassuring allies. Second, any potential U.S.-Sino power transition is likely to be easier on the United States than pessimists have advertised. If the United States acts like a typical retrenching state, the future looks promising. Several regional allies—foremost India and Japan—appear capable of assuming responsibilities formerly shouldered by the United States, and a forward defense is no longer as valuable as it once was. There remains ample room for cuts in U.S. defense spending. And as China grows it will find, as the United States did, that increased relative power brings with it widening divisions at home and fewer friends overseas. In brief, policymakers should reject arguments that a reduction in U.S. overseas deployments will embolden a hostile and expansionist China. Sizable forward deployments in Asia are just as likely to trap the United States in unnecessary clashes as they are to deter potential aggression. Third, the United States must reconsider when, where, and how it will use its more modest resources in the future. A sensible policy of retrenchment must be properly prepared for—policymakers should not hastily slash budgets and renounce commitments. A gradual and controlled policy of reprioritizing goals, renouncing commitments, and shifting burdens will bring greater returns than an improvised or imposed retreat. To this end, policymakers need to engage in a frank and serious debate about the purposes of U.S. overseas assets. Our position is that the primary role of the U.S. military should be to deter and fight conventional wars against potential great power adversaries, rather than engage in limited operations against insurgents and other nonstate threats. This suggests that U.S. deployments in Iraq and Afghanistan should be pared down; that the United States should resist calls to involve itself in internal conflicts or civil wars, such as those in Libya and elsewhere in North Africa; and that the Asia-Pacific region should have strategic priority over Europe and the greater Middle East. Regardless of whether one accepts these particular proposals, the United States must make tough choices about which regions and threats should have claim to increasingly scarce resources. CONCLUSION Retrenchment is probable and pragmatic. Great powers may not be prudent, but they tend to become so when their power ebbs. Regardless of regime type, declining states routinely renounce risky commitments, redistribute alliance burdens, pare back military outlays, and avoid ensnarement in and escalation of costly conflicts. Husbanding resources is simply sensible. In the competitive game of power politics, states must unsentimentally realign means with ends or be punished for their profligacy. Attempts to maintain policies advanced when U.S. relative power was greater are outdated, unfounded, and imprudent. Retrenchment policies—greater burden sharing with allies, less military spending, and less involvement in militarized disputes—hold the most promise for arresting and reversing decline.

### 2NC---AT: Cling

#### Cling to hegemony isn’t inevitable---we have the newest, most comprehensive research

MacDonald and Parent 18 **–** Paul MacDonald is Associate Professor in Political Science at Wellesley College. Joseph M. Parent is associate professor of political science at the University of Notre Dame (Twilight of the Titans: Great Power Decline and Retrenchment, p. 2-3)

In this book, we argue that the conventional wisdom is wrong. Specifically, we make three main arguments. First, relative decline causes prompt, proportionate retrenchment because states seek strategic solvency. The international system is a competitive place, and great powers did not get to the top by being imprudent, irrational, or irresponsible. When their fortunes ebb, states tend to retain the virtues that made them great. In the face of decline, great powers have a good sense of their relative capability and tend not to give away more than they must. Expanding or maintaining grand strategic ambitions during decline incurs unsustainable burdens and incites unwinnable fights, so the faster states fall, the more they retrench. Great powers may choose to retrench in other circumstances as well, but they have an overriding incentive to do so when confronted by relative decline. Second, the depth of relative decline shapes not only how much a state retrenches, but also which policies it adopts. The world is complex and cut- throat; leaders cannot glibly pull a policy off the shelf and expect desired outcomes. Because international politics is a self-help system, great powers prefer policies that rely less on the actions of allies and adversaries. For lack of a better term, we refer to these as domestic policies, which include reducing spending, restructuring forces, and reforming institutions—all to reallocate resources for more efficient uses. But international policies may also help, and they include redeploying forces, defusing flashpoints, and redistributing burdens—all to avoid costly conflicts and reinforce core strong- points. The faster and deeper states fall, the more they are willing to rely on others to cushion their fall. Retrenchment is not a weapon but an arsenal that can be used in different amounts and combinations depending on con- ditions and the enemies faced. Third, after depth, structural conditions are the most important factors shaping how great powers respond to relative decline. Four conditions catalyze the incentives for declining states to retrench. One is the declining state's rank. States in the top rungs of the great power hierarchy have more resources and margin for error than those lower down, so there is less urgency for them to retrench. Another is the availability of allies. Where states can shift burdens to capable regional powers with similar preferences, retrenchment is less risky and difficult. Yet another is the interdependence of commitments. When states perceive commitments in one place as tightly linked to commitments elsewhere, pulling back becomes harder and less likely. The last catalyst is the calculus of conquest. If aggression pays, then retrenchment does not, and great powers will be loath to do it. The world is not just complex and cutthroat, it is also dynamic. No set of conditions is everlasting, and leaders must change with the times. Empirically, this work aims to add value by being the first to study systematically all modern shifts in the great power pecking order. We find sixteen cases of relative decline since 1870, when reliable data for the great powers become available, and compare them to their non-declining counterparts across a variety of measures. To preview the findings, retrenchment is by far the most common response to relative decline, and declining powers behave differently from non-declining powers. States in decline are more likely to cut the size of their military forces and budgets and in extreme cases are more likely to form alliances. This does not, however, make them ripe for exploitation; declining states perform comparatively well in militarized disputes. Our headline finding, however, is that states that retrench recover their prior rank with some regularity, but those that fail to retrench never do. These results challenge theories of grand strategy and war, offer guidance to policymakers, and indicate overlooked paths to peace.

## Adv---Cartels

### 2NC---AT: Cartels

#### No empirical support – concentration doesn’t increase profit or harm consumers and expanded regulation doesn’t solve

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Despite numerous assertions to the contrary, there is, in fact, no rigorous economic support for claims that high concentration levels are a strong indicator of harm to competition or that they should trigger a presumption of such harm in antitrust analysis.77 As it stands, there is no empirical foundation on which to conclude that monopoly power is rising. To the extent that markups are increasing, other studies show that output has increased and that quality-adjusted prices have remained stable. Claims that concentration has increased at least find somewhat consistent empirical support, although the extent of those changes are up for debate. There is no reliable empirical basis, however, to support the inference that the United States economy has experienced a systematic increase in market power.78

By the same token, there is little evidence that the application of law or regulation to more vigorously prohibit, shrink, or break up large companies will correct these asserted problems.79 This is not surprising. As Henry Manne noted in his testimony on the IRA:

[T]he studies done to date strongly indicate that there is little or no significant correlation between industrial concentration and corporate profits. To be sure, if one selects a particular year with peculiar characteristics, the figures can be made to appear otherwise, but in general, over a significant period of time, this lack of correlation seems well substantiated....

The studies referred to [] indicate that there is no causal relationship between concentration on the one hand and monopoly profit on the other. We are, it appears, as apt to find companies earning a higher than market rate of return in nonconcentrated industries as in concentrated ones.

Indeed, one thing on which there is unequivocal agreement among economists… is that monopoly rates of return are realized regularly in some of the least-concentrated industries imaginable: those for personal services…. In the industrial sector on the other hand, where remedies for unproved problems abound, monopoly rates of return, when they do occur, seem unlikely to persist for a significant period of time.80

### 2NC---AT: Inequality

#### Diversionary wars are small and don’t escalate

Dominic **Tierney 17**, associate professor of political science at Swarthmore College and contributing editor at The Atlantic, latest book is The Right Way to Lose a War: America in an Age of Unwinnable Conflicts, “The Risks of Foreign Policy as Political Distraction,” The Atlantic, 6/15/2017, https://www.theatlantic.com/international/archive/2017/06/trump-diversionary-foreign-policy/530079/

But what about military force? To be clear, there is little cause to speculate that Trump plans to launch a full-scale war solely to distract attention. For one thing, as president, the worst possible time to start a major military campaign is when you’re deeply unpopular. And the political upside is shaky at best. Recent big wars in Afghanistan and Iraq were politically damaging to George W. Bush. Even victory doesn’t guarantee a pay-off, as George H. W. Bush discovered when he won the 1991 Gulf War and then lost his bid for reelection in 1992. A crisis may arise where there are real national-security rationales for fighting, along with potential domestic gains. Here, the payoff at home would likely enter Trump’s calculus, and even push him over the edge to fight, with the legitimate casus belli providing a shield of plausible deniability. The most tempting use of force may be a seemingly manageable, but still dazzling, kinetic operation, like a missile strike or a raid to kill terrorist leaders. Another option would be to escalate a crisis where an easy win seems available: The key is to find the right enemy, one that’s both widely hated and too weak to fight back. After all, there’s a well-established “rally ‘round the flag” effect, where almost any military crisis temporarily juices the president’s approval ratings. In the wake of Clinton’s airstrikes in 1998, one poll found that 68 percent of Americans approved of his foreign policy. Republican House Speaker Newt Gingrich said, “it was the right thing to do at the right time.”

### 2NC---AT: Disease

#### Their ev assumes a level of virulence that has literally never occurred

Wendy Orent 15, anthropologist and freelance science writer whose work has appeared in The Washington Post, The LA Times, The New Republic, Discover, and The American Prospect, instructor in science journalism @ Emory, Ignore predictions of lethal pandemics and pay attention to what really matters, LA Times, 1/3/15, http://www.latimes.com/opinion/op-ed/la-oe-orent-pandemic-hysteria-20150104-story.html

Prophets of doom have been telling us for decades that a deadly new pandemic — of bird flu, of SARS or MERS coronavirus, and now of Ebola — is on its way. Why are we still listening? If you look back at the furor raised at many distinguished publications — Nature, Science, Scientific American, National Geographic — back in, say, 2005, about a potential bird flu (H5N1) pandemic, you wonder what planet they were on. Nature ran a special section titled — “Avian flu: Are we ready?” — that began, ominously, with the words “Trouble is brewing in the East” and went on to present a mock aftermath report detailing catastrophic civil breakdown. Robert Webster, a famous influenza virologist, told ABC News in 2006 that “society just can't accept the idea that 50% of the population could die. And I think we have to face that possibility.” Public health expert Michael T. Osterholm of the University of Minnesota, at a meeting in Washington of scientists brought together by the Institute of Medicine, warned in 2005 that a post-pandemic commission, like the post-9/11 commission, could hold “many scientists … accountable to that commission for what we did or didn't do to prevent a pandemic.” He also predicted that we could be facing “three years of a given hell” as the world struggled to right itself after the deadly pandemic. And Laurie Garrett, author of what must be the urtext for pandemic predictions, her 1994 book “The Coming Plague,” intoned in Foreign Affairs that “in short, doom may loom.” Although she followed that with “But note the may,” the article went on to paint a terrifying picture of the avian flu threat nonetheless. And such hysteria still goes on: Whether it's over the MERS coronavirus, a whole alphabet of chicken flu viruses, a real but not very deadly influenza pandemic in 2009, or a kerfuffle like the one in 2012 over a scientist-crafted ferret flu that also was supposed to be a pandemic threat. Along the way, virologist Nathan Wolfe published “The Viral Storm: the Dawn of a New Pandemic Age,” and David Quammen warned in his gripping “Spillover” that some new animal plague could arise from the jungle and sweep across the world. And now there's Ebola. Osterholm, in a widely read op-ed in the New York Times in September, wrote about the possibility that scientists were afraid to mention publicly the danger they discuss privately: that Ebola “could mutate to become transmissible through the air.” “The Ebola epidemic in West Africa has the potential to alter history as much as any plague has ever done,” he wrote. And Garrett wrote in Foreign Policy, “Attention, World: You just don't get it.” She went on to say, “Wake up, fools,” because we should be more frightened of a potential scenario like the one in the movie “Contagion,” in which a lethal, fictitious pandemic scours the world, nearly destroying civilization. But there were fewer takers this time. Osterholm's claims about Ebola going airborne were discounted by serious scientists, and Garrett seemingly retracted her earlier hysteria about Ebola by claiming that, after all, evolution made such spread unlikely. The scientific world has changed since 2005. Now, most scientists understand that there are significant physical and evolutionary barriers to a blood- and fluid-borne virus developing airborne transmission, as Garrett has acknowledged. Though Ebola virus has been detected in human alveolar cells, as Vincent Racaniello, virologist at Columbia University, explained to me, that doesn't mean it can replicate in the airways enough to allow transmission. “Maybe … the virus can get in, but can't get out. Like a roach motel,” wrote Racaniello in an email. H5N1, we understand now, never went airborne because it attached only to cell receptors located deep in human lungs, and could not, therefore, be coughed or sneezed out. SARS, or severe acute respiratory syndrome, caused local outbreaks after multiple introductions via air travel but spread only sluggishly and mostly in hospitals. Breaking its chains of transmission ended the outbreak globally. There probably will always be significant barriers preventing the easy adaptation of an animal disease to the human species. Furthermore, Racaniello insists that there are no recorded instances of viruses that have adapted to humans, changing the way they are spread. So we need to stop listening to the doomsayers, and we need to do it now. Predictions of lethal pandemics have — since the swine flu fiasco of 1976, when President Ford vowed to vaccinate “every man, woman and child in the United States” — always been wrong. Fear-mongering wastes our time and our emotions and diverts resources from where they should be directed — in the case of Ebola, to the ongoing tragedy in West Africa. Americans have all but forgotten about Ebola now, because most people realize it isn't coming to a school or a shopping mall near you. But Sierra Leoneans and Liberians go on dying.

#### Err against disease impacts---tech and bias ensure they’re overestimated

Pinker 18 Steven Arthur Pinker is a Canadian-American cognitive psychologist, Professor at Harvard University. [Enlightenment Now: The Case for Reason, Science, Humanism, and Progress, Viking, Penguin Group]//BPS

And crucially, advances in biology work the other way as well: they also make it easier for the good guys [public protectors] (and there are many more of them) to identify pathogens, invent antibiotics that overcome antibiotic resistance, and rapidly develop vaccines.63 An example is the Ebola vaccine, developed in the waning days of the 2014–15 emergency, after public health efforts had capped the toll at twelve thousand deaths rather than the millions that the media had foreseen. Ebola thus joined a list of other falsely predicted pandemics such as Lassa fever, hantavirus, SARS, mad cow disease, bird flu, and swine flu.64 Some of them never had the potential to go pandemic in the first place because they are contracted from animals or food rather than in an exponential tree of person-to-person infections. Others were nipped by medical and public health interventions. Of course no one knows for sure whether an evil genius will someday overcome the world’s defenses and loose a plague upon the world for fun, vengeance, or a sacred cause. But journalistic habits and the Availability and Negativity biases inflate the odds, which is why I have taken Sir Martin up on his bet. By the time you read this you may know who has won.65

### 2NC---AT: Failed States

#### No impact to failed states

Patrick, senior fellow, director – program on international institutions and global governance @ CFR, 4/15/’11 (Stewart M, “Why Failed States Shouldn’t Be Our Biggest National Security Fear,” <http://www.cfr.org/international-peace-and-security/why-failed-states-shouldnt-our-biggest-national-security-fear/p24689>)

In truth, while failed states may be worthy of America's attention on humanitarian and development grounds, most of them are irrelevant to U.S. national security. The risks they pose are mainly to their own inhabitants. Sweeping claims to the contrary are not only inaccurate but distracting and unhelpful, providing little guidance to policymakers seeking to prioritize scarce attention and resources.¶ In 2008, I collaborated with Brookings Institution senior fellow Susan E. Rice, now President Obama's permanent representative to the United Nations, on an index of state weakness in developing countries. The study ranked all 141 developing nations on 20 indicators of state strength, such as the government's ability to provide basic services. More recently, I've examined whether these rankings reveal anything about each nation's role in major global threats: transnational terrorism, proliferation of weapons of mass destruction, international crime and infectious disease.¶ The findings are startlingly clear. Only a handful of the world's failed states pose security concerns to the United States. Far greater dangers emerge from stronger developing countries that may suffer from corruption and lack of government accountability but come nowhere near qualifying as failed states.¶ The link between failed states and transnational terrorism, for instance, is tenuous. Al-Qaeda franchises are concentrated in South Asia, North Africa, the Middle East and Southeast Asia but are markedly absent in most failed states, including in sub-Saharan Africa. Why? From a terrorist's perspective, the notion of finding haven in a failed state is an oxymoron. Al-Qaeda discovered this in the 1990s when seeking a foothold in anarchic Somalia. In intercepted cables, operatives bemoaned the insuperable difficulties of working under chaos, given their need for security and for access to the global financial and communications infrastructure. Al-Qaeda has generally found it easier to maneuver in corrupt but functional states, such as Kenya, where sovereignty provides some protection from outside interdiction.¶ Pakistan and Yemen became sanctuaries for terrorism not only because they are weak but because their governments lack the will to launch sustained counterterrorism operations against militants whom they value for other purposes. Terrorists also need support from local power brokers and populations. Along the Afghanistan-Pakistan border, al-Qaeda finds succor in the Pashtun code of pashtunwali, which requires hospitality to strangers, and in the severe brand of Sunni Islam practiced locally. Likewise in Yemen, al-Qaeda in the Arabian Peninsula has found sympathetic tribal hosts who have long welcomed mujaheddin back from jihadist struggles.¶ Al-Qaeda has met less success in northern Africa's Sahel region, where a moderate, Sufi version of Islam dominates. But as the organization evolves from a centrally directed network to a diffuse movement with autonomous cells in dozens of countries, it is as likely to find haven in the banlieues of Paris or high-rises of Minneapolis as in remote Pakistani valleys.¶ What about failed states and weapons of mass destruction? Many U.S. analysts worry that poorly governed countries will pursue nuclear, biological, chemical or radiological weapons; be unable to control existing weapons; or decide to share WMD materials.¶ These fears are misplaced. With two notable exceptions — North Korea and Pakistan — the world's weakest states pose minimal proliferation risks, since they have limited stocks of fissile or other WMD material and are unlikely to pursue them. Far more threatening are capable countries (say, Iran and Syria) intent on pursuing WMD, corrupt nations (such as Russia) that possess loosely secured nuclear arsenals and poorly policed nations (try Georgia) through which proliferators can smuggle illicit materials or weapons.¶ When it comes to crime, the story is more complex. Failed states do dominate production of some narcotics: Afghanistan cultivates the lion's share of global opium, and war-torn Colombia rules coca production. The tiny African failed state of Guinea-Bissau has become a transshipment point for cocaine bound for Europe. (At one point, the contraband transiting through the country each month was equal to the nation's gross domestic product.) And Somalia, of course, has seen an explosion of maritime piracy. Yet failed states have little or no connection with other categories of transnational crime, from human trafficking to money laundering, intellectual property theft, cyber-crime or counterfeiting of manufactured goods.¶ Criminal networks typically prefer operating in functional countries that provide baseline political order as well as opportunities to corrupt authorities. They also accept higher risks to work in nations straddling major commercial routes. Thus narco-trafficking has exploded in Mexico, which has far stronger institutions than many developing nations but borders the United States. South Africa presents its own advantages. It is a country where “the first and the developing worlds exist side by side,” author Misha Glenny writes. “The first world provides good roads, 728 airports . . . the largest cargo port in Africa, and an efficient banking system. . . . The developing world accounts for the low tax revenue, overstretched social services, high levels of corruption throughout the administration, and 7,600 kilometers of land and sea borders that have more holes than a second-hand dartboard.” Weak and failing African states, such as Niger, simply cannot compete.¶ Nor do failed states pose the greatest threats of pandemic disease. Over the past decade, outbreaks of SARS, avian influenza and swine flu have raised the specter that fast-moving pandemics could kill tens of millions worldwide. Failed states, in this regard, might seem easy incubators of deadly viruses. In fact, recent fast-onset pandemics have bypassed most failed states, which are relatively isolated from the global trade and transportation links needed to spread disease rapidly.¶ Certainly, the world's weakest states — particularly in sub-Saharan Africa — suffer disproportionately from disease, with infection rates higher than in the rest of the world. But their principal health challenges are endemic diseases with local effects, such as malaria, measles and tuberculosis. While U.S. national security officials and Hollywood screenwriters obsess over the gruesome Ebola and Marburg viruses, outbreaks of these hemorrhagic fevers are rare and self-contained.¶ I do not counsel complacency. The world's richest nations have a moral obligation to bolster health systems in Africa, as the Obama administration is doing through its Global Health Initiative. And they have a duty to ameliorate the challenges posed by HIV/AIDS, which continues to ravage many of the world's weakest states. But poor performance by developing countries in preventing, detecting and responding to infectious disease is often shaped less by budgetary and infrastructure constraints than by conscious decisions by unaccountable or unresponsive regimes. Such deliberate inaction has occurred not only in the world's weakest states but also in stronger developing countries, even in promising democracies. The list is long. It includes Nigeria's feckless response to a 2003-05 polio epidemic, China's lack of candor about the 2003 SARS outbreak, Indonesia's obstructionist attitude to addressing bird flu in 2008 and South Africa's denial for many years about the causes of HIV/AIDS.¶ Unfortunately, misperceptions about the dangers of failed states have transformed budgets and bureaucracies. U.S. intelligence agencies are mapping the world's “ungoverned spaces.” The Pentagon has turned its regional Combatant Commands into platforms to head off state failure and address its spillover effects. The new Quadrennial Diplomacy and Development Review completed by the State Department and the U.S. Agency for International Development depicts fragile and conflict-riddled states as epicenters of terrorism, proliferation, crime and disease.¶ Yet such preoccupations reflect more hype than analysis. U.S. national security officials would be better served — and would serve all of us better — if they turned their strategic lens toward stronger developing countries, from which transnational threats are more likely to emanate.

### 2NC---AT: Terror

#### Takes decades and boatloads of money

Greg Allen 17, Adjunct Fellow at the Center for a New American Security, 3-4-2017, "Thank Goodness Nukes Are So Expensive and Complicated," WIRED, https://www.wired.com/2017/03/thank-goodness-nukes-expensive-complicated/

What about nuclear weapons? Here costs shoot upward. Saddam Hussein spent billions to develop nukes and failed. North Korea succeeded, but it took decades; the country also spent billions even with low wages and conscripted labor. Even if you could scrape together a billion dollars to buy a bomb, North Korea probably wouldn't sell you one. Every nuclear detonation releases a traceable radioactive signature, and Kim Jong-un worries he'll take the blame if you use his nukes. Unless you can steal a bomb or steal some weapons-grade nuclear fuel to construct a crude nuclear device, you're probably not going to acquire nuclear weapons. The technology for making nuclear fuel is too expensive and complicated, and if you try, the amount of labor, expertise, and financing you would need make it likely your efforts would be uncovered and stopped. Thank goodness. The massive expense and technological complexity associated with developing nuclear weapons is one of the great strokes of luck in human history. Imagine an alternate universe where nukes were like IEDs: cheap, simple, and constructible using widely available commercial parts and materials. Would humanity have survived the discovery of nuclear technology? Certainly not. We barely survived as it is. In this sense, the mass destruction cost curve is protective. The diplomats, scientists, spies, and soldiers of the global non-proliferation regime do incredible work in preventing terrorists and greater numbers of countries from acquiring nuclear weapons. However, their extremely difficult mission would be utterly impossible if uranium was just a little easier and cheaper to weaponize. Perhaps it would be better if nuclear weapons never existed, but, given that they do, we are lucky that they reside at the very top of the mass destruction cost curve.

### 2NC---AT: MENA

#### No MENA instability or great power draw in

Richard J. Evans 14. Regius Professor of History and President of Wolfson College, University of Cambridge. 1/25. "What Can 1914 Tell Us About 2014?" https://newrepublic.com/article/116347/what-pre-world-war-i-europe-can-tell-us-about-today

The Balkan states, much like nations of the Middle East today, to a degree stood proxy for larger powers, notably tsarist Russia, Germany and Austria-Hungary. They had come close to the brink during the first Balkan war in 1912-13, when Montenegro in alliance with Serbia attacked northern Albania, where there were virtually no Serbs or Montenegrins among the inhabitants. Austria-Hungary demanded Serbia’s with­drawal, Russia began to mobilise in support of the Serbs, and France declared its support for the Russians. The situation was defused only by a British intervention, resulting in an international conference that guaranteed independence for Albania. The whole episode was an ominous foretaste of what happened in August 1914. With the break-up of the alliance of the Balkan states in 1913, Bulgaria went over to the patronage of the Germans, while Russia’s only client left in the region was Serbia. Serbian ambitions had already prompted Austria-Hungary to annex Bosnia and Herzegovina, with their substantial population of Serbs, in 1908. It would be just as wrong to dismiss all of this as irrelevant to the ambitions and rivalries of the Great Powers, as Boris Johnson has done recently, as it would be to dismiss the violent antagonisms in today’s Middle East as unimportant to international relations on a wider scale. And yet the Balkan nations in the late 19th and early 20th centuries were no more mere puppets of Germany or Russia than the Middle Eastern states of today are puppets of America, Russia or China. As President Obama has discovered, trying to control Israeli governments is no easy task; he might tell the Israelis not to build any new Jewish settlements on the occupied West Bank but they carry on regardless. China and Russia might block western attempts to impose sanctions on the Assad regime in Syria and may continue supplying it with arms, but they have not been able to control it or stop its opponents, so they have become willing to explore ways of ending the conflict peaceably; their co-operation in the removal of chemical weapons signals their refusal to back the regime all the way. China supplies Iran with weapons and with nuclear technology but can do little to mediate its policy in the Middle East, and its approach is tempered by the need to keep up good relations with the United States. Not least because of the growing importance of economic ties with the west, Russia has bowed to international pressure for sanctions on Iran and has curbed its arms supplies to the country. In all of this, there are few indications that the world’s great powers today are being drawn into regional conflicts as closely as they were in 1914. One important reason for this lies in our changed attitudes to war. In Europe, the wars of the 19th century were limited in duration and scope, and seldom involved more than a handful of combatant nations. All told, deaths in battle between 1815 and 1914 were seven times fewer than combat deaths in the previous century. The wars of German unification in the 1860s, the Russo-Turkish war of 1877-78 and similar conflicts were swiftly resolved by decisive victories for one side or the other. Even the Crimean war of 1854-56 did not move much beyond the hinterland of the Black Sea. In the 19th century fear of the upheaval and destruction caused by the French revolutionary and Napoleonic wars brought the leading European states together time and again in what was known as the Concert of Europe to resolve potential conflicts through international conferences. Though it was severely damaged in the 1850s and 1860s, the Concert was patched together again in the 1870s, when the Congress of Berlin redrew the map of the Balkans, while another Berlin conference sorted out colonial rivalries (without, needless to say, consulting any of the millions of people about to be colonised) in 1884. These institutions, like the United Nations of today, provided a forum in which diplomats and statesmen could work together to avoid war, and they largely succeeded. If there is no sign that the UN, for all its inadequacies, is about to collapse, it is not least because the postwar settlement of 1945 rested on a general recognition that international co-operation in all fields had to be stronger than it was under the League of Nations, the UN’s ill-fated predecessor. The destruction caused by the Second World War, with its 50 million or more dead, its ruined cities, its genocides, its widespread negation of civilised values, had a far more powerful effect than the deaths caused by the First World War, which were (with exceptions, notably the genocide of a million or more Armenian civilians, killed by the Turks in 1915) largely confined to troops on active service. In 1945, Hiroshima and Nagasaki provided an additional, ter­rible warning of what would happen if the world went to war again

#### Even if, certainly no nuclear escalation

Abdulrahman Al-Rashed 16, veteran and internationally acclaimed columnist, former general manager of Al Arabiya news channel and former editor-in-chief of Asharq Al-Awsat, 10/22/16, “The specter of World War III?,” http://www.arabnews.com/node/1000701/columns#

Deputy Prime Minister of Turkey Numan Kurtulmus recently warned against the risks of disagreements over the battle of Mosul. He said that this could even mark the beginning of World War III. Despite the sectarian and ethnic nature of the conflict, the battle of Mosul is not likely to cause a third world war, not even a broad regional war. Similarly, the war in Aleppo, Syria or Iraq would not turn into a broad war. All that is being talked about are mere incendiary talks. They have nothing to do with strategists, planners and decision-makers who sit in air-conditioned rooms thousands of miles away from our region in the United States or Russia. The world is already grappling with several conflicts and is not likely to witness any of these turning into as devastating as a world war. World War II took 60 million lives, mostly from the West, and a World War III would be atrocious because it is estimated to kill a billion people. It will use the only weapon that can ensure “victory”, i.e., nuclear and chemical weapons. The United States, Russia, Europe and other countries or regions of vital influence will disappear. There will be no winner and the whole world will go back to the Stone Age. The earth will no longer remain inhabitable for humans. This is why no direct wars have been engendered by the escalation of international conflicts. What was known as the Cold War between the US and the former Soviet Union was nothing but proxy or indirect war. As many as 140,000 American soldiers were killed in the Vietnam War. However, the US did not resort to the use of nuclear weapons and withdrew after the defeat. There were 4,000 casualties in Iraq before the Americans withdrew. The Soviet Union crumbled and Russia lost 14 countries that were part of its empire. It even lost three-quarters of its land and half of its population, and yet, the Soviets did not talk about a World War III. They did not launch a single nuclear missile. Instead, they continue with the old chess strategy in the struggle with their rivals to gain back influence and regions. It is not impossible to imagine a lunatic leader using nuclear weapons in the future. This scenario has haunted the world since the end of World War II. Many regulations and protocols have been put in place to avoid this madness. Even if it happens, the reason won’t be conflicts such as the one taking place in Mosul, Aleppo or other parts of our region. Super powers consider our wars as side conflicts that do not call for a suicidal war that would destroy their countries. What is being circulated in the Arab and Iranian media about World War III, and being attributed to Russian president or Henry Kissinger, is all forged. What are the circumstances in which major countries would wage a crazy global nuclear war? It would only happen when their security is directly threatened and is on the verge of collapse. This scenario is extremely unlikely. We imagine that the world is keen to ensure our security and stability whereas its main concern is safeguarding against terrorists and refugees. Some are only worried about our oil wells, as they are their sources of energy. Our governments are solely in charge of the region’s war and peace.

# 1NR

## DA - FTC

### Impact---2NC

#### It’s the most likely scenario for war---sparks nuke escalation in Asia and the Middle East.

Cribb ’19 [Julian; October 3; Principal of Julian Cribb & Associates, Fellow of the Australian Academy of Technological Sciences and Engineering, former Director of National Awareness at the Commonwealth Scientific and Industrial Research Organisation; Food or War, “Food as an Existential Risk,” Ch. 6]

Weapons of Mass Destruction

Detonating just 50–100 out of the global arsenal of nearly 15,000 nuclear weapons would suffice to end civilisation in a nuclear winter, causing worldwide famine and economic collapse affecting even distant nations, as we saw in the previous chapter in the section dealing with South Asia. Eight nations now have the power to terminate civilisation should they desire to do so – and two have the power to extinguish the human species. According to the nuclear monitoring group Ploughshares, this arsenal is distributed as follows:

– Russia, 6600 warheads (2500 classified as ‘retired’)

– America, 6450 warheads (2550 classified as ‘retired’)

– France, 300 warheads

– China, 270 warheads

– UK, 215 warheads

– Pakistan, 130 warheads

– India, 120 warheads

– Israel, 80 warheads

– North Korea, 15–20 warheads.11

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.

A global famine is a likely outcome of limited use of nuclear weapons by any country or countries – and would be unavoidable in the event of an unlimited nuclear war between America and Russia, making it unwinnable for either. And that, as the mute hands of the ‘Doomsday Clock’ so eloquently admonish, is also the most likely scenario for the premature termination of the human species.

Such a grim scenario can be alleviated by two measures: the voluntary banning by the whole of humanity of nuclear weapons, their technology, materials and stocks – and by a global effort to secure food against future insecurity by diverting the funds now wasted on nuclear armaments into building the sustainable food and water systems of the future (see Chapters 8 and 9).

#### Link alone turns case, zeroing enforcement and encouraging anticompetitive behavior.

Baker et al. ’20 [Jonathan, Bill Baer, Michael Kades, Fiona Morton, Nancy Rose, Carl Shapiro, Tim Wu; November 19; Professor of Law at American University, former Director of the Bureau of Economics at the Federal Trade Commission, Ph.D. in Economics from Stanford University, J.D. from Harvard University; Visiting Fellow in Governance Studies, former Assistant Attorney General for Antitrust at the U.S. Department of Justice and Director of the Bureau of Competition at the Federal Trade Commission, J.D. from Stanford University; Director of Markets and Competition Policy at the Equitable Growth Foundation, J.D. from the University of Wisconsin; Professor of Economics at ale University, Ph.D. in Economics from the Massachusetts Institute of Technology; Professor of Applied Economics, Ph.D. in Economics from the Massachusetts Institute of Technology; Professor of Business Strategy at the University of California, Berkeley; Special Assistant to the President for Technology and Competition Policy in the National Economic Council, J.D. from Harvard Law School; Washington Center for Equitable Growth, “Restoring competition in the United States,” <https://equitablegrowth.org/research-paper/restoring-competition-in-the-united-states/>]

The need for more resources

The agencies lack the resources to fulfill their mission after a decade in which they have seen their budgets largely frozen. Increasing resources alone will not solve today’s manifest market power problems, but substantially increasing resources is an important part of the solution.

The agencies require a significant increase in appropriations to begin the process of more effectively deterring anticompetitive conduct and mergers. Agencies strapped for resources are less likely to investigate complex cases and more willing to accept flawed settlements. Corporations are more likely to pursue questionable mergers or undertake potentially anticompetitive conduct if they think the agencies have little or no capacity to bring additional enforcement actions.

### UQ---1NC

#### ‘Right to repair’ will be enforced now

Kavi ’21 [Aishvarya; July 21; Reporter in the Washington Bureau, graduate of George Washington University; New York Times, “The F.T.C. votes to use its leverage to make it easier for consumers to repair their phones,” <https://www.nytimes.com/2021/07/21/us/politics/phones-right-to-repair-FTC.html>]

The Federal Trade Commission voted unanimously on Wednesday to push harder for the right of consumers to repair devices like smartphones, home appliances, cars and even farm equipment, arguing that large corporations have cost consumers by making such products harder to fix.

All five commissioners — two Republicans and three Democrats — voted to back a policy statement that promises to explore whether companies that make it harder for consumers to repair products are breaking antitrust or consumer protection laws, and to step up enforcement of the laws against violators.

“These types of restrictions can significantly raise costs for consumers, stifle innovation, close off business opportunity for independent repair shops, create unnecessary electronic waste, delay timely repairs and undermine resiliency,” said [Lina Khan](https://www.nytimes.com/2021/06/16/technology/lina-khan-big-tech.html), the commission’s chairwoman. “The F.T.C. has a range of tools it can use to root out unlawful repair restrictions, and today’s policy statement would commit us to move forward on this issue with new vigor.”

The commission’s vote on Wednesday falls in line with President Biden’s policies to prioritize initiatives to increase competition between large corporations and to limit their power. In an [executive order](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/07/09/executive-order-on-promoting-competition-in-the-american-economy/) this month, Mr. Biden encouraged the commission to crack down on companies that make it harder for consumers to get equipment or electronics repaired by third-party shops. It singled out manufacturers of farming equipment — the tractor manufacturer John Deere, for example — that use [license agreements](https://www.deere.com/assets/pdfs/common/privacy-and-data/docs/agreement_pdfs/english/2016-10-28-Embedded-Software-EULA.pdf) that block farmers from repairing their tractors on their own.

Wednesday’s vote was a victory for the “right to repair” movement, which has long been pushing for repair-friendly policies at the federal, state and local levels. Nathan Proctor, the senior director of the United States Public Interest Research Group’s Right to Repair campaign, celebrated the agency’s decision in a statement.

“They have pledged to assist states in making right to repair improvements, and to tackle illegal behavior from manufacturers,” Mr. Proctor said. “The F.T.C. is no longer on the sidelines.”

#### It’s top of the docket.

Goode ’21 [Lauren; July 7; Senior Writer, graduate for Clark University and Stanford University; Wired, “The FTC Votes Unanimously to Enforce Right to Repair,” <https://www.wired.com/story/ftc-votes-to-enforce-right-to-repair/>]

During an open commission meeting Wednesday, the Federal Trade Commission voted unanimously to enforce laws around the Right to Repair, thereby ensuring that US consumers will be able to repair their own electronic and automotive devices.

The [FTC’s](https://www.wired.com/tag/ftc/) endorsement of the rules is not a surprise outcome; the issue of Right to Repair has been a remarkably bipartisan one, and the FTC itself [issued a lengthy report](https://www.ftc.gov/system/files/documents/reports/nixing-fix-ftc-report-congress-repair-restrictions/nixing_the_fix_report_final_5521_630pm-508_002.pdf) in May that blasted manufacturers for restricting repairs. But the 5 to 0 vote signals the commission’s commitment to enforce both federal antitrust laws and a key law around consumer warranties—the [Magnuson Moss Warranty Act](https://www.ftc.gov/enforcement/statutes/magnuson-moss-warranty-federal-trade-commission-improvements-act)—when it comes to personal device repairs.

The vote, which was led by new FTC chair and known tech critic Lina Khan, also comes 12 days after President Joe Biden signed a broad executive order aimed at promoting competition in the US economy. The order addressed a wide range of industries, from banks to airlines to tech companies. But a portion of it encouraged the FTC, which operates as an independent agency, to create new rules that would prevent companies from restricting repair options for consumers.

“When you buy an expensive product, whether it's a half-a-million-dollar tractor or a thousand-dollar phone, you are in a very real sense under the power of the manufacturer,” says Tim Wu, special assistant to the president for technology and competition policy within the National Economic Council. “And when they have repair specifications that are unreasonable, there's not a lot you can do."

Wu added that [Right to Repair](https://www.wired.com/tag/repairs/) has become a "visceral example" of the enormous imbalance between workers, consumers, small businesses, and larger entities.

#### And prioritized by FTC enforcers.

Miller ’21 [Kirk; July 23; Managing Editor; Inside Hook, “The FTC Is Now Enforcing the ‘Right to Repair.’ What Does That Really Mean?” <https://www.insidehook.com/article/personal-tech/ftc-right-to-repair>]

So what’s next?

This isn’t a magic fix. Right now, the combination of the FTC vote and Biden’s executive order is basically to put emphasis on Right to Repair rules that are already in place in many states (or being considered). And it means enforcement of this ruling is now a priority.

As Wired notes, “The commission said today it would investigate repair restrictions both as potential violations of antitrust laws and from a consumer protection angle. The FTC is also encouraging the public to report warranty abuse—as defined by the Magnuson Moss Warranty Act of 1975, which prohibits manufacturers from telling consumers that a warranty is voided if the product has been altered or tampered with by someone other than the original manufacturer.”

‘Right to repair’ will be enforced now---the FTC is implementing executive rulemaking that calls for increased resources and prioritizes litigating restrictions in the manufacturing sector---that’s Minter.

#### They’re rolling out enforcement---it’s a priority AND will solve innovation.

Gordon ’21 [Marcy; July 21; Journalist, graduate of the University of Florida; Washington Post, “Agency pledges tough action to buttress ‘right to repair’,” <https://www.washingtonpost.com/politics/agency-eyes-right-to-repair-rules-to-aid-consumers-shops/2021/07/21/3654d32a-ea31-11eb-a2ba-3be31d349258_story.html>]

Americans would be freer to repair their broken cellphones, computers, videogame consoles and even tractors themselves, or to use independent repair shops, under changes being eyed by federal regulators.

The regulators maintain that restrictions have steered consumers into manufacturers’ and sellers’ repair networks or led them to replace products before the end of their useful lives.

As the Federal Trade Commission and the Biden administration see it, that raises issues of anti-competitive conduct.

The FTC is moving toward writing new rules targeting the restrictions. On Wednesday, the five FTC commissioners unanimously adopted a policy statement supporting the “right to repair” that pledges beefed-up enforcement efforts and could open the way to new regulations.

“These types of (repair) restrictions can significantly raise costs for consumers, stifle innovation, close off business opportunity for independent repair shops, create unnecessary electronic waste, delay timely repairs and undermine resiliency,” FTC Chair Lina Khan said. “The FTC has a range of tools it can use to root out unlawful repair restrictions, and today’s policy statement would commit us to move forward on this issue with new vigor.”

The policy statement commits the agency to prosecute repair restrictions that violate current antitrust or consumer protection laws. A 1975 law, for example, requires that if a product has a warranty — which is not mandatory — the warranty must avoid using disclaimers in an unfair or deceptive way. It also prohibits tying a warranty to the use of a specific service provider or product, unless the FTC has issued a waiver in that case.

Unavailable parts, instruction manuals and diagnostic software and tools, product design restrictions and locks on software embedded in devices have made many consumer products harder to fix and maintain, regulators and industry critics say. Do-it-yourself repairs often require specialized tools, hard-to-obtain parts and access to diagnostic software that’s guarded by manufacturers.

The repair restrictions often fall most heavily on minority and low-income consumers, the regulators say. An FTC report to Congress in May noted that many Black-owned small businesses make equipment repairs, and repair shops often are owned by entrepreneurs from poor communities.

For minority and low-income consumers, the repair restrictions are especially acute for cellphones, the report says. Those consumers often have cellphones but no broadband access for computers at home, increasing their dependence on the phones.

Industry critics say the [coronavirus](https://www.washingtonpost.com/coronavirus/?itid=lk_inline_manual_15) pandemic worsened the effects of repair restrictions for all consumers as computers became essential for working remotely, schooling children at home and visiting relatives on screens — while many large chain stores stopped offering on-site repairs.

“Manufacturers, be warned: It’s time to clean up your act and let people fix their stuff,” Nathan Proctor, a director of U.S. Public Interest Research Group’s right-to-repair campaign, said in a statement Wednesday. “With unanimous support from commissioners, there’s a new sheriff in town. The FTC is ready to act to stop many of the schemes used to undermine repair.”

#### They’re litigating non-compliance and on drawing on resources throughout the agency.

FTC ’21 [Federal Trade Commission; July 2021; U.S. agency, tasked with enforcing antitrust and consumer protection law; Federal Trade Commission, “Policy Statement of the Federal Trade Commission on Repair Restrictions Imposed by Manufacturers and Sellers,” <https://www.ftc.gov/system/files/documents/public_statements/1592330/p194400repairrestrictionspolicystatement.pdf>]

While unlawful repair restrictions have generally not been an enforcement priority for the Commission for a number of years,4 the Commission has determined that it will devote more enforcement resources to combat these practices.5 Accordingly, the Commission will now prioritize investigations into unlawful repair restrictions under relevant statutes such as the Magnuson-Moss Warranty Act6 and Section 5 of the Federal Trade Commission Act.7

First, the Commission urges the public to submit complaints and provide other information to aid in greater enforcement of the Magnuson-Moss Warranty Act and its implementing regulations. While current law does not provide for civil penalties or redress, the Commission will consider filing suit against violators of the Magnuson-Moss Warranty Act to seek appropriate injunctive relief. The Commission will also closely monitor private litigation to determine whether the Commission may wish to investigate a pattern of unfair or deceptive acts or practices or file an amicus brief. Further, the Commission will explore rulemaking, as appropriate.

Second, the Commission will scrutinize repair restrictions for violations of the antitrust laws. For example, certain repair restrictions may constitute tying arrangements or monopolistic practices—such as refusals to deal, exclusive dealing, or exclusionary design—that violate the Sherman Act.8 Violations of the Sherman Act also violate the prohibition on unfair methods of competition codified in Section 5 of the Federal Trade Commission Act.

Third, the Commission will assess whether repair restrictions constitute unfair acts or practices, which are also prohibited by Section 5 of the Federal Trade Commission Act. In addition, the Commission will analyze any material claims made to purchasers and users to ascertain whether there are any prohibited deceptive acts or practices, in violation of Section 5 of the Federal Trade Commission Act.

Finally, the Commission will bring an interdisciplinary approach to this issue, using resources and expertise from throughout the agency to combat unlawful repair restrictions. The FTC will also closely coordinate with state law enforcement and policymakers to ensure compliance and to update existing law and regulation to advance the goal of open repair markets.

#### Agencies are resource-constrained but hanging on---they’re able to win cases by advancing clear cut litigation and picking their battles---new cases trade off.

Kantrowitz ’20 [Alex; September 17; Author and reporter, B.A. from Cornell University; Medium, “‘It’s Ridiculous’: Underfunded U.S. Regulators Can’t Keep Fighting the Tech Giants Like This,” <https://onezero.medium.com/its-ridiculous-underfunded-u-s-regulators-can-t-keep-fighting-the-tech-giants-like-this-3b57487b4d63>]

As politicians, the press, and the public scrutinize the tech giants and grow wary of their power, the most important organizations tasked with restraining them — the U.S. regulatory agencies — aren’t getting enough funding to do the job.

“The agencies are severely resource-constrained,” Michael Kades, an-ex FTC trial lawyer who spent 11 years at the agency, told Big Technology.

The Federal Trade Commission and Department of Justice’s antitrust division have a combined annual budget below what Facebook makes in three days. The FTC runs on less than $350 million per year, the DOJ’s antitrust division on [less than $200 million](https://www.justice.gov/doj/page/file/1246781/download#:~:text=Mission%3A,over%20the%20FY%202020%20Enacted.). Facebook made [$18 billion](https://investor.fb.com/investor-news/press-release-details/2020/Facebook-Reports-Second-Quarter-2020-Results/default.aspx) last quarter alone.

The funding disparity between the tech giants and their regulators leads to an unbalanced fight, current and ex-staffers said: The agencies can’t investigate the tech giants to the extent they’d like. They might shy away from complex cases fearing a resource-draining battle. And when they investigate the tech giants, they often see former colleagues with intricate knowledge of their strategy and ability to act (or lack thereof) representing these companies. Without significant budget increases, the tech giants may well continue to act unrestrained with little fear of repercussions.

“DOJ is under-resourced, FTC it’s ridiculous,” one ex DOJ-staffer told Big Technology.

This doesn’t mean these agencies are entirely hamstrung; they can typically marshall the resources to bring a clear-cut case. “They want to win,” one ex-FTC official said. “If it’s really egregious, and they find that in discovery, the attorneys are going to put a case together and go after it.” But when you can only take up a limited number of cases due to resource constraints, things inevitably slip through.

### Link---2NC

#### Adding a single case takes up fifty percent of resources---there’s minimal slack now and Congress will deny requests.

Kantrowitz ’20 [Alex; September 17; Author and reporter, B.A. from Cornell University; Medium, “‘It’s Ridiculous’: Underfunded U.S. Regulators Can’t Keep Fighting the Tech Giants Like This,” <https://onezero.medium.com/its-ridiculous-underfunded-u-s-regulators-can-t-keep-fighting-the-tech-giants-like-this-3b57487b4d63>]

“When I was there, the privacy wing had maybe 50 people, and that’s probably generous. That’s lawyers, support staff, everyone,” Justin Brookman, the former policy director at the FTC’s office of technology research and investigation, told Big Technology. “If they were to bring a case, that would tie up half the resources of the group. And they had two litigations ongoing and that took up most of everyone’s time.” The agency’s budget has barely increased since Brookman left in 2017, while the tech giants have added trillions of dollars to their market caps.

Inside the FTC and DOJ, employees are aware of the tech giants’ ability to fight, and the corporations’ budgets tend to live inside their heads. “Facebook will have the ability to raise every single issue, if they want to,” Kades said. “It doesn’t have to be a winner, doesn’t have to be close to winner. If they wanted to take this position in litigation, they can make every procedural maneuver difficult, they can not cooperate on discovery, they can fight on scheduling, they don’t have to win even half of those, but it would just suck up resources.” The ability to do this, not even the action itself, can impact regulators’ thinking.

Agency staffers are typically mission-driven and knowingly work for salaries below private-sector rates, but the resource-rich tech giants are now poaching directly from agencies at a rate remarkable even for Washington’s revolving door between the private and public sector.

Kate Patchen, a DOJ antitrust chief, went directly to Facebook in 2018. Bryson Bachman, a high-ranking attorney in the DOJ’s antitrust division, became a senior counsel at Amazon in 2018. Scott Fitzgerald, who worked in the DOJ’s antitrust division for nearly 13 years, became a corporate counsel working on regulation for Amazon this May. At the FTC, senior attorney Laura Berger moved to Microsoft in 2018 to become a privacy director for LinkedIn. And Nithan Sannappa, a well-regarded attorney in the agency’s division of privacy and identity protection left for Twitter in 2017 and is now a lawyer for Google.

The FTC declined to comment. The DOJ did not respond to an inquiry.

Hiring this type of talent gives the tech giants a major advantage in their effort to fend off regulation. Ashkan Soltani, a former chief technologist at the FTC, recalled agency lawyers hugging a former colleague who was working for the tech giants as an outside counsel as they prepared to face off in court. “They would have a really personal relationship with staff, which is kind of awkward,” he said. “And they’d know, in detail, all of the cases that the agency has currently and would be able to advise their clients whether to push hard on an issue or not.”

Ultimately, Congress is responsible for funding these agencies, and its lack of action in this regard makes its hearings and tough questioning of tech giant CEOs a little hollow. Getting Bezos to sweat in a made-for-YouTube interrogation pales in comparison to Congress’s responsibility to properly fund the regulators. None of five members of Congress contacted for this story, including some of the most theatrical in the hearings, agreed to comment.

#### Litigation snowballs, dragging the FTC in protracted legal and hiring fights.

Burke ’21 [Andrea and Henry; May 28; B.A. in Political Science and Labor Studies from the University of California at Los Angeles; Research Assistant, B.A. in Economics from the University of Maryland; Revolving Door Project, “Hobbled FTC Lacks Budget to Combat Corporate Buying Spree,” <https://therevolvingdoorproject.org/hobbled-ftc-lacks-budget-to-combat-corporate-buying-spree/>]

According to Revolving Door Project’s analysis, FTC appropriations have consistently declined since 2010, when the agency’s discretionary budget authority was $205 million. In the following years the number declined significantly from $205 million in FY 2010 to $180 in FY 2015 and $168 in FY 2019. Accounting for inflation, the decrease between FY 2010 and FY 2019 funding for the FTC amounted to a cut in discretionary appropriations of 30%.

Despite the decrease in discretionary funding, the agency has seen its overall budget increase slightly as a result of the increased merger filing fees that it receives. These are not enough to keep pace with the massive increase in caseload for the agency from which they result. As the fee schedule was implemented in 2001, the filing fees for mergers are far too low to cover the cost of the FTC’s investigations. In a 2021 statement on filing fees, acting Chair Rebecca Kelly Slaughter and Commissioner Rohit Chopra [stated](https://www.ftc.gov/system/files/documents/public_statements/1587163/p859910_concurring_statement_of_ac_slaughter_and_c_chopra_re_revised_hsr_thresholds.pdf) that the mega-mergers regulated by the agency “require more resources and staff. For example, large retail or service mergers often require investigation into dozens of geographic markets and large pharmaceutical or industrial mergers often require investigation into a dozen or more product markets.”

The Democratic commissioners specifically identify the need for experts to carry out investigations and litigation, noting “the amount of money the FTC spends on expert costs has risen dramatically over the last several years.” As new technologies are developed, the FTC’s investigations are bound to become more complex, necessitating higher funding altogether for hiring more technologists, economists and other experts. Although the FTC is known for an aversion to costly litigation (a fact which corporations use to their advantage), increased funding would also allow the agency to hire more attorneys to carry out challenges in court.

However, due to declining discretionary funding and fees not keeping up with inflation, the FTC has been forced to expend far fewer resources on each investigation than it had in prior years. The appearance of a budget increase since 2010 needs to be reconciled with the reality that the agency has been crushed under an increased caseload many times larger than the nominal increase in budget.

### Internal---Agriculture---2NC

#### Ag is trending up---projections are strong and foretell post-pandemic rebound but could flip.

Ghosal ’21 [Sutanuka; June 30; Senior Assistant Editor, M.A. from the University of Calcutta; The Economic Times, “Agri financing companies expect a major uptick in financing demand from the agricultural sector this Kharif,” <https://economictimes.indiatimes.com/news/economy/agriculture/agri-financing-companies-expect-a-major-uptick-in-financing-demand-from-the-agricultural-sector-this-kharif>]

As the number of Covid cases is coming down and vaccination gathering momentum, agri financing companies are expecting a major uptick in financing demand from the agricultural sector this Kharif. Some of them are projecting a 2-3-fold increase in agri-finance disbursement in the current fiscal.

Financers said that the economic impact of the second wave of the pandemic is softer and will likely be limited to the April-June quarter. Rural demand, which remains resilient, will continue to be supported by strong agricultural production, higher procurement prices for the 2021-22 season together with an overall rebound in economic activity. The sowing of Kharif crops in the country starts from the middle of June with the arrival of the monsoon.

Talking to ET, Sandeep Sabharwal, CEO, SLCM Group said “Our wholly-owned subsidiary, Kissandhan Agri Financial Services provides loans to farmers, traders, and agri processors. In the current fiscal we are looking to provide financing against a diversified basket of agricultural commodities and products like lending to farmer producer organisations (FPOs), non-banking financial companies and microfinance institutions, invoice discounting facilities.”

Financers see good potential developing in a variety of crops like paddy, rice, maize, bajra, soybean, groundnut and cotton this kharif.

Though Kissandhan is present pan-India, it is expecting more financing activity in states like Punjab, Haryana, Rajasthan, Maharashtra, Gujarat and Bihar.

“Business-wise, this Kharif will be better than last year’s on account of greater awareness about the Covid virus, restrictions imposed by the central and state governments during the second wave of the corona are more targeted, localised and less stringent. Therefore, the economic impact of the second wave is softer and will likely be confined largely to the April-June quarter. However, we must keep a close watch on the third wave of Covid,” Sabharwal added.

#### Authoritative reports from the Federal Reserve predict strong recovery.

Good ’21 [Keith; July 14; former member of the USDA’s National Agricultural Statistics Service, M.S. in Agricultural Economics from Purdue University, J.D. from Southern Illinois University School of Law; Farm Policy News, “Federal Reserve: Observations on the Ag Economy- July 2021,” <https://farmpolicynews.illinois.edu/2021/07/federal-reserve-observations-on-the-ag-economy-july-2021/>]

On Wednesday, the Federal Reserve Board released its [July 2021 Beige Book](https://www.federalreserve.gov/monetarypolicy/files/BeigeBook_20210714.pdf) update, a summary of commentary on current economic conditions by Federal Reserve District. The report included several observations pertaining to the U.S. agricultural economy.

Sixth District- Atlanta– “Agricultural conditions remained mixed. Widespread rain across parts of the District resulted in abnormally moist to excessively wet conditions while much of Florida and southern Georgia experienced abnormally dry to moderate drought conditions.

“Planting progress for much of the region’s cotton, soybean, and peanut crops were mostly on par with the five-year average. On a month-over- month basis, the production forecast for Florida’s orange crop was up [in June](https://downloads.usda.library.cornell.edu/usda-esmis/files/tm70mv177/1544ck71q/0c484d82x/crop0621.pdf) while the grapefruit production forecast was down; both forecasts remained below last year’s production levels. The USDA reported year-over- year prices paid to farmers in May were up for corn, cotton, soybeans, cattle, broilers, eggs, and milk, but down for rice. On a month-over-month basis, prices were up for corn, rice, soybeans, broilers, eggs, and milk, but down for cotton. Cattle prices were unchanged.”

Seventh District- Chicago–

Agriculture stayed on course to earn higher market-based incomes relative to last year, as most product prices remained high enough to offset increased costs for freight, energy, fertilizers, and labor.

“On net, corn prices were little changed, while soybean prices were a little lower over the reporting period. Although planted corn and soybean acreage was up from last year, it was lower than expected earlier in the growing season, which helped maintain prices. Crop conditions for corn and soybeans were mixed, as some parts of the District were in excellent shape and others were stressed by drought.

“Hog and milk prices eased off highs during the reporting period, while cattle prices were flat. One contact noted that a lack of workers in slaughterhouses had led to the suspension of some contracts with poultry producers. Farmland values moved higher again.”

Eighth District- St. Louis– “District agriculture conditions declined modestly relative to the previous reporting period but remain steady relative to the same period last year. Between the end of May and end of June, the percentages of corn, cotton, rice, and soybeans rated fair or better decreased modestly across the District.”

Ninth District- Minneapolis– “District agricultural conditions continued to benefit from strong commodity prices. However, severe drought conditions across most of the District had many crop producers concerned about yields, as most corn, soybean, and wheat acres in the District were rated in fair or poor condition.”

Tenth District- Kansas City–

Agricultural economic conditions in the Tenth District were strong through June, with profit margins for most major commodities relatively high.

“Prices of most crops were still near multi-year highs, although had declined slightly since the previous reporting period. Hog prices also remained strong. The winter wheat harvest was delayed slightly in parts of the District, but crop quality was not expected to be hindered and higher production was anticipated throughout the region. In addition, the District’s corn and soybean crop was in slightly better condition than the nation in all states except Missouri. In contrast to other commodities, profitability for cattle producers continued to be limited. Drought also persisted in some portions of the District and remained a concern for both crop and livestock producers.”

Eleventh District- Dallas– “Drought conditions eased in much of the District, though severe drought persisted in West Texas and Southern New Mexico. In areas with sufficient soil moisture, producers were optimistic for robust crops this year. Crop prices were slightly higher overall, supported by concern over U.S. and global drought conditions. For crops like corn and sorghum, cash prices are at an eight-year high. Recent rainfall benefitted pasture conditions, which is a positive for livestock producers amid high feed costs.”

Twelfth District- San Francisco– “Activity in the agriculture and resources sectors increased somewhat. Eased local restrictions led to generally increased domestic demand for agricultural and resource-related products. International demand for logs, fruits, vegetables, seafood, and other products increased over the reporting period despite an appreciating dollar. Producers noted reduced but still adequate supply and inventory levels of fruits, raisins, and nuts. Supply chain disruptions continued to cause costly delays with trade from Asian markets in particular. Growers in California reported drought conditions and increased costs associated with irrigation. This led some farmers to leave a portion of their acreage fallow, prioritizing water usage on more profitable crops.”

#### 2. Monopolization---it’ll crush revenue and crop growth---only ‘right to repair’ solves.

O’Reilly ’21 [Kevin; February 2021; Director of the Campaign for the Right to Repair at the United States Public Interest Group, B.S. and B.A. from the University of San Diego; U.S. PIRG, “Deere in the Headlights,” p. 3-19]

Executive Summary

On the farm, the fields must be plowed, planted or harvested whether or not your tractor or combine harvester is running. When their equipment does break down, generations of farmers have found a way to fix their equipment and get the job done. But now, equipment manufacturers refuse to give farmers all of the tools that they need to fix their stuff—especially the software tools to install replacement electronics— leading to delays of hours to weeks while the farmer waits for the dealership to make the repair.

Farm equipment, much like all of the devices and gadgets in our lives, is increasingly driven by software. While this software has increased the efficiency of some tasks, it has also allowed manufacturers to take increasing control of the repair process.1

The sensors and control systems that feed this software with data have been integrated into most of the functions of modern combine harvesters, tractors and other farm equipment.2 In cases where a mechanical issue engages safety or emissions control systems, or some part of those systems fail, the immobilizer is activated. 3 This sends the machine into “limp mode,” which disables most of the equipment’s functionality and only allows the machine to “limp” out of the way of other work until it is repaired and the error codes are cleared.4

Without the software tools needed to diagnose problems, install replacement parts and authorize repairs, the engagement or failure of any sensor or control system forces a farmer to either haul their machine into the nearest dealership or wait for a field technician to arrive to complete the repair.5

Farmers’ inability to repair software-connected systems without proprietary software is a glaring example of how farm equipment is engineered to be dependent on dealership support. Our research shows how prevalent this practice has become: U.S. PIRG Education Fund found as many as 125 sensors in a single combine. Each sensor is connected to a controller network. A problem with any one of those controller networks will require diagnostic tools not available to farmers, sending them back to the dealer for a repair. According to agricultural equipment experts, these sensors and their associated controller networks are now the highest point of failure on the product.6

When repair options are limited by software or other restrictions, it can create a de-facto repair service monopoly. Manufacturers’ monopoly on repair has a real impact on farmers’ livelihoods. Without independent repair shops or the ability to fix their own stuff, they are exposed to high repair costs and long wait times. This report describes some of these delays and the associated difficulties and expenses.

Manufacturers defend these behaviors by claiming that providing farmers with the repair resources available to dealerships would lead to illegal modifications that could override safety and environmental controls, 7 claims that this report shows are false. There is, however, a strong financial incentive to capture repair business. John Deere company filings pointed to trends that services and repair have been as much as three to six times as profitable as new equipment sales for John Deere and its dealerships. 8

There are many examples that demonstrate how farmers are frustrated by the challenges in maintaining equipment. Some are paying unprecedented prices for older tractors—like the 1980 John Deere 4440 that sold for $43,500 in Lake City, MN in April 20199—because they are actually fixable. Others, like Nebraska farmer Kyle Schwarting, 10 are hacking their tractors with versions of John Deere Service Advisor cracked and made available on torrent websites based in Eastern Europe. 11

Farmer organizations are increasingly supporting policy solutions to eliminate repair hurdles. The American Farm Bureau Federation, the National Corn Growers Association and the National Farmers Union submitted a public comment to the U.S. Copyright Office requesting, “exemption for agricultural vehicle owners to diagnose, repair, and lawfully modify the computer programs contained in and controlling the functioning of their mechanized agricultural vehicles,”12 in 2018 as a part of the triennial rulemaking process laid out by section 1201 of the Digital Millennium Copyright Act. Right to Repair legislation—which would provide farmers with access to the parts as well as the physical and software tools used to diagnose, calibrate and otherwise authorize repairs—is also gaining popularity amongst farmers. Over 30 states have considered these reforms, 13 the American Farm Bureau Federation adopted a pro-Right to Repair policy in 2020,14 and the Montana Farmers Union indicated a 2021 bill in its state is a top priority.15

This report outlines why farmers need the right to repair their equipment. Absent these reforms, farmers are reliant on dealerships for many fixes and are exposed to high costs and long wait times that cut into already thin profit margins. 16 Despite industry claims, Right to Repair legislation would not provide farmers with the ability to bypass safety or environmental controls, nor would it expose manufacturers to potential loss of intellectual property. It would, however, provide farmers with what they need to get back to work when their equipment goes down.

#### 3. Prices---they’ll spike and lock out farmers from advanced capabilities.

Stumpf ’21 [Rob; July 6; Journalist, citing White House Press Secretary Jen Psaki and the Department of Agriculture; The Drive, “Biden to Sign Order Protecting Farmers’ Right to Repair Tractors,” <https://www.thedrive.com/news/41427/biden-to-sign-order-protecting-farmers-right-to-repair-tractors>]

United States President Joe Biden will sign an executive order that restricts manufacturers from limiting farmers' ability to repair their own property.

News of the impending order was given by White House Press Secretary Jen Psaki [during a news conference](https://www.youtube.com/watch?v=ZtpA-OZkqlM) on Tuesday. Psaki noted that the U.S. Department of Agriculture (USDA) and the Federal Trade Commission (FTC) will be ordered to engage in a series of rulemaking which will increase competition in the agriculture industry. In turn, this could boost farmers' and ranchers' earnings while fighting back against abuses of power from giant agriculture conglomerates.

The right to repair has been an ongoing fight in the U.S. for quite some time, but pressure has been mounding on legislative protection for the better part of a decade. While many consumers struggle with the ability to repair their own devices and [vehicles](https://www.thedrive.com/news/41121/voters-overwhelmingly-passed-a-right-to-repair-law-in-massachusetts-carmakers-are-fighting-back), some industries like farming have been hampered by the inability to repair the tools they use every day due to limitations enacted by large equipment manufacturers.

While the immediate details are slim, Press Secretary Psaki says that the rulemaking from the USDA and FTC will “give farmers the right to repair their own equipment how they like.”

The farming industry has been inadvertently spearheading right-to-repair efforts across the nation. Rural U.S. laborers find themselves at an impasse over the complicated repair lockouts imposed by John Deere and other manufacturers. Some have even reverted to old school tractors, driving the price of malaise-era farming equipment to an all-time high.

Meanwhile, right-to-repair advocacy groups are smitten with the announcement of upcoming orders.

“We’re thrilled to see the Biden administration step up to protect farmers from repair monopolies," said Nathan Proctor, who's the U.S. Public Interest Research Group Right to Repair Senior Campaign Director, noting the [study published by the firm](https://uspirg.org/feature/usp/deere-headlights) regarding this very issue. "Our research has shown that the way the equipment is built makes it necessary to get specialized software tools that, despite promises that manufacturers would share them, farmers can’t get. This order should be the first step in giving farmers a choice for who repairs their equipment."