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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

T Prohibit

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

Kerry Lynn Macintosh 97, Associate Professor of Law, Santa Clara University School of Law. B.A. 1978, Pomona College; J.D. 1982, Stanford University, “Liberty, Trade, and the Uniform Commercial Code: When Should Default Rules Be Based On Business Practices?,” 38 Wm. & Mary L. Rev. 1465, Lexis

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

#### Only per se illegality prohibits a practice---rules of reason prohibit anticompetitive effects for individual acts, or instances of ‘practice.’

John Paul Stevens 90, Justice, Supreme Court of the United States, “FTC v. Superior Court Trial Lawyers Ass'n,” 493 U.S. 411, Lexis

LEdHN[3C] [3C]LEdHN[14] [14]Equally important is the second error implicit in respondents' claim to immunity from the per se rules. In its opinion, the Court of Appeals assumed that the antitrust laws permit, but do not require, the condemnation of price fixing and boycotts without proof of market power. 15 The opinion further assumed that the per se rule prohibiting such activity "is only a rule of 'administrative convenience and efficiency,' not a statutory command." 272 U.S. App. D. C., at 295, 856 F. 2d, at 249.This statement contains two errors. HN10 [\*\*\*\*42] The per se [\*433] rules are, of course, the product of judicial interpretations of the Sherman Act, but the rules nevertheless have the same force and effect as any other statutory commands. Moreover, while the per se rule against price fixing and boycotts is indeed justified in part by "administrative convenience," the Court of Appeals erred in describing the prohibition as justified only by such concerns. The per se rules also reflect a long-standing judgment that the prohibited practices by their nature have "a substantial potential for impact on competition." Jefferson Parish Hospital District No. 2 v. Hyde, 466 U.S. 2, 16 (1984).

[\*\*\*\*43] LEdHN[15] [15]As we explained in Professional Engineers, HN11 the rule of reason in antitrust law generates

"two complementary categories of antitrust analysis. In the first category are agreements whose nature and necessary effect are so plainly anticompetitive that no elaborate study of the industry is needed to establish their illegality -- they are 'illegal per se.' In the second category are agreements whose competitive effect can only be evaluated by analyzing the facts peculiar to the business, the history of the restraint, and the reasons why it was imposed." 435 U.S., at 692.

[\*\*\*873] "Once experience with a particular kind of restraint enables the Court to predict with confidence that the rule of reason will condemn it, it has applied a conclusive presumption that the restraint is unreasonable." Arizona v. Maricopa County Medical Society, 457 U.S. 332, 344 (1982).

[\*\*781] LEdHN[16] [16] [\*\*\*\*44] The per se rules in antitrust law serve purposes analogous to per se restrictions upon, for example, stunt flying in congested areas or speeding. Laws prohibiting stunt flying or setting speed limits are justified by the State's interest in protecting human life and property. Perhaps most violations of such rules actually cause no harm. No doubt many experienced drivers and pilots can operate much more safely, even at prohibited speeds, than the average citizen.

[\*434] If the especially skilled drivers and pilots were to paint messages on their cars, or attach streamers to their planes, their conduct would have an expressive component. High speeds and unusual maneuvers would help to draw attention to their messages. Yet the laws may nonetheless be enforced against these skilled persons without proof that their conduct was actually harmful or dangerous.

In part, the justification for these per se rules is rooted in administrative convenience. They are also supported, however, by the observation that every speeder and every stunt pilot poses some threat to the community. An unpredictable event may overwhelm the skills of the best driver or pilot, even if the [\*\*\*\*45] proposed course of action was entirely prudent when initiated. A bad driver going slowly may be more dangerous that a good driver going quickly, but a good driver who obeys the law is safer still.

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

### 1NC---OFF

T Subsets

#### ‘Antitrust law’ must be economy-wide---that excludes subsets

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

C. A Core Definition

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

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

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

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

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

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

#### Violation---the aff only applies under limited circumstances

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

### 1NC---OFF

T Scope

#### The scope of antitrust law is exclusively bounded by exemptions and immunities

Kruse et al. 19, Layne E. Kruse, Co-Chair; Melissa H. Maxman, Co-Chair; Vittorio Cottafavi, Vice Chair; Stephen M. Medlock, Vice Chair; David Shaw, Vice Chair; Travis Wheeler, Vice Chair; Lisa Peterson, Young Lawyer Representative; all on the Exemptions and Immunities Committee of the ABA Antitrust Section, “Long Range Plan, 2018-19,” American Bar Association, 3/18/19, https://www.americanbar.org/content/dam/aba/administrative/antitrust\_law/lrps/2019/exemptions-immunities.pdf

D. Top 3 Accomplishments Since Last Long Range Plan in 2015

(1) Publications. In addition to our Annual ALD Updates, we are set to publish an update to the Noerr-Pennington Handbook, which should be out in 2019. We also published a new version of the State Action Handbook in 2016. The Handbook on the Scope of the Antitrust Laws was published in 2015.

(2) Commentary on Legislative and Regulatory Proposals. The Committee has been very active in supporting Section commentary on proposed legislation, regulations, and other policy issues.

For instance, in March 2018, the E&I Committee assisted former E&I Chair John Roberti in composing his article, “The Role and Relevance of Exemptions and Immunities in U.S. Antitrust Law”, presented to the DOJ Antitrust Division Roundtable on behalf of the ABA Antitrust Section.

In January 2018, in response to a request from the Section Chair, we submitted Section comments along with the Legislative and State AG Committees, addressing the proposed Restoring Board Immunity Act legislation that would impact the post-NC Dental exemptions and immunity climate. Previously, we commented on the Professional Responsibility Act.

(3) Spring Meeting Programs. We have sponsored or co-sponsored a program at every Spring Meeting since our last long range plan. In 2019 we will chair Sham Litigation after FTC v. AbbVie The FTC v. AbbVie decision – calling for the disgorgement of $448 million on the basis of sham patent litigation. In addition, we will co-sponsor in 2019 with the Trade, Sports & Professional Associations Committee, a program on “Antitrust Law's Anomalous Treatment of Sports,” addressing how US courts have shown broad deference to the "rules of the game," including near-immunity status for concepts such as "amateurism."

II. Major Competition/Consumer Protection Policy or Substantive Issues Within Committee’s Jurisdiction Anticipated to Arise Over Next Three Years

A. Issue #1: Will Certain Exemptions Be Eliminated or Expanded?

A goal of the current DOJ Antitrust Division is to streamline antitrust laws, and in particular, take a hard look at exemptions and immunities. This is in the wheelhouse of our Committee’s fundamental policy issue: How much of the economy has opted out of our antitrust system? Is that a problem or are ad hoc exemptions acceptable ways to fine tune the application of the antitrust laws?

We anticipate, therefore, that efforts to enact or to repeal existing statutory exemptions and immunities will continue. In recent years, there have been efforts to repeal the exemptions for railroads and (at least in part) the McCarran-Ferguson insurance exemption. The Section and the Committee has generally supported efforts to repeal statutory exemptions. Given that repeal issues are very political it is unlikely that we will see many exemptions actually repealed.

On the other hand, proposals for new exemptions and immunities will continue to be introduced in Congress. The Committee will improve on a template for use in assisting the Section in drafting comments to Congress on newly proposed exemptions and immunities.

One development that may continue in the health care area are issues over a "COPA" or "Certificate of Public Advantage" at the state level. A COPA is a state statutory mechanism that provides certain collaborations in the health care community with immunity from private or government actions under the antitrust laws by invoking the state action doctrine. The FTC has generally opposed such efforts at the state level, but several states have used them to immunize health care mergers. This is a major development that should be monitored.

Through programs, newsletters, and Connect entries, the Committee intends to educate its members about Congressional and other efforts to repeal, or introduce new, exemptions and immunities, as well as the application of existing statutory exemptions and immunities in the courts. The Committee’s Handbook on the Scope of Antitrust Law, published in 2015, addresses developments in the statutory immunities area. It built on the prior publication, Federal Statutory Exemptions from Antitrust Law Handbook in 2007. Our Scope book will need to be updated within the next three years.

B. Issue #2: Will There Be Legislative Solutions to State Action Issues at State and Federal Levels?

The FTC’s case against the North Carolina Board of Dental Examiners put the "active supervision" prong of the state action test front and center. North Carolina State Board of Dental Examiners v. Federal Trade Commission, 135 S.Ct. 1101 (2015). The Court agreed with the FTC’s position that state occupational licensing boards comprised of market participants must satisfy the active supervision requirement. This spurred additional suits against other types of state boards involving regulated professionals. Moreover, every State had to reassess its boards to determine if there is "active supervision." Courts and state legislatures are addressing those issues. We also expect the proper framing of the clear articulation prong of the state action doctrine will be addressed. The Supreme Court spoke to the clear articulation test in FTC v. Phoebe Putney Health System, Inc., 133 S.Ct. 1003 (2013), narrowing the foreseeability test to cover only situations in which the anticompetitive conduct is the “inherent, logical, or ordinary result of the exercise of authority delegated by the state legislature.” How this test has played out in the lower courts will be of particular interest to the Committee and its membership. The COPA issues, at the state level, as previously mentioned, will impact this area.

The Committee expects to address these issues through updates to Connect, newsletters, Spring Meeting programs, committee programs, its contributions to the Annual Review of Antitrust Law Developments. The State Action Practice Manual addresses these issues, as well as the Committee’s Handbook on the Scope of Antitrust Law.

C. Issue #3: Will Noerr Be Restricted or Expanded?

The Noerr-Pennington doctrine is an exemption issue that is frequently litigated. In particular, the most likely area of further development is in the pharma industry. Alleged misrepresentations to government agencies has caught the attention of some courts. In addition, there may be more development on the pattern exception, which raises the issue of whether each act of petitioning in a pattern must satisfy the objectively and subjectively baseless requirements for sham petitioning. The Committee’s new Handbook on Noerr (forthcoming) and its earlier Handbook on the Scope of Antitrust Law addresses developments in the Noerr law.

III. Specific Long Term Plans to Strengthen Committee

The Committee provides important services to the membership of the Section through publications, drafting ABA Antitrust Section comments to proposed regulation and international competition proposed immunities, and programming. The goals of the Committee include: (1) to provide policy comments on key questions about the scope of the antitrust laws for legislation and policy-making; (2) produce a mix of publications and programming that provides relevant and useful information to our members; (3) to ensure that the Committee remains valuable to our members’ practices; and (4) to make the most productive use of electronic communications to deliver the Committee’s work product.

A. Potential Modifications to Charter: What is the Role of this Committee?

The Committee’s current charter accurately characterizes its purview—that is, addressing the scope of the antitrust laws. That scope, of course, is defined primarily in terms of exemptions and immunities (both statutory and non-statutory). The Committee, however, has dealt with other doctrines, such as preemption and primary jurisdiction. These areas may not necessarily be viewed as traditional exemptions or immunities, but they nonetheless directly affect the application and extent of the antitrust laws. In addition, the Committee expends significant efforts to address international issues, including statutory exclusions from the U.S. antitrust laws, including the FTAIA; the related doctrines of act of state, sovereign immunity, and foreign sovereign compulsion; and industry-specific exemptions and exclusions from non-U.S. antitrust laws, including blocking exemptions.

#### ‘Expand’ must make more expansive---NOT merely clarify existing principles

Terry J. Hatter, Jr. 90, Judge, US District Court, California Central, “In re Eastport Assoc.,” 114 B.R. 686, Lexis

[\*\*10] Second, Eastport asserts that the presumption against retroactivity does not apply because the amendment was intended only as a clarification of existing law. HN7 Where an amendment to a statute is remedial in nature and merely serves to clarify existing law, no question of retroactivity is involved and the law will be applied to pending cases. City of Redlands v. Sorensen, 176 Cal. App. 3d 202, 211, 221 Cal. Rptr. 728, 732 (1985). The evidence in this case, however, does not support the conclusion that the amendment to section 66452.6(f) was simply a clarification of preexisting law. The Legislative Counsel's Digest specifically states that "the bill would expand the definition of development moratorium." Senate Bill 186, Stats. 1988, ch. 1330, at 3375 (emphasis added). Since the Legislative Counsel is a state official required by law to analyze pending legislation, it is reasonable to presume that the Legislature amended the statute with the intent and meaning expressed in the Counsel's digest. People v. Martinez, 194 Cal. App. 3d 15, 22, 239 Cal. Rptr. 272, 276 (1987). By its ordinary meaning, the term "expand" indicates a change in the law, rather than a restatement of existing [\*\*11] law. In light of the Counsel's comment, Eastport's argument is unpersuasive.

#### Vote NEG---eliminating exemptions and immunities provides a limited AND predictable basis for prep---the aff allows infinite expansions

### 1NC---OFF

Taxes CP

#### The United States federal government should expand the scope of its core antitrust laws to anticompetitive private sector business practices that reduce the bargaining power of workers in labor markets, enforced by applying a substantial progressive tax on rents from those practices.

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

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

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

I. Introduction: Why Tax Corporations?

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

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

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

II. A Tax on Shareholders?

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

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

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

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

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

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

III. A Tax on Monopolistic Rents

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

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

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

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

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

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

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

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

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

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

1. Introduction

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

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

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

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

2. Transition theory: the MLP and the MPP

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

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

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

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

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

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

3. Regulatory and environmental taxation

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

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

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

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

4.1. (In)compatibility arguments

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

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

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

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

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#### The fifty states and relevant subnational entities should substantially increase prohibitions on anticompetitive private sector business practices that reduce bargaining power of workers in labor markets.

#### 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)

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Labor Law CP

The United States federal government should increase legal presumptions and affirmative defenses to workers under labor law that get triggered when a court finds an employer’s conduct beneficial to consumers but harmful for workers.

#### Labor law solves better

Hafiz ’20 [Hiba; March 16; Assistant Professor of Law, Boston College Law School; University of Chicago Law Review, “Labor Antitrust Paradox,” vol. 86 no. 2; KP]

B. Regulatory Sharing Between Antitrust and Labor Law

Regulatory sharing between antitrust and labor law is necessary to ensure against employer arbitrage enabled by antitrust law’s ambiguous welfare standards and the judiciary’s historical favoring of consumer welfare over worker welfare. Establishing a network of labor antitrust triggers for labor rights enforcement, shared merger enforcement between the antitrust and labor agen- cies, and substantive law presumptions and affirmative defenses under labor law generated by labor-antitrust findings avoids the pitfalls of underenforcement in labor-market regulation.

1. Labor antitrust triggers and shared merger enforcement.

Labor-antitrust actions should apply a consumer welfare standard to determine antitrust liability. Yet when a court finds employers’ conduct beneficial to consumers but harmful to workers in either Section 1 or Section 2 cases, that would trigger a “red flag” establishing substantive legal presumptions and affirmative defenses to workers under labor law.114 If plaintiff-enforcers make a prima facie showing of employers’ unlawful agreements or monopsony power, or power to set wages, this would also trigger a “red flag.” The red flag would issue before defendants have an opportunity to rebut “by showing . . . no control over wages,” as others propose,115 because labor markets are naturally monopsonistic and such a rebuttal should not be relevant for labor-law inquiries. It will likely be difficult and costly for plaintiffs to disaggregate employers’ market power from search frictions, information asymmetries, job differentiation, heterogeneous tastes, job-lock, and other market failures that favor employers’ leverage over workers.116 Thus, while an employer may avoid antitrust liability by rebutting evidence of its monopsony power, the source of that power is less relevant in the labor and employment context; if it exists, workers should be entitled to substantive labor-law presumptions and affirmative defenses.

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Clog DA

#### Antitrust litigation consumes vast judicial resources – causes backlogs.

Fitch et al. ’21 [Lynn Fitch, Krissy C. Nobile, Justin L. Matheny; Attorney General of Mississippi; Deputy Solicitor General for Mississippi; Assistant Solicitor General; 3/1/21; “BRIEF FOR THE STATES OF MISSISSIPPI, ALABAMA, ARIZONA, ARKANSAS, CONNECTICUT, FLORIDA, GEORGIA, IDAHO, INDIANA, IOWA, KENTUCKY, LOUISIANA, MAINE, MICHIGAN, MINNESOTA, MONTANA, NEW JERSEY, OREGON, SOUTH CAROLINA, TEXAS, UTAH, VIRGINIA, AND WEST VIRGINIA AS AMICI CURIAE IN SUPPORT OF PETITIONER”; <https://www.supremecourt.gov/DocketPDF/20/20-1018/170601/20210301174920932_pdf>]

The financial costs and burdens of defending antitrust litigation are also extraordinarily high. To mitigate those costs and burdens, which ultimately are borne by state taxpayers and citizens, States and their political subdivisions have a significant interest in dismissal of antitrust claims at the earliest stage possible whenever dismissal is legally appropriate. “Litigation, though necessary to ensure that officials comply with the law, exacts heavy costs in terms of efficiency and expenditure of valuable time and resources that might otherwise be directed to the proper execution of the work of the Government.” Ashcroft v. Iqbal, 556 U.S. 662, 685 (2009).

Immediate appellate review of a denial of a claim of state-action immunity is also efficient. Antitrust litigation is costly for litigants and the judicial system. Antitrust cases are complex and can easily consume judicial time and resources. Fully resolving state-action immunity on the front-end of litigation focuses on a narrow, outcome-determinative issue and can prevent the waste of judicial resources expended in a trial that, at the end, proves to be unwarranted. Courts therefore have a vested interest in early-stage dismissal of antitrust claims that cannot lead to redress.

An appeal from a final judgment cannot adequately safeguard these important state and judicial interests or adequately protect against financial burdens needlessly imposed by forcing a state entity entitled to state-action immunity to litigate antitrust cases to a final judgment. See Commuter Transp. Sys., 801 F.2d at 1289 (“The purpose of the state action doctrine is to avoid needless waste of public time and money.”). Allowing an immediate appeal to avoid an unnecessary trial when a State or state entity is in fact immune will protect significant public interests; obviate, or at least diminish, unnecessary financial expenditure; foster efficiency; and conserve judicial resources.

B. It is widely recognized that antitrust litigation is particularly costly. Indeed, this Court’s decision in Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007) is predicated in good measure on the fact that antitrust litigation is notoriously expensive. The complex and protracted discovery inherent in the early stages of antitrust litigation accounts for much of that expense. Id. at 558. In fact, that is why Twombly admonished courts not “to forget that proceeding to antitrust discovery can be expensive.” Id. at 558-59 (citing, inter alia, Note, Modeling the Effect of One-Way Fee Shifting on Discovery Abuse in Private Antitrust Litigation, 78 N.Y.U. L. REV. 1887, 1898-99 (2003) (discussing the unusually high cost of discovery in antitrust cases); Manual for Complex Litigation, Fourth, § 30, p. 519 (2004) (describing extensive scope of discovery in antitrust cases); and Memorandum from Hon. Paul V. Niemeyer, Chair, Advisory Committee on Civil Rules, to Hon. Anthony J. Scirica, Chair, Committee on Rules of Practice and Procedure (May 11, 1999), 192 F.R.D. 354, 357 (2000) (reporting that discovery accounts for as much as 90 percent of litigation costs when discovery is actively employed)).

Twombly stands for the general proposition that, when allegations in a complaint, however true, fail to state a claim for relief, the claim should be dealt with “at the point of minimum expenditure of time and money by the parties and the court.” Twombly, 550 U.S. at 558 (quoting 5 C. Wright & A. Miller, Federal Practice and Procedure § 1216, at 233-234 (3d ed. 2004)). The point of minimum expenditure in an antitrust case, in particular, comes before the case proceeds to discovery. Twombly, 550 U.S. at 568 (citing Car Carriers, Inc. v. Ford Motor Co., 745 F.2d 1101, 1106 (7th Cir. 1984) (“[T]he costs of modern federal antitrust litigation and the increasing caseload of the federal courts counsel against sending the parties into discovery when there is no reasonable likelihood that the plaintiffs can construct a claim from the events related in the complaint.”)).

If a state entity defendant in an antitrust case is entitled to state-action immunity—whether that immunity is deemed immunity from suit or from liability— there is no reasonable likelihood that a plaintiff can raise a claim of entitlement to relief or recovery. There is thus every reason to allow the state-action immunity issue to be appealed before the parties and the court are faced with the costs of discovery and trial—i.e., to deal with the issue “at the point of minimum expenditure of time and money by the parties and the court.”

Antitrust litigation is legally and factually complex, inevitably requires massive discovery, cannot be conducted without a battery of expert witnesses, and is of protracted duration. See, e.g., Corr Wireless Commc’ns v. AT&T, Inc., 893 F. Supp. 2d 789, 809-10 (N.D. Miss. 2012); Nepresso USA, Inc. v. Ethical Coffee Co. SA, 263 F. Supp. 3d 498, 508 (D. Del. 2017) (highlighting “the financial burden of the discovery process in general, but particularly in antitrust cases”). Those concerns counsel in favor of application of the collateral-order doctrine to allow interlocutory appeals of the denial of claims of state-action immunity in antitrust cases.

#### Efficient court review underpins patent-led innovation---that stops nuclear war and a range of existential threats

Robert J. Rando 16, Founder and Lead Counsel of The Rando Law Firm P.C., Fellow of the Academy of Court-Appointed Masters, Treasurer for the New York Intellectual Property Law Association, Chair of the Federal Bar Association Intellectual Property Law Section, “America’s Need For Strong, Stable and Sound Intellectual Property Protection and Policies: Why It Really Matters”, IP Insight, June 2016, p. 12-14 [language modified] [abbreviations in brackets]

Robert F. Kennedy’s speech, which includes his reference to the oft-quoted “interesting times” curse, applies throughout history in many contexts and, indeed, with both negative and positive connotation. While he focused on the struggles for freedom and social justice, the requisite ascendancy of the individual over the state, and the institution and integration of those ideals for the greater good, he also promoted the goals of greater global unity, cooperation and communication, which were, and could be, achieved by advances in technology. And, as noted in the excerpt, he championed “the creative energy of men.”

Intellectual Property in “Interesting Times”

It is beyond question that starting with the last decade of the twentieth century and throughout the first two decades of the twenty-first century, when it comes to matters relating to intellectual property, we have been living in “interesting times.” Some may interpret these interesting times as defined by the curse and others may view it by the ordinary meaning of “interesting.” In either case, those of us that toil in the fields of patents, copyrights, trademarks, trade secrets, and privacy rights have experienced an unprecedented sea change in the way those rights are procured, protected and enforced. Likewise, and perhaps more importantly, even those of us that do not practice in these areas of law, as well as the general public, have been, and continue to be, impacted by the consequences of these changes (both positive and negative).

The Changes In Intellectual Property Law

Examples of some of the changes in intellectual property law are: the sweeping 2011 legislative changes to the patent laws under the America Invents Act (AIA), which impact is only beginning to be fully appreciated; the various proposals for patent law reform, on the heels of the AIA, beginning with the 113th and 114th Congress; the copyright laws Digital Millennium Copyright Act (DMCA) and numerous 114th Congressional proposed copyright law changes; the recently enacted federal trade secret law (Defend Trade Secrets Act of 2016 (DTSA))2; the impact of the internet, domain names and globalization on Trademark law; the intellectual property law harmonization requirements included in various global/regional trade agreements; and the proliferation of devices (both invasive and non-invasive) that defy any rational basis for believing we can still adhere to the republic’s libertarian understanding of the right to privacy.

Without engaging in “chicken and egg” analysis, it is sufficient to observe that technological advancement, societal needs, globalization, existential threats, economic realities, and political imperatives (or what James Madison referred to in the Federalist Papers No. 10 as factious governance), have combined to create the “interesting times” for the United States [IP] intellectual property laws.

What was said by Bobby Kennedy in 1966 remains true today. We live in dangerous and uncertain times. Many of the existential threats remain the same (nuclear war and proliferation, [genocides] ~~genocidal maniacs~~ and natural disease) and some are new ([hu]manmade disease, greater awareness of environmental changes and possibly human interrelationship factors, and the unintended consequences of genetic manipulation and robotic technologies). The danger and uncertainty that pervades changes in intellectual property laws, though not an existential threat of the same manner and kind, correlates with the threat and remains “more open to the creative energy of man than any other time in history.”

Apropos the creative energy of man, there is a non-coincidental congruence and convergence of activity across and among the three branches of government, occurring almost simultaneously with the congruence and convergence of the rapid developments of technological innovation across various scientific disciplines and the information age, reflected in the transformation of the [IP] intellectual property laws in the United States.

Patents

The passage of the AIA was a culmination of efforts spanning several years of Congressional efforts; and the product of a push by the companies at the forefront of the twenty-first century new technology business titans. The legislation brought about monumental changes in the patent law in the way that patents are procured (first inventor to file instead of first to invent) and how they are enforced (quasi-judicial challenges to patent validity through inter-party reviews at the Patent Trial and Appeals Board (PTAB)).

The 113th and 114th Congress grappled with newly proposed patent law reforms that, if enacted, may present additional tectonic shifts in the patent law. Major provisions of the proposals include: fee-shifting measures (requiring loser pays legal fees - counter to the American rule); strict detailed pleadings requirements, promulgated without the traditional Rules Enabling Act procedure, that exceed those of the Twombly/Iqbal standard applied to all other civil matters in federal courts, and the different standards applicable to patent claim interpretation in PTAB proceedings and district court litigation concerning patent validity.

The Executive and administrative branch has also been active in the patent law arena. President Obama was a strong supporter of the AIA3 and in his 2014 State Of The Union Address, essentially stated that, with respect to the proposed patent law reforms aimed at patent troll issues, we must innovate rather than litigate.4 Additionally, the USPTO has embarked upon an energetic overhaul of its operations in terms of patent quality and PTO performance in granting patents, and the PTAB has expanded to almost 250 Administrative Law Judges in concert with the AIA post-grant proceedings’ strict timetable requirements.

The Supreme Court, not to be outdone by the Articles I and II branches of the U.S. government, has raised the profile of patent cases to historical heights. From 1996 to the 2014-15 term there has been a steady increase in the number of patent cases decided by the SCOTUS5. The 2014-15 term occupied almost ten percent of the Court’s docket. Prior to the last two decades, the Supreme Court would rarely include more than one or two patent cases in a docket that was much larger than those we have become accustomed to from the Roberts’ Court6.

While the SCOTUS activity in patent cases is viewed by some as a counter-balance to the perceived Federal Circuit’s pro-patent and bright line decisions, it can just as assuredly be viewed as decisions rendered by a Court of final resort which does not function in a vacuum devoid of the social, economic and political winds of the times. In recognition of the effect new technologies have on the patent law, the politicization of intellectual property law matters, especially patent law (through factious governing principles of the political branches of the government), and the maturation of the Federal Circuit patent law jurisprudence, the SCOTUS has rendered opinions in cases that impact, and perhaps are/were intended to mitigate the concerns regarding, some of the vexing issues confronting the patent community today (e.g., non-practicing entities or in the politicized parlance “patent trolls,” the intersection of patent and antitrust laws in Hatch-Waxman so called “pay-for-delay” settlements between Branded and Generic pharma companies, and the fundamental tenets that comprise the very heart of what is patent eligible subject matter).

Copyrights

The advent and ubiquity of the internet, social media and digital technologies (MP3s, Napster, Facebook, YouTube, and Twitter) represents the impetus for changes in the Copyright laws. The DMCA addressed the issues presented by these advances or changes in the differing media and forms of artistic impressions. The proliferation of digital photos, graphic designs and publishing alternatives, as well as adherence to globalization harmonization have given rise to changes in the statutory law and jurisprudence in this area of intellectual property law. Additionally, there is an overlap of patent rights and copyrights for software driven by the ebb and flow of the strength of each respective intellectual property protection.

Notably, the Patent and Copyright Clause7, in addition to Author’s writings, has been viewed as discretely applying to two different types of creativity or innovation. When drafted the “sciences” referred not only to fields of modern scienctific inquiry but rather to all knowledge. And the “useful arts” does not refer to artistic endeavors, but rather to the work of artisans or people skilled in a manufacturing craft. Rather than result in ambiguity or confusion, perhaps the Framers were either quite prescient or, just coincidentally, these aspects of the Patent and Copyright Clause have converged.

For example, none other than the famous Crooner, Bing Crosby, benefited from both protections. Well-known as a prolific and popular recording artist he also benefited from his investments in the, then innovative, recording technologies. Similarly, the Beatles, Beach Boys, as well as many other rock and roll artists, experimental efforts in music performance, recording and production, helped to transform the music industry in both copyrightable artistic expression and patentable inventions. Similarly, film, literary and digital arts reap benefits at the crossroads of both copyright and patent protections.

Trademarks

Trademark laws have been impacted by numerous changes in the business landscape. They include the internet, Domain names, international rights in a global economy, different venues and avenues for branding, marketing and merchandising, global knock-offs from nations that have a less than stellar respect for intellectual property rights, and international trade agreements. More recently, politicization (or perhaps political correctness) has creeped into the trademark law arena pitting branding rights and protections against first amendment rights.

Trade Secrets

As with Copyright and Trademark law, trade secrets law includes some of the same issues related to trade agreements. TRIPS required members to have trade secret protection in place. Initially, the United States compliance with this requirement has relied upon the trade secret law of the individual states. That compliance may be supplanted by the recently enacted DTSA. Similarly, the Trans Pacific Partnership (TPP) trade agreement contains intellectual property rights provisions that will trigger required changes to United States statutory Intellectual Property Laws.

The proposed trade secret legislation also gives rise to several concerns. For instance, there is an absence of a specific definition for trade secret, as well as potential issues of federalism, conflict with state law precedent (despite no preemption), remedies, and the impact on employer/employee relations.

There is also a real concern that the strengthening of trade secret protection in conjunction with the perceived weakening of patent protection (e.g., high rate of invalidating patents in post-grant proceedings before the PTAB and strict limitations on what is patent eligible subject matter) may very-well have the unintended consequence of contravening the purpose behind the Patent and Copyright Clause: “to promote the progress of the sciences and the useful arts.” Moreover, the incentive to innovate may very well be usurped by the advantage of withholding patent law disclosure of highly beneficial scientific advancements that directly affect the human condition, alter life expectancies and the evolution of the human species (rather than by mere “natural selection”), and what is the very essence of a human being (for better or worse). Thus, crippling innovation and the progress of the sciences and useful arts.

Privacy Rights

It is increasingly more difficult to function “off the grid.” The invasive and non-invasive attributes of the internet, the reliance upon the multitude of devices, social media, and information age technologies, and access to big data, all contribute to the decrease in and dilution of the right to privacy. Wittingly or otherwise, the strong libertarian roots of the republic have been replaced by dependence upon these modes of an information-age life. Commentary on the benefits and deficits of this reality are beyond the subject and purpose of this writing. Suffice to acknowledge that the right to privacy has been significantly reduced. The laws that protect these rights are in a constant struggle to maintain those rights while yielding to the demands of the lifestyle and security concerns. Laws that relate to cybersecurity in the global and domestic space create interplay with privacy rights. Legislation, trade agreements and jurisprudence all impact this area of intellectual property. Cross-border theft of trade secrets, competitor espionage, and loss of control over personal data are all implicated in the intellectual property law arena.

America’s Need For Strong Intellectual Property Protection

The need for strong protection of intellectual property rights is greater now than it was at the dawn of our republic. Our Forefathers and the Framers of the U.S. Constitution recognized the need to secure those rights in Article 1, Section 8, Clause 8. James Madison provides insight for its significance in the Federalist Papers No. 43 (the only reference to the clause). It is contained in the first Article section dedicated to the enumerated powers of Congress. The clause recognizes the need for: uniformity of the protection of IP rights, securing those rights for the individual rather than the state; and, incentivizing innovation and creative aspirations.

Underlying this particular enumerated power of Congress is the same struggle that the Framers grappled with throughout the document for the new republic: how to promote a unified republic while protecting individual liberty. The fear of tyranny and protection of the “natural law” individual liberty is a driving theme for the Constitution and throughout the Federalist Papers. For example, in Federalist No. 10, James Madison articulated the important recognition of the “faction” impact on a democracy and a republic. In Federalist No. 51, Madison emphasized the importance of the separation of powers among the three branches of the republic. And in Federalist No. 78, Alexander Hamilton, provided his most significant essay, which described the judiciary as the weakest branch of government and sought the protection of its independence providing the underpinnings for judicial review as recognized thereafter in Marbury v. Madison.

All of these related themes are relevant to the Patent and Copyright Clause and at the center of the intellectual property protections then and now. The Federalist Papers No. 10 recognition that a faction may influence the law has been playing itself out in the halls of congress in the period of time leading up to the AIA and in connection with the current patent law reform debate. The large tech companies of the past, new tech, new patent-based financial business model entities, and pharma factions have been the drivers, proponents and opponents of certain of these efforts. To be sure, some change is inevitable, and both beneficial and necessary in an environment of rapidly changing technology where the law needs to evolve or conform to new realities. However, changes not premised upon the founding principles of the Constitution and the Patent and Copyright Clause (i.e., uniformity, secured rights for the individual, incentivizing innovation and protecting individual liberty) run afoul of the intended purpose of the constitutional guarantee.

Although the Sovereign does not benefit directly from the fruits of the innovator, enacting laws that empower the King, and enables the King to remain so, has the same effect as deprivation and diminishment of the individual’s rights and effectively confiscates them from him/her. Specifically, with respect to intellectual property rights, effecting change to the laws that do not adhere to these underlying principles, in favor of the faction that lobbies the most and the best in the quid pro quo of political gain to the governing body threatens to undermine the individual’s intellectual property rights and hinder the greatest economic driver and source of prosperity in the country.

It is also important to recognize that the social, political and economic impact of strong protections for intellectual property cannot be overstated. In the social context, the incentive for disclosure and innovation is critical. Solutions for sustainability and climate change (whether natural, man-made or mutually/marginally intertwined) rely upon this premise. Likewise, as we are on the precipice of the ultimate convergence in technologies from the hi-tech digital world and life sciences space, capturing the ability to cure many diseases and fatal illnesses and providing the true promise of extended longevity in good health and well-being, that is meaningful, productive, and purposeful; this incentive must be preserved.

In similar fashion, advancements in technologies related to the global economy and communications will enhance the possibilities for solutions to political and cultural conflicts that arise around the globe. Likewise, the United States economy has always benefited when it is at the forefront of innovation and achieves prosperity from its leadership role in technological advancements.

Conclusion

As was the case in 1966, how we move forward today, to solve the many problems facing our country and the broader global community in these “interesting times,” both within and without the laws affecting intellectual property rights, depends upon the “creative energy of man” which must prevail. An achievable goal, dependent on the strong, stable and sound protection of intellectual property rights.

### 1NC---OFF

B3 DA

#### Biden’s PC passes B3 now

Easley ’11-6 [Jason; 2021; managing editor, White House Press Pool and a Congressional correspondent; PoliticusUSA, “Biden Shows America What a Real President Who Gets Things Done Looks Like,” https://www.politicususa.com/2021/11/06/biden-shows-america-what-a-real-president-who-gets-things-done-looks-like.html]

In a display of total confidence, President Biden was asked what gives him the confidence Congress will pass Build Back Better. He said, “me.”

Video:

Tweet omitted.

The President was asked, “Mr. President, have you gotten assurances from moderate Democrats in the House and Senate that they are going to vote for your Build Back Better plan now that what they really wanted, the infrastructure bill, has passed.

President Biden answered, “You know I’m not going to answer that question for you because I’m not going to get into who or what made what commitments to me. I don’t negotiate in public, but I feel confident that we will have enough votes to pass the Build Back Better plan.

When he was asked, “What gives you that confidence? “

Biden responded, “Me.”

This is what a confident president who gets things done sounds like. Donald Trump turned infrastructure week into a national joke by being unable to deliver for the American people, as he continued to promise and promise, but nothing ever happened.

Biden is reminding America of what a real president can do when they know how to use their power and platform.

Trump talked the talk, but President Biden and the Democrats delivered action and results.

#### Antitrust sinks it

Carstensen ’21 [Peter; February 2021; Fred W. & Vi Miller Chair in Law Emeritus at the University of Wisconsin Law School; Concurrences, “The ‘Ought’ and ‘Is Likely’ of Biden Antitrust,” <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#carstensen>]

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

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

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

#### Key to nuclear PTC---that saves the domestic industry

Christian 10/12 [Molly Christian, October 12, 2021, “Nuclear backers rally around tax credit as Congress grapples with Biden agenda,” https://www.spglobal.com/marketintmielligence/en/news-insights/blog/qa-datacenters-energy-hogs-or-sustainability-helpers]

A proposed production tax credit, or PTC, for nuclear plants was included in the budget reconciliation package that Democrats in the U.S. House of Representatives have crafted to help carry out President Joe Biden's Build Back Better agenda. The bill would provide a base credit rate of 0.3 cents/kWh and a bonus credit rate of 1.5 cents/kWh for electricity produced from a qualifying nuclear facility, with the credit reduced as the sales price of power from that plant rises.

Issuance of the PTC could provide vital financial support to the nuclear fleet, which provides around 20% of total U.S. electric output and more than half the country's carbon-free generation. Despite a push from the Biden administration and some states to decarbonize the power sector, about 31.8 GW of nuclear capacity is at risk of premature retirement or planned for closure in the coming years, according to statements from plant owners compiled by S&P Global Market Intelligence.

"The most impactful thing Congress can do to help ensure the existing nuclear fleet can survive is to enact the production tax credit," Public Service Enterprise Group Inc. Chairman and CEO Ralph Izzo said in an emailed statement.

A combination of high operating costs, depressed power prices in wholesale markets and competition from gas-fired and renewable generation have weighed on the economics of nuclear power. Plant owners have also blamed absent or inadequate policies to reward zero-carbon energy for undervaluing the benefits of nuclear power.

David Brown, senior vice president of government affairs and public policy for Exelon Corp., said the PTC "really provides the long-term certainty that is needed to keep these plants operating." In terms of policies before Congress, "the PTC has really been the industry's focus and what we're most excited about," Brown said.

#### Underpins global non-prolif standard---extinction

DOE ’20 [Restoring America’s Competitive Nuclear Energy Advantage, US Department of Energy, April 2020]

The Current Landscape America has lost its competitive global position as the world leader in nuclear energy. The U.S. has ceded its leadership position to countries with state-owned-enterprises, including Russia and China, and additional nations from the developing world are accelerating to fill the void. After decades of neglect, the entire U.S. commercial nuclear sector, from mining through power generation, is at high-risk of insolvency. America is on the brink of losing its ability to produce US-origin nuclear fuel, threatening our national interest and national security.

This reality threatens American energy security, narrows or eliminates foreign policy options and erodes American international influence to set strong non-proliferation, safety, and security standards. America’s broad strategy of energy dominance has a gaping vulnerability. Russia – a nation that has “weaponized” its energy supply as an instrument of coercion – dominates nuclear markets. Russia is advancing its economic and foreign policy influence around the world with $133 billion in foreign orders for reactors, with plans to underwrite the construction of more than 50 reactors in 19 countries. China, a strategic competitor that uses predatory economics as a tool of statecraft, is currently constructing four reactors abroad, with prospects for 16 more reactors across multiple countries, in addition to the 45 reactors built in China over the past 33 years, and the 12 reactors currently under construction in China.

<ev continues---had to OCR so didn’t feel like scanning the whole thing>

Strong Nonproliferation and Safety Standards: U.S. national security also depends on the success of global nuclear non-proliferation agreements. The credibility of the U.S. within the global non-proliferation regime depends on the viability and health of a robust civilian nuclear industry and technology leadership position of U.S. innovators in the global market. U.S. regulatory structures remain the international gold standard for safe operation of nuclear power facilities and adoption of stringent international safeguard and security measures. If U.S. industry is not poised to compete in the international market, America’s ability to influence global non-proliferation, security, and safety standards is not credible. The strength of our non-proliferation and nuclear safety efforts must rest on a foundation of domestic nuclear industry credibility and government commitment.

## Adv---Inequality

### 1NC---TURN

#### The aff prevents a short-term crisis that causes a transition away from growth, which is unsustainable and otherwise causes extinction

Kirk 18 [Martin, co-founder and Director of Strategy for The Rules, former Head of Campaigns at Oxfam UK and Head of Global Advocacy for Save the Children, citing a study by Rodolfo Dirzo and Paul Ehrlich from the Stanford Woods Institute for the Environment and Gerardo Ceballos of the National Autonomous University of Mexico, “What if economic growth isn’t as positive as you think?,” <https://www.fastcompany.com/90202203/what-if-economic-growth-isnt-as-positive-as-you-think>]

But there are some new strains of thought that take a more nuanced and sophisticated view of growth. That say, yes, all other things being equal, economic growth is a positive thing. But all other things are not equal. There’s no such thing as a free lunch, and, for all its positives, economic growth has a dark side; its ecological impact. The impacts of our ever-growing economy have become so stark and so widespread that they are by any sane measure portents to catastrophe. Whether it’s the fact that Antarctic ice is now melting three times faster than we thought, or the unfolding “biological annihilation” that has already wiped out 50% of all animals and up to 75% of all insects, or the fact that, in spite of all this, we are pumping out CO2 at record levels, it takes willful ignorance or a blinding ideology to deny the severity of the crisis.

This creates a terrible paradox: Economic growth keeps economies stable today, but threatens not just future growth but medium-term social and civilizational cohesion, and ultimately the very capacity of this biosphere to sustain life. A paper published in the Proceedings of the National Academy of Sciences last year suggested that “the window for effective action is very short, probably two or three decades at most.” And that even this dire prediction is considered “conservative” by the authors, “given the increasing trajectories of the drivers of extinction.” In terms of practical politics, that means acting immediately, preferably yesterday.

Most politicians deal with this paradox by ignoring it. It’s by far the easiest option; one afforded every incentive and reward by this political economy and the beliefs that underpin it. This belief system has been dominant for a long time now. We are, as a society, deeply comfortable with it, which means many of its core assumptions are considered unassailable–too obvious to question. The most profound being this idea that growth is always good. Questioning this amounts to political suicide for any politician.

Or, at least, it used to. We are starting to see some movement in interesting corners of the global political landscape that suggest that some leaders are showing the sort of political courage needed to shift established norms. It may well be starting to become something of a bonafide political movement. It’s young and small, still, but so were all movements at one time.

A little thought experiment shows how growth can be a problem: Insert the word “a” before it. “A growth.” That feels very different from just “growth,” right? Growth is a big part of what we all understand happens in a healthy life. Children grow, knowledge grows, love grows. But “a growth” is what happens when life gets corrupted. “A growth” is when the growth is unchecked, and thus a symptom not of health but disease; when it takes on the character of an invader, attacking its host. The word for growth that gets out of control in this way, such that it becomes “a growth,” is, of course, cancer.

But wait, I hear you cry, technological progress will save us! We can just grow meat in test tubes rather than needing so much land and clean air space for cows and their methane-laden farts, or we can all switch to renewable energy, or recycle more and better, and then we can get back to the promise of infinite growth. Unfortunately, the evidence is clear that this is simply not possible. Yes, we can make dents in our impact with such measures, and we should with all possible speed, but the way the global economy is currently programmed means such things are important–but also entirely insufficient.

So, once we discard the vain hope of being able to grow the economy infinitely and indefinitely, what are we looking at? This is where the innovation and bravery come in.

A new alliance was formed in 2017, called the Wellbeing Economy Alliance. What they are shooting for is one–or many different–economic model(s) that have, “the fundamental goal of achieving sustainable well-being with dignity and fairness for humans and the rest of Nature.” Which means they cannot just reach for socialism or any other historical model–socialism, like capitalism, relies on growth, as does communism. They have recognized that we can’t rely on past thinking; we must genuinely put our best brains forward and innovate.

We’re not talking about a bunch of random, dreamy utopians here, but real politicians who have won real elections and are exercising real power. So far, the roster of governments signing up to the Alliance includes Scotland, Costa Rica, Slovenia, and New Zealand. Other governments that are actively looking at the issue include Italy, and there are political parties emerging, like the Alternative Party in Denmark, which is also embracing the innovation challenge. These are not what are often referred to as Tier 1 countries in the international order, but neither are they so small they are irrelevant.

Scotland, for example, provides a direct line into both the U.K. and (at least for the time being) the EU. Costa Rica has long been a pioneer of innovative economic and social thinking, with impressive results: It is routinely in the top three countries in the world when measured for the well-being and happiness of their people. New Zealand is, perhaps, the most newly bold. Its prime minster has not only called growth-at-all-costs capitalism “a “blatant failure” but also has said her government would no longer accept GDP as the sole, supreme measure of progress. “The measures for us have to change,” she said in October last year. “We need to make sure we are looking at people’s ability to actually have a meaningful life, an enjoyable life, where their work is enough to survive and support their families.”

And this is where social and economic forces start to align in very interesting and potentially powerful ways. And open the door for seeing electoral strategies in an agenda based on innovations to take us beyond traditional growth-at-all-costs economics.

Consider a few facts: More than 50% of millennials say they would take a pay cut to find work that matches their values, while 90% want to use their skills for good. And these trends are on the up. Deloitte’s 7th Annual Millennial Survey of 12,000 young people, for example–both millennials and gen Z–reports record low opinions of businesses. Fewer than half now believe that businesses behave ethically, and this directly affects how loyal they feel to their employers; 43% of millennials and a whopping 61% of gen-Zers expect to stay in a job no more than two years. And all this against a backdrop of general public opinion that is also looking increasingly unkindly on the economic paradigm we have.

These are conditions that can be worked with. They show that there is a large and growing instinct out there that thinks that we need fundamental change to the way we do economics. Not tweaking around the edges, but fundamental change at the very roots of the global economy. There is no neat or reliable evidence to suggest that challenging infinite growth is at the top of peoples’ minds, or likely to be a particularly easy sell. But there is significant doubt in growth-at-all-costs capitalism, and that is an opportunity for innovation. Combine that with the new thinking coming out of places like the Wellbeing Alliance, and you can start to sense the causes and conditions may well be aligning in favor of the emergence of wholly new, post-growth economies. It cannot come soon enough.

#### Growth-oriented AI ensures extinction---degrowth solves

Salvador **Pueyo 18**. 8 Department of Evolutionary Biology, Ecology, and Environmental Sciences, Universitat de Barcelona. 10/01/2018. “Growth, Degrowth, and the Challenge of Artificial Superintelligence.” Journal of Cleaner Production, vol. 197, pp. 1731–1736.

The challenges of sustainability and of superintelligence are not independent. The changing 84 fluxes of energy, matter, and information can be interpreted as different faces of a general acceleration2 85 . More directly, it is argued below that superintelligence would deeply affect 86 production technologies and also economic decisions, and could in turn be affected by the 87 socioeconomic and ecological context in which it develops. Along the lines of Pueyo (2014, p. 88 3454), this paper presents an approach that integrates these topics. It employs insights from a 89 variety of sources, such as ecological theory and several schools of economic theory. 90 The next section presents a thought experiment, in which superintelligence emerges after the 91 technical aspects of goal alignment have been resolved, and this occurs specifically in a neoliberal 92 scenario. Neoliberalism is a major force shaping current policies on a global level, which urges 93 governments to assume as their main role the creation and support of capitalist markets, and to 94 avoid interfering in their functioning (Mirowski, 2009). Neoliberal policies stand in sharp contrast 95 to degrowth views: the first are largely rationalized as a way to enhance efficiency and production 96 (Plehwe, 2009), and represent the maximum expression of capitalist values. 97 The thought experiment illustrates how superintelligence perfectly aligned with capitalist 98 markets could have very undesirable consequences for humanity and the whole biosphere. It also 99 suggests that there is little reason to expect that the wealthiest and most powerful people would be 100 exempt from these consequences, which, as argued below, gives reason for hope. Section 3 raises 101 the possibility of a broad social consensus to respond to this challenge along the lines of degrowth, 102 thus tackling major technological, environmental, and social problems simultaneously. The 103 uncertainty involved in these scenarios is vast, but, if a non-negligible probability is assigned to 104 these two futures, little room is left for either complacency or resignation. 105 106 2. Thought experiment: Superintelligence in a neoliberal scenario 107 108 Neoliberalism is creating a very special breeding ground for superintelligence, because it strives 109 to reduce the role of human agency in collective affairs. The neoliberal pioneer Friedrich Hayek 110 argued that the spontaneous order of markets was preferable over conscious plans, because markets, 111 he thought, have more capacity than humans to process information (Mirowski, 2009). Neoliberal 112 policies are actively transferring decisions to markets (Mirowski, 2009), while firms' automated 113 decision systems become an integral part of the market's information processing machinery 114 (Davenport and Harris, 2005). Neoliberal globalization is locking governments in the role of mere 115 players competing in the global market (Swank, 2016). Furthermore, automated governance is a 116 foundational tenet of neoliberal ideology (Plehwe, 2009, p. 23). 117 In the neoliberal scenario, most technological development can be expected to take place either in the context of firms or in support of firms3 118 . A number of institutionalist (Galbraith, 1985), post119 Keynesian (Lavoie, 2014; and references therein) and evolutionary (Metcalfe, 2008) economists 120 concur that, in capitalist markets, firms tend to maximize their growth rates (this principle is related 121 but not identical to the neoclassical assumption that firms maximize profits; Lavoie, 2014). Growth 122 maximization might be interpreted as expressing the goals of people in key positions, but, from an 123 evolutionary perspective, it is thought to result from a mechanism akin to natural selection 124 (Metcalfe, 2008). The first interpretation is insufficient if we accept that: (1) in big corporations, the 125 managerial bureaucracy is a coherent social-psychological system with motives and preferences of 126 its own (Gordon, 1968, p. 639; for an insider view, see Nace, 2005, pp. 1-10), (2) this system is 127 becoming techno-social-psychological with the progressive incorporation of decision-making 128 algorithms and the increasing opacity of such algorithms (Danaher, 2016), and (3) human mentality 129 and goals are partly shaped by firms themselves (Galbraith, 1985). 130 The type of AI best suited to participate in firms' decisions in this context is described in a 131 recent review in Science: AI researchers aim to construct a synthetic homo economicus, the 132 mythical perfectly rational agent of neoclassical economics. We review progress toward creating 133 this new species of machine, machina economicus (Parkes and Wellman, 2015, p. 267; a more 134 orthodox denomination would be Machina oeconomica). 135 Firm growth is thought to rely critically on retained earnings (Galbraith, 1985; Lavoie, 2014, p. 136 134-141). Therefore, economic selection can be generally expected to favor firms in which these are greater. The aggregate retained earnings4 137 RE of all firms in an economy can be expressed as: 138 RE=FE(R,L,K)-w⋅L-(i+δ)⋅K-g. (1) 139 Bold symbols represent vectors (to indicate multidimensionality). F is an aggregate production 140 function, relying on inputs of various types of natural resources R, labor L and capital K (including intelligent machines), and being affected by environmental factors5 141 E; w are wages, i are returns to 142 capital (dividends, interests) paid to households, δ is depreciation and g are the net taxes paid to 143 governments. 144 Increases in retained earnings face constraints, such as trade-offs among different parameters of 145 Eq. 1. The present thought experiment explores the consequences of economic selection in a 146 scenario in which two sets of constraints are nearly absent: sociopolitical constraints on market 147 dynamics are averted by a neoliberal institutional setting, while technical constraints are overcome 148 by asymptotically advanced technology (with extreme AI allowing for extreme technological 149 development also in other fields). The environmental and the social implications are discussed in 150 turn. Note that this scenario is not defined by some contingent choice of AIs' goals by their 151 programmers: The goals of maximizing each firm's growth and retained earnings are assumed to 152 emerge from the collective dynamics of large sets of entities subject to capitalistic rules of 153 interaction and, therefore, to economic selection.

#### Decline doesn’t cause war

Clary 15 – Christopher Clary, PhD in Political Science from MIT, M.A. in National Security Affairs, Postdoctoral Fellow, Watson Institute for International Studies, Brown University, 2015 (“Economic Stress and International Cooperation: Evidence from International Rivalries,” April 25th, Available Online via SSRN Subscription, AIvackovic)

Do economic downturns generate pressure for diversionary conflict?

Or might downturns encourage austerity and economizing behavior in foreign policy? This paper provides new evidence that economic stress is associated with conciliatory policies between strategic rivals. For states that view each other as military threats, the biggest step possible toward bilateral cooperation is to terminate the rivalry by taking political steps to manage the competition. Drawing on data from 109 distinct rival dyads since 19i9 50, 67 of which terminated, the evidence suggests rivalries were approximately twice as likely to terminate during economic downturns than they were during periods of economic normalcy. This is true controlling for all of the main alternative explanations for peaceful relations between foes (democratic status, nuclear weapons possession, capability imbalance, common enemies, and international systemic changes), as well as many other possible confounding variables. This research questions existing theories claiming that economic downturns are associated with diversionary war, and instead argues that in certain circumstances peace may result from economic troubles. I define a rivalry as the perception by national elites of two states that the other state possesses conflicting interests and presents a military threat of sufficient severity that future military conflict is likely. Rivalry termination is the transition from a state of rivalry to one where conflicts of interest are not viewed as being so severe as to provoke interstate conflict and/or where a mutual recognition of the imbalance in military capabilities makes conflict-causing bargaining failures unlikely. In other words, rivalries terminate when the elites assess that the risks of military conflict between rivals has been reduced dramatically. This definition draws on a growing quantitative literature most closely associated with the research programs of William Thompson, J. Joseph Hewitt, and James P. Klein, Gary Goertz, and Paul F. Diehl.1 My definition conforms to that of William Thompson. In work with Karen Rasler, they define rivalries as situations in which “[b]oth actors view each other as a significant political-military threat and, therefore, an enemy.”2 In other work, Thompson writing with Michael Colaresi, explains further: The presumption is that decisionmakers explicitly identify who they think are their foreign enemies. They orient their military preparations and foreign policies toward meeting their threats. They assure their constituents that they will not let their adversaries take advantage. Usually, these activities are done in public. Hence, we should be able to follow the explicit cues in decisionmaker utterances and writings, as well as in the descriptive political histories written about the foreign policies of specific countries.3 Drawing from available records and histories, Thompson and David Dreyer have generated a universe of strategic rivalries from 1494 to 2010 that serves as the basis for this project’s empirical analysis.4 This project measures rivalry termination as occurring on the last year that Thompson and Dreyer record the existence of a rivalry.

Economic crises lead to conciliatory behavior through five primary channels. (1) Economic crises lead to austerity pressures, which in turn incent leaders to search for ways to cut defense expenditures. (2) Economic crises also encourage strategic reassessment, so that leaders can argue to their peers and their publics that defense spending can be arrested without endangering the state. This can lead to threat deflation, where elites attempt to downplay the seriousness of the threat posed by a former rival. (3) If a state faces multiple threats, economic crises provoke elites to consider threat prioritization, a process that is postponed during periods of economic normalcy. (4) Economic crises increase the political and economic benefit from international economic cooperation. Leaders seek foreign aid, enhanced trade, and increased investment from abroad during periods of economic trouble. This search is made easier if tensions are reduced with historic rivals. (5) Finally, during crises, elites are more prone to select leaders who are perceived as capable of resolving economic difficulties, permitting the emergence of leaders who hold heterodox foreign policy views. Collectively, these mechanisms make it much more likely that a leader will prefer conciliatory policies compared to during periods of economic normalcy. This section reviews this causal logic in greater detail, while also providing historical examples that these mechanisms recur in practice.

### 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: Growth

#### No slow growth impact

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

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

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

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

#### No correlation between leadership and peace

Fettweis ‘17 – Christopher J. Fettweis, Associate Professor of Political Science at Tulane University. [“Unipolarity, Hegemony, and the New Peace,” 5/8/2017, <https://doi-org.proxy.lib.umich.edu/10.1080/09636412.2017.1306394>] KS

Conflict and Hegemony by Region

Even the most ardent supporters of the hegemonic-stability explanation do not contend that US influence extends equally to all corners of the globe. The United States has concentrated its policing in what George Kennan used to call “strong points,” or the most important parts of the world: Western Europe, the Pacific Rim, and Persian Gulf.64 By doing so, Washington may well have contributed more to great power peace than the overall global decline in warfare. If the former phenomenon contributed to the latter, by essentially providing a behavioral model for weaker states to emulate, then perhaps this lends some support to the hegemonic-stability case.65 During the Cold War, the United States played referee to a few intra-West squabbles, especially between Greece and Turkey, and provided Hobbesian reassurance to Germany's nervous neighbors. Other, equally plausible explanations exist for stability in the first world, including the presence of a common enemy, democracy, economic interdependence, general war aversion, etc. The looming presence of the leviathan is certainly among these plausible explanations, but only inside the US sphere of influence. Bipolarity was bad for the nonaligned world, where Soviet and Western intervention routinely exacerbated local conflicts. Unipolarity has generally been much better, but whether or not this was due to US action is again unclear.

Overall US interest in the affairs of the Global South has dropped markedly since the end of the Cold War, as has the level of violence in almost all regions. There is less US intervention in the political and military affairs of Latin America compared to any time in the twentieth century, for instance, and also less conflict. Warfare in Africa is at an all-time low, as is relative US interest outside of counterterrorism and security assistance.66 Regional peace and stability exist where there is US active intervention, as well as where there is not. No direct relationship seems to exist across regions.

If intervention can be considered a function of direct and indirect activity, of both political and military action, a regional picture might look like what is outlined in Table 1.

These assessments of conflict are by necessity relative, because there has not been a “high” level of conflict in any region outside the Middle East during the period of the New Peace. Putting aside for the moment that important caveat, some points become clear. The great powers of the world are clustered in the upper right quadrant, where US intervention has been high, but conflict levels low. US intervention is imperfectly correlated with stability, however. Indeed, it is conceivable that the relatively high level of US interest and activity has made the security situation in the Persian Gulf and broader Middle East worse. In recent years, substantial hard power investments (Somalia, Afghanistan, Iraq), moderate intervention (Libya), and reliance on diplomacy (Syria) have been equally ineffective in stabilizing states torn by conflict. While it is possible that the region is essentially unpacifiable and no amount of police work would bring peace to its people, it remains hard to make the case that the US presence has improved matters. In this “strong point,” at least, US hegemony has failed to bring peace.

In much of the rest of the world, the United States has not been especially eager to enforce any particular rules. Even rather incontrovertible evidence of genocide has not been enough to inspire action. Washington's intervention choices have at best been erratic; Libya and Kosovo brought about action, but much more blood flowed uninterrupted in Rwanda, Darfur, Congo, Sri Lanka, and Syria. The US record of peacemaking is not exactly a long uninterrupted string of successes. During the turn-of-the-century conventional war between Ethiopia and Eritrea, a high-level US delegation containing former and future National Security Advisors (Anthony Lake and Susan Rice) made a half-dozen trips to the region, but was unable to prevent either the outbreak or recurrence of the conflict. Lake and his team shuttled back and forth between the capitals with some frequency, and President Clinton made repeated phone calls to the leaders of the respective countries, offering to hold peace talks in the United States, all to no avail.67 The war ended in late 2000 when Ethiopia essentially won, and it controls the disputed territory to this day.

The Horn of Africa is hardly the only region where states are free to fight one another today without fear of serious US involvement. Since they are choosing not to do so with increasing frequency, something else is probably affecting their calculations. Stability exists even in those places where the potential for intervention by the sheriff is minimal. Hegemonic stability can only take credit for influencing those decisions that would have ended in war without the presence, whether physical or psychological, of the United States. It seems hard to make the case that the relative peace that has descended on so many regions is primarily due to the kind of heavy hand of the neoconservative leviathan, or its lighter, more liberal cousin. Something else appears to be at work.

Conflict and US Military Spending

How does one measure polarity? Power is traditionally considered to be some combination of military and economic strength, but despite scores of efforts, no widely accepted formula exists. Perhaps overall military spending might be thought of as a proxy for hard power capabilities; perhaps too the amount of money the United States devotes to hard power is a reflection of the strength of the unipole. When compared to conflict levels, however, there is no obvious correlation, and certainly not the kind of negative relationship between US spending and conflict that many hegemonic stability theorists would expect to see.

During the 1990s, the United States cut back on defense by about 25 percent, spending $100 billion less in real terms in 1998 that it did in 1990.68 To those believers in the neoconservative version of hegemonic stability, this irresponsible “peace dividend” endangered both national and global security. “No serious analyst of American military capabilities doubts that the defense budget has been cut much too far to meet America's responsibilities to itself and to world peace,” argued Kristol and Kagan at the time.69 The world grew dramatically more peaceful while the United States cut its forces, however, and stayed just as peaceful while spending rebounded after the 9/11 terrorist attacks. The incidence and magnitude of global conflict declined while the military budget was cut under President Clinton, in other words, and kept declining (though more slowly, since levels were already low) as the Bush administration ramped it back up. Overall US military spending has varied during the period of the New Peace from a low in constant dollars of less than $400 billion to a high of more than $700 billion, but war does not seem to have noticed. The same nonrelationship exists between other potential proxy measurements for hegemony and conflict: there does not seem to be much connection between warfare and fluctuations in US GDP, alliance commitments, and forward military presence. There was very little fighting in Europe when there were 300,000 US troops stationed there, for example, and that has not changed as the number of Americans dwindled by 90 percent. Overall, there does not seem to be much correlation between US actions and systemic stability. Nothing the United States actually does seems to matter to the New Peace.

## Adv---Scammers

### 1NC---AT: FTC Cred

#### The AFF destroys FTC cred.

Alison Jones & William E. Kovacic 20, Jones is a professor at King’s College London; Kovacic is Global Competition Professor of Law and Policy, The George Washington University Law School, “Antitrust’s Implementation Blind Side: Challenges to Major Expansion of U.S. Competition Policy,” The Antitrust Bulletin, vol. 65, no. 2, SAGE Publications Inc, 06/01/2020, pp. 227–255

D. Political Backlash

As we have already indicated, the government’s prosecution of high stakes antitrust cases often inspires defendants to lobby elected officials to rein in the enforcement agency. Targets of cases that seek to impose powerful remedies have several possible paths to encourage politicians to blunt enforcement measures. One path is to seek intervention from the President. The Assistant Attorney General of the Antitrust Division serves at the will of the President, making DOJ policy dependent on the President’s continuing support. The White House ordinarily does not guide the Antitrust Division’s selection of cases, but there have been instances in which the President pressured the Division to alter course on behalf of a defendant, and did so successfully.125

The second path is to lobby the Congress. The FTC is called an “independent” regulatory agency, but Congress interprets independence in an idiosyncratic way.126 Legislators believe independence means insulation from the executive branch, not from the legislature. The FTC is dependent on a good relationship with Congress, which controls its budget and can react with hostility, and forcefully, when it disapproves of FTC litigation—particularly where it adversely affects the interests of members’ constituents. Controversial and contested cases may consequently be derailed or muted if political support for them wanes and politicians become more sympathetic to commercial interests. The FTC’s sometimes tempestuous relationship with Congress demonstrates that political coalitions favoring bold enforcement can be volatile, unpredictable, and evanescent.127 If the FTC does not manage its relationship with Congress carefully, its litigation opponents may mobilize legislative intervention that causes ambitious enforcement measures to the founder.

#### AND, destroys resources.

Seth B. Sacher & John M. Yun 19, Sacher is an Economist, Washington, DC; Yun is from the Antonin Scalia Law School, George Mason University, “TWELVE FALLACIES OF THE "NEO-ANTITRUST" MOVEMENT,” 26 Geo. Mason L. Rev. 1491, 1493, Summer 2019, Lexis

VII. Fallacy Seven: Not Recognizing That Their Proposals Will Strain Competition Agency Resources, Increase Uncertainty, and Make These Agencies More Political and Subject to Capture

Most of those that have worked within, or before, the antitrust agencies, despite their inevitable disagreement with certain actions or policies, are generally very impressed with the high degree of skill, professionalism, and dedication exhibited by the career staff. As will be discussed more fully in the [\*1515] context of Fallacy XI below, many proponents of neo-antitrust do not accept the proposition that the antitrust agencies and their staffs function relatively well, in spite of the views of many (on all sides of the political spectrum) who have had experience working within or before the antitrust agencies. Regardless of how neo-antitrust proponents view the agencies, many of their proposals run a serious risk of adversely affecting competition agency performance.

There are a number of objective reasons to expect antitrust agencies to function relatively well. First, antitrust agencies tend to be small relative to many other regulatory agencies and bureaucracies in general. Second, their staffs tend to be highly trained professionals, consisting primarily of lawyers and Ph.D. economists. Third, they have a well-defined objective (i.e., the consumer welfare standard or some similar standard based on economic reasoning, such as the total welfare standard). Finally, although antitrust is considered a form of regulation, it is distinct from other forms of regulation in that it does not involve a continuing relationship between the regulated firms and the regulator. As a goal, antitrust seeks to enable markets to more nearly achieve certain social objectives on their own.

First, advocates of neo-antitrust would like to see the responsibilities of the antitrust agencies expanded in a number of ways. This includes more aggressively enforcing existing antitrust laws, as well as the consideration of issues beyond those currently within that purview. Further, many of their proposals, such as requiring data sharing, monitoring markets to prevent tipping, or approving platforms' algorithm changes, will require significantly more active market supervision than is currently the case. While many [\*1516] proponents of modern antitrust would agree that the antitrust agencies are underfunded, there is certainly a point at which expanding the antitrust agencies will have "bureaucratic" diseconomies of scale. Fully following the recommendations of neo-antitrust advocates could very well require many antitrust agencies to expand beyond some critical point, which will inevitably lead to significantly larger bureaucracies and associated inefficiencies.

### 1NC---AT: Scamming

#### No scammers impact

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]

Serious threats to the integrity of a country’s infrastructure are likely to require the resources of a state. 50 Software hacking is not enough; the hacker needs detailed knowledge about the physical construction of the systems he hopes to sabotage. When the Iranian nuclear centrifuges were compromised in 2010 by the Stuxnet worm, it required a coordinated effort by two technologically sophisticated nations, the United States and Israel. State-based cyber-sabotage escalates the malevolence from terrorism to a kind of warfare, where the constraints of international relations, such as norms, treaties, sanctions, retaliation, and military deterrence, inhibit aggressive attacks, as they do in conventional “kinetic” warfare. As we saw in chapter 11, these constraints have become increasingly effective at preventing interstate war. Nonetheless, American military officials have warned of a “digital Pearl Harbor” and a “Cyber-Armageddon” in which foreign states or sophisticated terrorist organizations would hack into American sites to crash planes, open floodgates, melt down nuclear power plants, black out power grids, and take down the financial system. Most cybersecurity experts consider the threats to be inflated—a pretext for more military funding, power, and restrictions on Internet privacy and freedom.51 The reality is that so far, not a single person has ever been injured by a cyberattack. The strikes have mostly been nuisances such as doxing, namely leaking confidential documents or e-mail (as in the Russian meddling in the 2016 American election), and distributed denial-of-service attacks, where a botnet (an array of hacked computers) floods a site with traffic. Schneier explains, “A real-world comparison might be if an army invaded a country, then all got in line in front of people at the Department of Motor Vehicles so they couldn’t renew their licenses. If that’s what war looks like in the 21st century, we have little to fear.”52

# 2NC

## Adv---Inequality

### 2NC---M---AI

#### Outweighs on probability

**Turchin & Denkenberger ‘18** (Alexey Turchin & David Denkenberger 18. Turchin is a researcher at the Science for Life Extension Foundation; Denkenberger is with the Global Catastrophic Risk Institute (GCRI) @ Tennessee State University, Alliance to Feed the Earth in Disasters (ALLFED). 05/03/2018. “Classification of Global Catastrophic Risks Connected with Artificial Intelligence.” AI & SOCIETY, pp. 1–17.)(Shiv)

According to Yampolskiy and Spellchecker (2016), the probability and seriousness of AI failures will increase with time. We estimate that they will reach their peak between the appearance of the first self-improving AI and the moment that an AI or group of AIs reach global power, and will later diminish, as late-stage AI halting seems to be a low-probability event. AI is an extremely powerful and completely unpredictable technology, millions of times more powerful than nuclear weapons. Its existence could create multiple individual global risks, most of which we can not currently imagine. We present several dozen separate global risk scenarios connected with AI in this article, but it is likely that some of the most serious are not included. The sheer number of possible failure modes suggests that there are more to come.

#### And magnitude

Milan M. **Ćirković 19**. Future of Humanity Institute, Faculty of Philosophy, University of Oxford. 01/01/2019. “Space Colonization Remains the Only Long-Term Option for Humanity: A Reply to Torres.” Futures, vol. 105, pp. 166–173.

Perhaps a skeptic wants to believe (as a kind of anti-agent Moulder, of the X-Files’ fame) that extraterrestrial intelligence is nonexistent or vanishingly rare? To begin with, it would be strange to bet the long-term future of humanity on such a technical astrobiological issue, on which we can exert no influence whatsoever. Extraterrestrial life either exists or it does not, irrespectively of any amount of our ethical or political hand-wringing. So, lacking specific information for one or the other, we should certainly make strategies for both options. Further, the advances of astrobiology over the last quarter century offer many reasons for cautious belief in the conclusion that life and intelligence are reasonably abundant in astrophysically and astrochemically permissible ecosystems. Some of the arguments to that effect are summarized in Ćirković (2012).11 Even if, by some quirk of astrobiological evolution, humanity is the first intelligent species to arise in the Milky Way (as, for instance, per the well-known argument of Carter, 1983, 2008), following Torres’s advice and relinquishing space colonization will simply ensure that the second, third, or 275th intelligent species to evolve will indeed colonize the Galaxy instead of humans. If, on the other hand, Torres is wrong and it is possible to colonize the Galaxy in a peaceful and prosperous manner, humanity might survive on Earth in a kind of zoo or preserve, surrounded by friendly and considerate interstellar aliens – but obviously failing to realize its creative potential (which would also count as an existential catastrophe in Bostrom’s taxonomy).12 There is simply no way out of that quandary, unless one is a creationist who believes that humanity originated by Divine supernatural act and there is exactly zero probability of abiogenesis/noogenesis occurring elsewhere. In general, no naturalistic utilitarian calculus of various scenarios for the future of humanity could be complete if it does not take extraterrestrial intelligence into account.

#### Unethical AI development causes mindcrime---outweighs extinction

Nick **Bostrom 14**. Director, Future of Humanity Institute, Professor, Faculty of Philosophy & Oxford Martin School, University of Oxford. 2014. Superintelligence: Paths, Dangers, Strategies. 1st Edition, Oxford University Press.

Mind crime Another failure mode for a project, especially a project whose interests incorporate moral considerations, is what we might refer to as mind crime. This is similar to infrastructure profusion in that it concerns a potential side effect of actions undertaken by the AI for instrumental reasons. But in mind crime, the side effect is not external to the AI; rather, it concerns what happens within the AI itself (or within the computational processes it generates). This failure mode deserves its own designation because it is easy to overlook yet potentially deeply problematic. Normally, we do not regard what is going on inside a computer as having any moral significance except insofar as it affects things outside. But a machine superintelligence could create internal processes that have moral status. For example, a very detailed simulation of some actual or hypothetical human mind might be conscious and in many ways comparable to an emulation. One can imagine scenarios in which an AI creates trillions of such conscious simulations, perhaps in order to improve its understanding of human psychology and sociology. These simulations might be placed in simulated environments and subjected to various stimuli, and their reactions studied. Once their informational usefulness has been exhausted, they might be destroyed (much as lab rats are routinely sacrificed by human scientists at the end of an experiment). If such practices were applied to beings that have high moral status—such as simulated humans or many other types of sentient mind—the outcome might be equivalent to genocide and thus extremely morally problematic. The number of victims, moreover, might be orders of magnitude larger than in any genocide in history.

#### It’s the biggest possible impact

Turchin 17 Mini map of s-risks by [**turchin**](https://www.lesswrong.com/users/turchin)8th Jul 2017 https://www.lesswrong.com/posts/Ns2J5xxzqhMnAE7CC/mini-map-of-s-risks

*Types of most intensive sufferings:*

Qualia based, listed from bad to worse:

1. **Eternal**, but bearable in each moment suffering (Anhedonia)

2. **Unbearable sufferings** - sufferings, to which death is the preferable outcome (cancer, death in fire, death by hanging). However, as said Mark Aurelius: “Unbearable pain kills. If it not kills, it is bearable"

3. **Infinite suffering - qualia of the infinite pain**, so the duration doesn’t matter (not known if it exists)

4. **Infinitely growing eternal sufferings**, created by constant upgrade of the suffering’s subject (hypothetical type of sufferings created by malevolent superintelligence)

#### No nuke war

#### 1---Best climate simulations

Reisner et al. 18 (Jon Reisner – Climate and atmospheric scientist at the Los Alamos National Laboratory. Gennaro D’Angelo – Climate scientist at the Los Alamos National Laboratory, Research scientist at the SETI institute, Associate specialist at the University of California, Santa Cruz, NASA Postdoctoral Fellow at the NASA Ames Research Center, UKAFF Fellow at the University of Exeter. Eunmo Koo - Scientist at Applied Terrestrial, Energy, and Atmospheric Modeling (ATEAM) Team, in Computational Earth Science Group (EES-16) in Earth and Environmental Sciences Division and Co-Lead of Parallel Computing Summer Research Internship (PCSRI) program at the Los Alamos National Laboratory, former Staff research associate at UC Berkeley. Wesley Even - Computational scientist in the Computational Physics and Methods Group at Los Alamos National Laboratory. Matthew Hecht – Atmospheric scientist at the Los Alamos National Laboratory. Elizabeth Hunke - Lead developer for the Los Alamos Sea Ice Model (CICE) at the Los Alamos National Laboratory responsible for development and incorporation of new parameterizations, model testing and validation, computational performance, documentation, and consultation with external model users on all aspects of sea ice modeling, including interfacing with global climate and earth system models. Darin Comeau – Climate scientist at the Los Alamos National Laboratory. Randy Bos - Project leader at the Los Alamos National Laboratory, former Weapons Effects program manager at Tech-Source. James Cooley – Computational scientist at the Los Alamos National Laboratory specializing in weapons physics, emergency response, and computational physics. <MKIM> “Climate impact of a regional nuclear weapons exchange:An improved assessment based on detailed source calculations”. 3/16/18. DOA: 7/13/19. <https://agupubs.onlinelibrary.wiley.com/doi/full/10.1002/2017JD027331>)

To quantitatively account for natural and forced variability in the climate system, we created two ensembles, one for the natural, unforced system and a second ensemble using a range of realistic vertical profiles for the BC aerosol forcing, consistent with our detailed fire simulation. The control ensemble was generated using small atmospheric temperature perturbations (Kay et al., 2015). Notably, the overall spread of anomalies in both ensembles is very similar. These ensembles were then used to create “super ensembles” using a statistical emulator, which allows a robust statistical comparison of our simulated results with and without the carbon forcing. Our primary result is the **decreased impact on global climate indices**, such as global average surface temperature and precipitation, relative to standard scenarios considered in previous work (e.g., Robock et al., 2007a; Stenke et al., 2013; Mills et al., 2014; Pausata et al., 2016). With our finding of **substantially less BC aerosol being lofted to stratospheric heights** (e.g., over a factor of four less than in most of the scenarios considered by previous studies), these globally averaged anomalies drop to **statistically insignificant levels** after the first several years (Figures 14 and 16). Our results are generally comparable to those predicted by other studies that considered exchange scenarios in which only about 1 Tg of soot is emitted in the upper troposphere (Robock et al., 2007a; Mills et al., 2008; Stenke et al., 2013). There are more subtle suggestions of regional effects, notably in the extent of the region over which sea surface temperature differences between ensembles remain significant in the final years of simulation (Figure 17). Further work is required to adequately analyze these and other potential regional effects. Historical analysis of several large volcanic eruptions and a recent large fire also supports this result. For example, Timmreck et al. (2010) claim that nonlinear aerosol effects of the Toba Tuff eruption 74,000 years ago helped **limit significant global cooling** impacts to a **two-year time period** and that any cooling beyond this time period could be due to other effects. It should be noted that this eruption was estimated to have produced **106 Tg** of ash and comparable amounts of other gases, such as sulfur dioxide (SO2), while the estimated amount of soot produced by a regional exchange is on the order of **10 Tg**, or **5 orders of magnitude smaller than the ash** (not including gases) **produced by the Toba eruption**. Noting that a nuclear exchange is not identical to volcanic events, it has been asserted that BC particles produced by fires should have a **greater impact on absorbing solar radiation** than even has the significantly larger amounts of ash and various gases produced by large eruptions (e.g., Robock and Toon 2010). Likewise, recent work in analyzing BC emissions from large fires suggests that in such fires, similar to large volcanic eruptions, **coating of soot particles with other particles** in convective eddies **tends to increase their size and hence increase their subsequent rainout** (China et al., 2013) before they can reach the stratosphere. In fact, the recent study of Pausata et al. (2016) found that growth of BC aerosol via coagulation with organic carbon significantly reduce the particles’ lifetime in the atmosphere.

#### 2---Islands

Turchin and Green 18 (Alexey Turchin – Scientist for the Foundation Science for Life Extension in Moscow, Russia, Founder of Digital Immortality Now, author of several books and articles on the topics of existential risks and life extension. Brian Patrick Green – Director of technology ethics at the Markkula Center for Applied Ethics, teaches AI ethics in the Graduate School of Engineering at Santa Clara University. <MKIM> “Islands as refuges for surviving global catastrophes”. September 2018. DOA: 7/20/19. https://www.emerald.com/insight/content/doi/10.1108/FS-04-2018-0031/full/html?fullSc=1&mbSc=1&fullSc=1)

Primitive tribe survives civilizational collapse. The inhabitants of **North Sentinel Island**, near the Andaman Islands in the Indian Ocean, are hostile and uncontacted. **The Sentinelese survived the 2004 Indian Ocean tsunami apparently unaffected** (Voanews, 2009), and if the rest of humanity disappear, **they might well continue their existence without change.** Tropical Island survives extreme global nuclear winter and glaciation event. Were a **nuclear**, bolide impactor or volcanic “**winter**” scenario to unfold, these islands would remain surrounded by Warm Ocean, and local volcanism or other energy sources might provide heat, energy and food. Such island refuges may have helped life on Earth survive during the **“Snowball Earth”** event in Earth’s distant past (Hoffman et al., 1998). Remote island base for project “Yellow submarine”. Some catastrophic risks such as a gamma ray burst, a global nuclear war with high radiological contamination or multiple pandemics might be best survived **underwater in nuclear submarines** (Turchin and Green, 2017). However, after a catastrophe, the submarine with survivors would eventually need a place to dock, and an island with some prepared amenities would be a reasonable starting point for rebuilding civilization. Bunker on remote island. For risks which include multiple or complex catastrophes, such as a bolide impact, extreme volcanism, tsunamis, multiple pandemics and nuclear war with radiological contamination, **island refuges could be strengthened with bunkers**. Richard Branson survived hurricane Irma on his own island in 2017 by seeking refuge in his concrete wine cellar (Clifford, 2017). Bunkers on islands would have higher survivability compared to those close to population centers, as they will be neither a military target nor as accessible to looters or unintentionally dangerous (e.g. infected) refugees. These bunkers could potentially be connected to water sources by underwater pipes, and passages could provide cooling, access and even oxygen and food sources.

#### And probability

**Robinson**, President and Director of Sandia National Laboratories, **1** [C. Paul Robinson, 3/22/2001. President and Director, Sandia National Laboratories, PhD Physics @ FSU, Chair of the Policy Committee of the Strategic Advisory Group for the Commander, US Strategic Command. “Pursuing a New Nuclear Weapons Policy for the 21st Century,” http://www.sandia.gov/media/whitepaper/2001-04-Robinson.htm.]

Let me then state my most important conclusion directly: I believe nuclear weapons must have an abiding place in the international scene for the foreseeable future. I believe that the world, in fact, would become more dangerous, not less dangerous, were U.S. nuclear weapons to be absent. The most important role for our nuclear weapons is to serve as a “sobering force,” one that can cap the level of destruction of military conflicts and thus force all sides to come to their senses. This is the enduring purpose of U.S. nuclear weapons in the post-Cold War world. I regret that we have not yet captured such thinking in our public statements as to why the U.S. will retain nuclear deterrence as a cornerstone of our defense policy, and urge that we do so in the upcoming Nuclear Posture Review. Nuclear deterrence becomes in my view a “countervailing” force and, in fact, a potent antidote to military aggression on the part of nations. But to succeed in harnessing this power, effective nuclear weapons strategies and policies are necessary ingredients to help shape and maintain a stable and peaceful world.

### 2NC---T/C---Populism

#### Growth locks in cycles of populism

Saad-Filho 16 (Alfredo, Professor of Political Economy in the Department of Development Studies, SOAS, University of London, “The end of the road? The global crisis and the disintegration of neoliberalism”, 6 December 2016, https://www.opendemocracy.net/alfredo-saad-filho/end-of-road-global-crisis-and-disintegration-of-neoliberalism)

A jammed political system The political project of neoliberalism includes an atrophied form of democracy designed to shield economic reproduction from political ‘interference’, and where popular participation is limited to choosing between shades of neoliberalism in a tightly regulated political market policed by a vitriolic right-wing media. Meanwhile, the substantive choices about social provision, the structure of employment and the distribution of income are made elsewhere. Neoliberalism has eroded social and economic structures in most countries; it has also imposed an almost impermeable membrane between political power and the economic domain. This has drastically reduced the capacity of peoples and institutions to resist and even to conceptualise alternatives. Under neoliberalism, ‘there is no alternative’ tends to become a self-fulfilling reality, even when neoliberalism is patently destructive, floundering, or failing. The isolation between a disabled politics and a dysfunctional economy derives, in part, from the material structures of neoliberalism. For example, the transnational integration of production and finance creates the need for international policy harmony through negotiation, regulation, conditionalities and competition between countries. Inevitably, they reduce the scope for national diversity and erode the established modalities of social reproduction. At a further remove, neoliberalism embeds the logic of finance into the country’s institutional fabric, as it imposes specific modalities of discipline on key social agents, with the workers at the forefront, but also upon capital, the state and finance itself. These are accompanied by a growing intolerance to all forms of dissent, from collective action to individual privacy. Finally, neoliberal democracy tends to splinter the political sphere between a myriad of competing parties, movements and NGOs with intransigently narrow horizons and lacking the vision, means and ambition to transform society. Their conflicting agendas ensure a permanent political paralysis that can be handled only by painful negotiations that, ultimately, secure the hegemony of conservative interests. Neoliberal democracy has spawned political deadlock, the disintegration of established forms of representation, and a generalised sense of alienation. Many neoliberal democracies are now engulfed in turmoil. In the Eurozone periphery, elected governments were replaced by so-called non-party technocrats ordered to implement, with greater energy, perverse strategies to address the economic crisis (Greece, Italy). Later, elected administrations advocating unconventional strategies were crushed (Greece). A dour conformity reigns among near-stagnant economies. Then the crisis of neoliberal politics reached the global periphery. There, authoritarian governments have been installed by different means, including more or less honest elections (Argentina, Hungary, India, Poland), judicial-parliamentary coups (Brazil, Honduras, Paraguay), the abuse of constitutional prerogatives (Turkey), and military coups (Egypt, Thailand). The malaise eventually reached the ‘core’ countries. A hard-right Trump administration was elected in the USA despite the ‘superior experience’ of Wall Street vassal Hillary Clinton. Japan drifts almost relentlessly towards ultra-nationalism; Brexit won the popular vote in the UK, despite ample disagreement about what the vote was for. In France, Marine Le Pen flutters above the Élysée while a harsh national security state trumps Liberté (Égalité lies in the dustbin, while Fraternité drowned long ago). Nativist populism thrives in Austria, Switzerland and Scandinavia and, in the eastern periphery of the EU, tinpot far-right politicians lead rudderless societies against enemies weaker than themselves: waves of dark-skinned refugees fleeing worse realities further south. The lumpenisation of neoliberal politics and the rise of nationalist authoritarianism The rise of nationalist authoritarianism is not a transient wobble on the march of neoliberal democracy towards the ‘end of history’. Quite the contrary: it is the incubus springing from the lumpenisation of neoliberal economies and societies through several rounds of restructuring under the guise of ‘adjustment’, inflation control and the pursuit of ‘competitiveness’, culminating in the ‘new normal’ of long-term economic stagnation punctuated by crises. In doing this, neoliberal restructuring has also begotten the lumpenisation of politics. As neoliberalism hollowed out economies it also eroded the social structures in most countries, with labour at the centre, creating a large and heterogeneous array of ‘losers’. The condition of labour has deteriorated for the informal workers, the traditional middle classes, and almost everyone else. Millions of skilled jobs have disappeared, and entire professions have either vanished or were exported to cheaper shores. Employment opportunities in the public sector shrunk, job stability retreated, and pay and conditions worsened everywhere. Hundreds of millions of people worldwide have been deskilled and, effectively, drowned into what Karl Marx described as the lumpenproletariat and the reserve army of labour. The ‘losers’ include informal workers with no realistic prospect of stable employment, underemployed skilled workers, employees fearing the disappearance of their jobs, indebted small business owners, bankrupt small farmers, endangered middle managers, threatened small business owners, anxious civil servants, panicky pensioners, and the remnants of erstwhile privileged social strata bewailing their mounting debts and inability to bequeath better circumstances to their offspring. These ‘losers’ lack a common culture or a sense of collectivity drawing upon shared material circumstances; they also distrust political systems that seem to bypass them. Heterogeneous, divided and disorganised, they are unable to resist the continuing rollout of ‘reforms’. Worse: just as the lumpenproletariat is highly vulnerable to political capture by the élite, the losers in lumpenised neoliberal societies are prone to capture by the political right. Under neoliberalism, left parties, trade unions and mass organisations have imploded because of social and economic change as well as repression. The entire political spectrum has shifted to the right, and the blockage of collective forms of dissent has fed political apathy, anomie, and the sense that politicians are there only for the taking. The ‘losers’ tend to perceive the evacuation of democracy through the lens of corruption and capture, in contrast to the sepia-tinted ‘good old days’ of economic certainty and (limited) privileges, including jobs for life, law and order, monochrome neighbours and obedient wives. They tend to see today’s political systems as serving primarily the rich (bankers, tax dodgers, self-perpetuating political élites, foreign tycoons), so-called ‘privileged minorities’ (constructed to mean women, selected ethnic or national groups, or supposed sexual ‘deviants’), and alien hordes. Annoyingly, all of them seem to draw state support, while the morally upright ‘losers’ find it impossible to make ends meet. Perhaps even worse than these economic hardships is the erosion of their proud, even if not elevated, social standing: it is difficult to understand what has hit them, and why. These woes lead lumpenised groups of ‘losers’ to project their hopes and fears onto a universalist (classless) ethics and reactionary political programmes drawing upon ‘common sense’. These tend to be framed through the language of rights, respect, taking back control, and the preservation of ancient privileges, and fronted by ‘strong’ leaders who can ‘get things done’. These choices reflect the desperate search for a way to short-circuit a logjammed political system and secure gains to those who have grown tired of losing out, and lack a sense of security grounded on income, assets, merit, citizenship, or anything else. Those agendas also express their revulsion at slick politicians delivering, time and again, convoluted excuses for inaction while the living conditions of the majority continue to deteriorate. The implosion of post-war social democracy can be directly related to these neoliberal pressures. Mainstream conservative parties have shown greater resilience, both because of their closer identification with neoliberal ideology and policy practice, and because the right is used to deploying misleading or unrealistic programmes and nationalist slogans. They are well positioned to offer disgruntled voters a random menu of desirables, regardless of contradiction even with neoliberalism itself. Those programmes tend to be naïve, exclusionary, divisive, xenophobic, racist and morally conservative. Yet, even those parties have been triangulating towards an increasingly strident nationalism. Down their necks breathes a new generation of proto- and neo-fascist movements parading even more aggressive slogans. The far right has a proven ability to mobilise on the basis of national, physical, religious or gender identity, and it thrives best in conditions of anomie: current conditions favour its continuing prosperity. The limits of nationalist authoritarianism Nationalist authoritarianism has emerged in response to the economic contradictions of neoliberalism, the sclerosis of the political institutions regulating its metabolism and the corrosion of its ideological foundations. It is, however, limited, because the aggregation of individual demands does not support transformative programmes grounded upon material reality, which are necessary to address the structural problems of accumulation and social reproduction under late neoliberalism and the ecological crisis. Even though authoritarian neoliberal leaders are unlikely to deliver their key promises, this does not prevent them from trying, or from achieving selected goals irrespective of cost or consequence. The (unavoidable) failures of nationalist authoritarianism can lead social dissatisfaction under late neoliberalism to remain unfocused, feeding unpredictable explosions followed by rapid evaporation. These cycles of revolt will be destabilising for the economic reproduction of neoliberalism and for constitutional politics. These grievances also tend to remain unresolved, fuelling further waves of instability.

### 2NC---T/C---Inequality

#### Growth does not reduce poverty AND trades off with policy measures to solve income inequality.

Giorgos **Kallis 18**. ICREA professor at ICTA, Autonomous University of Barcelona. 09/2018. “The Case for Degrowth.” Degrowth, Agenda Publishing.

What about poverty? To say that growth is necessary in order to reduce poverty is a tautology, since absolute poverty is measured in GDP terms. The total number of people and the share of the world population living in absolute poverty have declined (Figure 4.7), but this “convergence” is driven mostly by China (Hickel 2017). Assuming that current relationships between GDP growth and poverty reduction continue in the future, eliminating poverty through growth requires unrealistically high increases in global output (Woodward 2015). [[FIGURE 4.7 OMITTED]] In a rich country, even the poorest of the poor may have more than $l per day. But they are still poor. Relative rather than absolute measures of poverty are important. Overall, the number of relatively poor people around the world has been increasing (Ravillon 2012; Figure 4.7). And among OECD countries, the effect of income on poverty is weak and explains little of the variation in poverty rates (Figure 4.8), which basically means that growth does not reduce poverty. [[FIGURE 4.8 OMITTED]] That growth is not universally linked to objective well-being is reasonable. Growth increases well-being if the social benefits o f growth exceed its costs. That growth has substantial costs is well established (Mishan 1967). Data on well-being, coupled with data on environmental costs discussed below, suggests that growth, at least in rich countries, has become “un-economic” (Daly 1996): the benefits of growth do not exceed its costs. Bartolini (2014) goes further than that: he argues that most recent growth is “negative growth”, meaning growth driven by expenditures compensating for growing externalities - paying for private goods, for example, that promise to protect us from the decay of resources that were once common and free. It could also well be that stagnation of well-being is instead because of an increasingly skewed distribution of income, the result of neoliberal reforms. There is (contested) evidence that the median income in wealthy countries such as the United States has stagnated since the 1970s, even though average income has grown (Stiglitz 2012). If that is so, then the problem may not be growth itself, but the uneven distribution of its fruits. There might be a link between the two, however, insofar as the pursuit of growth is used to justify regressive tax policies, austerity and a relaxation of labour rights and social protections.

### 2NC---T/C---Scamming

#### Growth turns terror---causality runs both ways---best stats

Gries et. Al 11 – Thomas Gries, Professor @ Center of International Economics, Paderborn University; Tim Kreiger, Professor of Constitutional Political Economy and Competition Policy; Daniel Meierrieks, Research Fellow, Dept. Economics, Paderborn University, (“Causal Linkages Between Domestic Terrorism and Economic Growth,” Defense and Peace Economics, <http://www.tandfonline.com/doi/abs/10.1080/10242694.2010.532943>, jwg)

The question of causality between terrorism and economic performance has not been settled. Does terrorism lead to noticeable damages to aggregate performance, does poor economic performance contribute to the generation of terror, or do both effects exist side by side? On the one hand, the allocation and accumulation of resources may be negatively influenced by terrorism, e.g., as investment or savings are discouraged, consequently also affecting economic growth. On the other hand, economic factors may play an important role in explaining terrorism, e.g., as low opportunity costs of violence (manifested in poor economic growth) may foster conflict. This contribution aims to identify the links between the intensity of domestic terrorism and the rate of real GDP per capita growth. 1 We investigate this relationship for seven Western European countries (France, Germany, Greece, Italy, Portugal, Spain and the United Kingdom). All investigated countries experienced substantial economic success in the past. Most countries grew between 2 and 4% p.a. between 1950 and 2004. Nevertheless, these countries also suffered episodes of major political violence, especially in comparison to other countries in this part of the world. In fact, the seven selected countries accounted for 97% of all reported terrorist attacks and 96% of all reported terror-related fatalities from 1950 to 2004, according to the Terrorism in Western Europe: Events Data (TWEED) dataset of Engene (2007). 2 Most domestic terrorist organizations in the investigated countries were driven by leftist, ethnic–nationalist or separatist ideologies (Engene, 2007). Thus, they were potentially motivated by political factors. However, terrorism cannot be sensibly explained by one ‘root cause’ only. With our analysis, we want to find out whether economic performance (economic growth) also swayed the terrorists' calculus. At the same time, we want to analyze whether terrorism negatively affected growth. We test for terrorism–growth Granger causality in a time-series framework. We try to detect causality only in a statistical but not purely philosophical (‘cause and effect’) sense. Our analysis is helpful in approximating philosophical causality without implying it, so corresponding interpretations should be made carefully. Causality between terrorism and growth can take four possible forms: terrorism may cause economic growth, growth may cause terrorist activity, both causal effects may exist side by side, or no causal relationship may be detected. In order to investigate for Granger causality in our empirical framework, we first examine the stationarity properties of the underlying time series through a unit root test. At this point we are also able to identify structural breaks, i.e., major changes in the country's economic or political history during the period of observation. We then process our data in accordance with the unit root test results. When we test for Granger causality, we rely on the Hsiao–Granger procedure to circumvent common problems associated with detecting Granger causality in time-series frameworks. In comparison to standard Granger causality tests, our procedure allows for high variations in lag length selection. In order to avoid omitted variable biases and to check for robustness, we test for causality in a bivariate and trivariate system. In the trivariate setting we use trade openness as a control variable. By testing for Granger causality in a time-series setting, we add to existing evidence which has mainly blanked out the question of causality between economic performance and terrorist violence. As our main results, we find that: 1. All the investigated growth and terror series exhibit structural breaks that match with important turning points in the countries' economic and political history. 2. In bivariate systems, economic growth leads terrorist violence in all cases, whereas terrorism causally influences growth only in the case of Portugal. It appears as if economic performance influences the terrorists' calculus, yet the resiliency of attacked economies is generally high, so terror-induced shocks do not feed through to growth. 3. Knowing that bivariate causality tests are prone to inconsistencies, we also perform causality tests in trivariate systems. The findings confirm that economies under attack are successful in adjusting to the threats of terror, so growth is not impaired. With respect to Granger causality running from growth to terrorism, the results weaken previous ones from the bivariate analysis. Economic performance robustly sways the terrorists' calculus only for Germany, Portugal and Spain, but not for the rest of the sample.

### 2NC---AT: No Link

#### Slow growth isn’t transitory. Marks a shift towards less resource use if current structure is maintained.

Tverberg ’21 [Gail; 5/27/21; Fellow of the Casualty Actuarial Society, M.S. in Mathematics from the University of Illinois; "Don’t expect the world economy to resume its prior growth pattern after COVID-19," https://ourfiniteworld.com/2021/05/27/dont-expect-the-world-economy-to-resume-its-prior-growth-pattern-after-covid-19/]

Most people seem to think that the world economy is going through a temporary disruption, caused by a novel coronavirus. As soon as COVID-19 goes away, they expect the economy will be back to normal. I think that this assessment is overly optimistic. The way I see the situation, the world economy was already having severe growth problems, caused indirectly by resource problems, even before COVID-19 hit.

In a growing world economy, a person might expect that workers would be getting richer, so that they could afford an increasing quantity of goods and services. What we really see is something very different. The number of new automobiles sold was falling in many major countries long before COVID-19 hit, even as population was generally rising. Clearly, something was seriously wrong.

As I see the situation, the world has a resource problem. Resources of many kinds, including fresh water, energy products, and minerals of many kinds were becoming more difficult (and expensive) to extract, even before 2020. Substitution might have worked if the problem were only one or two resources, but not with several major resources. Cutting back was the only answer.

Thus, the shutdowns for COVID-19 came at a convenient time, allowing economies that were already doing poorly to shut down. Needless to say, there was no world leader who was willing to explain this hidden issue to the world population. Instead, world leaders used standardized code words such as “we need to move to renewables” or “we need to reduce carbon use by 2050 to prevent climate change.” Unfortunately, the ability to move to alternatives in this time frame is simply an illusion, allowing world leaders to avoid mentioning the serious resource issues that the world economy is really facing.

I expect that within a few months, a new crisis of some sort (perhaps financial) will come along, further reducing resource use. This will happen, whether or not the problem of the novel coronavirus is solved. In this post, I will try to explain the situation.

[1] The world’s economy is a self-organizing system, powered by the laws of physics. It requires a mix of resources, including energy resources, to operate.

The laws of physics require that energy be “dissipated” whenever activities we associate with generating GDP take place. For example, if a person is to drive a truck, he/she will need to eat food for his/her own personal energy. This food is “dissipated” by digestion. If the truck is to transport goods, it will need to burn some type of fuel, such as diesel. This fuel is dissipated by burning. If a computer is to operate, it will need to dissipate electricity. If a room (or a liquid) is to be heated or cooled, some sort of energy dissipation will be required.

The world economy grows in a very orderly manner. It gradually adds population, as more babies are born than people die. All of these people need food and fresh water; they also need some type of housing and clothing to protect them from the elements. Ideally, they need some type of transportation in addition to walking. Businesses are formed to enable access to goods and services that fill these needs. Governments are also formed to provide services used by all and to regulate the system. A financial system is formed to facilitate transactions, among other things.

The world economy cannot slow down and quickly restart. This is especially the case for an economy that had already started slowing, even before the 2020 pandemic. If not enough resources of the right kinds were available to enable true economic growth before the pandemic, it is hard to see how the situation would be very much improved a year later.

One key to understanding how a self-organizing economy works is to understand that the economy is multi-sided. Businesses need to make an adequate profit, to continue in operation. Workers need to earn an adequate wage to raise a family. Customers need affordable prices. Shortages of inexpensive-to-extract resources can lead to many different problems: lack of profitability for producers, or too much wage disparity among workers, or too high prices for customers. Resource shortages can also lead to people with inadequate wages wanting to migrate. They can also lead to empty shelves in stores.

#### Minor shocks spiral into full recession absent the plan

Kate 1AC Bahn 21. Washington Center for Equitable Growth Testimony before the Joint Economic Committee, "Kate Bahn testimony before the Joint Economic Committee on monopsony, workers, and corporate power". Equitable Growth. 7-14-2021. https://equitablegrowth.org/kate-bahn-testimony-before-the-joint-economic-committee-on-monopsony-workers-and-corporate-power/

Thank you Chair Beyer, Ranking Member Lee, and members of the Joint Economic Committee for inviting me to testify today. My name is Kate Bahn and I am the Director of Labor Market Policy and the interim Chief Economist at the Washington Center for Equitable Growth. We seek to advance evidence-backed ideas and policies that promote strong, stable and broad-based growth. Core to this mission is understanding the ways in which inequality has distorted, subverted and obstructed economic growth in recent decades. Mounting evidence, which I will review today, demonstrates how the rising concentration of corporate power has increased economic inequality and made the U.S. economy less efficient. Reversing the trends that have led to a “second gilded age” is critical to encouraging a resilient economic recovery following the pandemic-induced economic crisis of 2020 and encouraging a healthy, competitive economy for the future. Introduction The United States boasts one of the wealthiest economies in the world, but decades of increasing income inequality, job polarization, and stagnant wages for most Americans has plagued our labor market and demonstrated that a rising tide does not lift all boats. Furthermore, economic evidence demonstrates how inequality results in an inefficient allocation of talent and resources while increasing corporate concentration that enriches the few while holding back the entire economy from its potential. Understanding the causes and consequences of the concentration of corporate power will guide policymaking in order to ensure that the economic recovery in the next phase of the pandemic will be broadly shared and ensure a more resilient economy. “Monopsony” is a key economic concept to understand in this discussion. Monopsony is the labor market equivalent of the better-known phenomenon of “monopoly,” but instead of having only one producer of a good or service, there is effectively only one buyer of a good or service, such as only one employer hiring people’s labor in a company town. Like in monopoly, this phenomenon is not limited to when a firm is strictly the only buyer of labor. Today I will explain the circumstances and effects of employers having significant monopsony power over the market and over workers. When employers have outsized power in employment relationships, they are able to set wages for their workers, rather than wages being determined by competitive market forces. Given this monopsony power, employers undercut workers. This means paying them less than the value they contribute to production. One recent survey of all the economic research on monopsony finds that, on average across studies, employers have the power to keep wages over one-third less than they would be in a perfectly competitive market. Put another way, in a theoretical competitive market, if an employer cut wages then all workers would quit. But in reality, these estimates are the equivalent of a firm cutting wages by 5 percent yet only losing 10 percent to 20 percent of their workers, thus growing their profits without significantly impacting their business. It is not only important for workers to earn a fair share so they can support themselves and their families, but also critical to ensure that our economy rebuilds to be stronger and more resilient. Prior to the current public health crisis and resulting recession, earnings inequality had been growing since at least the 1980s while the labor share of national income has been declining in same period. This is cause for concern as recent evidence suggests that the labor share of income has a positive impact on GDP growth in the long-run. The unprecedented economic shock caused by the coronavirus pandemic revealed how economic inequality leads to a fragile economy, where those with the least are hit the hardest, amplifying recessions since lower-income workers typically spend more of their income in the economy. But the crisis also demonstrated how economic policy targeted toward workers and families can provide a foundation for growth. This is because workers are the economy, and pushing back against the concentration corporate power by providing resources to workers is the foundation for strong, stable and broadly shared growth. The Causes of Monopsony The concept of monopsony was initially developed by the early 20th century economist Joan Robinson, who examined how lack of competition led to unfair and inefficient economic outcomes. The prototypical example of monopsony is a company town, where there is one very dominant employer and workers have no choice but to accept low wages since they have no outside options. This is the most extreme case, but it is important to note that firms have monopsony power in any circumstance where workers aren’t moving between jobs seamlessly in search of the highest wages they can get. Firms can use monopsony power to lower workers’ wages any time workers: Have few potential employers Face job mobility constraints Can only gather imperfect information about employers and jobs Have divergent preferences for job attributes Lack the ability to bargain over those offers I will go through each of these factors in turn and demonstrate how labor markets are unique compared to other markets in dealing with competitive forces. While concentrated labor markets are not the norm, they are pervasive across the United States, especially within certain sectors or locations. When markets are very concentrated, employers can give workers smaller yearly raises or make working conditions worse, knowing that their workers have nowhere to go to find a better job with better pay. (See Figure 1.) A study published in the journal Labour Economics by economists Jose Azar, Ioana Marinescu, and Marshall Steinbaum finds that 60 percent of U.S. local labor markets are highly concentrated as defined by U.S. antitrust authorities’ 2010 horizontal merger guidelines. This accounts for 20 percent of employment in the United States. Research by economists Gregor Schubert, Anna Stansbury, and Bledi Tsaka goes further by estimating workers’ outside options, or the likelihood a worker is able to change into a different occupation or industry. This study finds that even with a more expansive definition of job opportunities more than 10 percent of the U.S. workforce is in local labor markets where pay is being suppressed by employer concentration by at least 2 percent, and a significant proportion of these workers facing few outside options are facing pay suppression of 5 percent or more. As study co-author Anna Stansbury noted, “for a typical full-time workers making $50,000 a year, a 2 percent pay reduction is equivalent to losing $1,000 per year and a 5 percent pay reduction is equivalent to losing $2,500 per year.” Certain sectors are now very concentrated, such as the healthcare industry. In a paper by the economists Elena Prager and Matt Schmitt, they find that hospital mergers led to negative wage growth among skilled workers such as nurses or pharmacy workers. Consolidation and outsized employer power, alongside other phenomenon such as the fissuring of the workplace, may have broader impacts on the structure of the U.S. labor market when it affects the overall structure of the labor market, including the hollowing out of middle class jobs that have historically been a pathway for upward mobility.

#### Now is key---zero interest rates

Christopher 1AC Rugaber 21. Associated Press. “Federal Reserve keeps key interest rate near zero, signals COVID-19 economic risks receding.” https://www.chicagotribune.com/business/ct-biz-fed-interest-rates-economy-20210428-bumyc3ynpza6ri4ygsntmdsmya-story.html.

WASHINGTON — The Federal Reserve is keeping its ultra-low interest rate policies in place, a sign that it wants to see more evidence of a strengthening economic recovery before it would consider easing its support. In a statement Wednesday, the Fed expressed a brighter outlook, saying the economy has improved along with the job market. And while the policymakers noted that inflation has risen, they ascribed the increase to temporary factors. The Fed also signaled its belief that the pandemic’s threat to the economy has diminished, a significant point given Chair Jerome Powell’s long-stated view that the recovery depends on the virus being brought under control. Last month, the Fed had cautioned that the virus posed “considerable risks to the economic outlook.” On Wednesday, it said only that “risks to the economic outlook remain” because of the pandemic. The central bank left its benchmark short-term rate near zero, where it’s been since the pandemic erupted nearly a year ago, to help keep loan rates down to encourage borrowing and spending. It also said in a statement after its latest policy meeting that it would keep buying $120 billion in bonds each month to try to keep longer-term borrowing rates low. The U.S. economy has been posting unexpectedly strong gains in recent weeks, with barometers of hiring, spending and manufacturing all surging. Most economists say they detect the early stages of what could be a robust and sustained recovery, with coronavirus case counts declining, vaccinations rising and Americans spending their stimulus-boosted savings.

#### That means no rebound

Jeffrey **Frankel 18**, Ph.D. in economics from MIT, professor at Harvard University's Kennedy School of Government, 8/27/18, “The Depth of the Next US Recession,” <https://www.project-syndicate.org/commentary/the-next-us-recession-will-be-severe-by-jeffrey-frankel-2018-08>

The United States economy is doing well. But the next recession – and there is always another recession – could be very bad.¶ The US Bureau of Economic Analysis estimates that GDP growth in the second quarter of 2018 reached 4.1% – the highest since the 4.9% seen under President Barack Obama in 2014. Another year of growth will match the record ten-year expansion of the 1990s. Add to that low unemployment, and things are looking good.¶ But this cannot continue forever. Given massive global corporate debt and a soaring US stock market – the cyclically adjusted price-to-earnings ratio is high by historical standards – one possible trigger for a downturn in the coming years is a negative shock that could send securities tumbling.¶ That shock could be homegrown, coming in the form, say, of renewed inflation or of the continued escalation of the trade war that US President Donald Trump has started. The shock could also come from abroad. For example, the current financial and currency crisis in Turkey could spread to other emerging markets. The euro crisis is not truly over, despite the completion of Greece’s bailout program, with Italy, in particular, representing a major source of risk. Even China is vulnerable to slowing growth and high levels of debt.¶Whatever the immediate trigger, the consequences for the US are likely to be severe,''' for a simple reason: the US government continues to pursue pro-cyclical fiscal, macro-prudential, and even monetary policies. While it is hard to get counter-cyclical timing exactly right, that is no excuse for pro-cyclical policy, an approach that puts the US in a weak position to manage the next inevitable shock.¶ During economic upswings, the budget deficit usually falls, at least as a share of GDP. But with the US now undertaking its most radically pro-cyclical fiscal expansion since the late 1960s, and perhaps since World War II, the Congressional Budget Office projects that the federal government’s fast-growing deficit will exceed $1 trillion this year.¶America’s deficit is being blown up on both the revenue and expenditure sides. Although a reduction in the corporate tax rate was needed, the tax bill that Congressional Republicans enacted last December was nowhere near revenue-neutral, as it should have been. Like the Republican-led governments of Ronald Reagan and George W. Bush, the Trump administration claims to favor small government, but is actually highly profligate. As a result, when thenext recession comes, the US will lack fiscal space to respond.¶ The Trump administration’s embrace of financial deregulation is also pro-cyclical and intensifies market swings. The Trump administration and the Republican-controlled Congress have gutted Obama’s fiduciary rule, which would have required professional financial advisers to put their clients’ interests first when advising them on assets invested through retirement plans.They have also rolled back sensible regulations of housing finance, including risk-retention rules, which force mortgage originators to keep some “skin in the game,” and requirements that borrowers make substantial down payments, which work to ensure ability to pay.¶ The White House and Congress have also been acting to gut the 2010 Dodd–Frank Wall Street Reform and Consumer Protection Act, which strengthened the financial system in several ways, including by imposing higher capital requirements on banks, identifying “systemically important financial institutions,” and requiring more transparency in derivatives. The Consumer Financial Protection Bureau – established by Dodd-Frank to protect borrowers with payday, student, and car loans – is also now being curtailed.¶ Like most major legislation, Dodd-Frank could be improved. Compliance costs were excessive, especially for small banks, and the original threshold for stress-testing “too big to fail” institutions – $50 billion in assets – was too low. But the current US leadership is going too far in the other direction, including by raising the threshold for stress tests to $250 billion and letting non-banks off the hook, which increases the risk of an eventual recurrence of the 2007-2008 financial crisis.¶ Now is the right point in the cycle to raise banks’ capital requirements as called for under Dodd-Frank. The cushion would minimize the risk of a future banking crisis.¶ Other countries do macro-prudential policy better. Europeans have applied the counter-cyclical capital buffer to their banks. Some Asian countries raise banks’ reserve requirements and homeowners’ loan-to-value ceilings during booms, and lower them during financial downturns.¶ When it comes to monetary policy, the US Federal Reserve has been doing a good job; but its independence is increasingly under attack from Republican politicians. If this assault succeeds, counter-cyclical monetary policy would be impaired.¶ In the past, the Fed has moderated recessions by cutting short-term interest rates by around 500 basis points. But, with those rates currently standing at only 2%, such a move is impossible. That is why, as Martin Feldstein recently pointed out, the Fed should be “raising the rate when the economy is strong,” thereby giving “the Fed room to respond in the next economic downturn with a significant reduction.”¶ Most Fed critics disagree. In 2010, they attacked the Fed for its monetary easing, even though unemployment was still above 9%. Now Trump says he is “not thrilled” about the Fed raising interest rates, even though unemployment is below 4%. This is tantamount to advocating pro-cyclical monetary policy.¶ As we approach the tenth anniversary of the global financial crisis, we should recall how we got there. In 2003-2007, the US government pursued fiscal expansion and financial deregulation – an approach that, even at the time, was recognized as likely to constrain the government’s ability to respond to a recession. If the US continues on its current path, no one should be surprised if history repeats itself.

#### Can’t rebuild industrial civilization.

John **Jacobi 17**. Leads an environmentalist research institute and collective, citing Fred Hoyle, British astronomer, formulated the theory of stellar nucleosynthesis, coined the term “big bang,” recipient of the Gold Medal of the Royal Astronomical Society, professor at the Institute of Astronomy, Cambridge University. 05-27-17. “Industrial Civilization Could Not Be Rebuilt.” The Wild Will Project. <https://www.wildwill.net/blog/2017/05/27/industrial-civilization-not-rebuilt/>

A suggestion, for the sake of thought: If industrial civilization collapsed, it probably could not be rebuilt. Civilization would exist again, of course, but industry appears to be a one-time experiment. The astronomist Fred Hoyle, exaggerating slightly, writes: It has often been said that, if the human species fails to make a go of it here on Earth, some other species will take over the running. In the sense of developing high intelligence this is not correct. We have, or soon will have, exhausted the necessary physical prerequisites so far as this planet is concerned. With coal gone, oil gone, high-grade metallic ores gone, no species however competent can make the long climb from primitive conditions to high-level technology. This is a one-shot affair. If we fail, this planetary system fails so far as intelligence is concerned. The same will be true of other planetary systems. On each of them there will be one chance, and one chance only. Hoyle overstates all the limits we actually have to worry about, but there are enough to affirm his belief that industry is a “one-shot affair.” In other words, if industry collapsed then no matter how quickly scientific knowledge allows societies to progress, technical development will hit a wall because the builders will not have the needed materials. For example, much of the world’s land is not arable, and some of the land in use today is only productive because of industrial technics developed during the agricultural revolution in the 60s, technics heavily dependent on oil. Without the systems that sustain industrial agriculture much current farm land could not be farmed; agricultural civilizations cannot exist there, at least until the soil replenishes, if it replenishes. And some resources required for industrial progress, like coal, simply are not feasibly accessible anymore. Tainter writes: . . . major jumps in population, at around A.D. 1300, 1600, and in the late eighteenth century, each led to intensification in agriculture and industry. As the land in the late Middle Ages was increasingly deforested to provide fuel and agricultural space for a growing population, basic heating, cooking, and manufacturing needs could no longer be met by burning wood. A shift to reliance on coal began, gradually and with apparent reluctance. Coal was definitely a fuel source of secondary desirability, being more costly to obtain and distribute than wood, as well as being dirty and polluting. Coal was more restricted in its spatial distribution than wood, so that a whole new, costly distribution system had to be developed. Mining of coal from the ground was more costly than obtaining a quantity of wood equivalent in heating value, and became even more costly as the 54 most accessible reserves of this fuel were depleted. Mines had to be sunk ever deeper, until groundwater flooding became a serious problem. Today, most easily accessible natural coal reserves are completely depleted. Thus, societies in the wake of our imagined collapse would not be able to develop fast enough to reach the underground coal. As a result of these limits, rebuilding industry would take at least thousands of years — it took 10,000 years the first time around. By the time a civilization reached the point where it could do something about industrial scientific knowledge it probably would not have the knowledge anymore. It would have to develop its sciences and technologies on its own, resulting in patterns of development that would probably look similar to historical patterns. Technology today depends on levels of complexity that must proceed in chronological stages. Solar panels, for example, rely on transportation infrastructure, mining, and a regulated division of labor. And historically the process of developing into a global civilization includes numerous instances of technical regression. The natives of Tasmania, for example, went from a maritime society to one that didn’t fish, build boats, or make bows and arrows. Rebuilding civilization would also be a bad idea. Most, who are exploited by rather than benefit from industry, would probably not view a rebuilding project as desirable. Even today, though citizens of first-world nations live physically comfortable lives, their lives are sustained by the worse off lives of the rest of the world. “Civilization . . . has operated two ways,” Paine writes, “to make one part of society more affluent, and the other more wretched, than would have been the lot of either in a natural state.” Consider the case of two societies in New Zealand, the Maori and the Moriori. Both are now believed to have originated out of the same mainland society. Most stayed and became the Maori we know, and some who became the Moriori people settled on the Chatham Islands in the 16th century. Largely due to a chief named Nunuku-whenua, the Moriori had a strict tradition of solving inter-tribal conflict peacefully and advocating a variant of passive resistance; war, cannibalism, and killing were completely outlawed. They also renounced their parent society’s agricultural mode of subsistence, relying heavily on hunting and gathering, and they controlled their population growth by castrating some male infants, so their impact on the non-human environment around them was minimal. In the meantime, the Maori continued to live agriculturally and developed into a populated, complex, hierarchical, and violent society. Eventually an Australian seal-hunting ship informed the Maori of the Moriori’s existence, and the Maori sailed to the Chathams to explore: . . . over the course of the next few days, they killed hundreds of Moriori, cooked and ate many of the bodies, and enslaved all the others, killing most of them too over the next few years as it suited their whim. A Moriori survivor recalled, “[The Maori] commenced to kill us like sheep . . . [We] were terrified, fled to the bush, concealed ourselves in holes underground, and in any place to escape our enemies. It was of no avail; we were discovered and eaten – men, women, and children indiscriminately.” A Maori conqueror explains, “We took possession . . . in accordance with our customs and we caught all the people. Not one escaped. Some ran away from us, these we killed, and others we killed – but what of that? It was in accordance with our custom.” Furthermore, we can deduce from the ubiquitous slavery in all the so-called “great civilizations” like Rome or Egypt that any attempt to rebuild a similar civilization will involve slavery. And to rebuild industry, something similar to colonization and the Trans-Atlantic Slave Trade would probably have to occur once again. After all, global chattel slavery enabled the industrial revolution by financing it, extracting resources to be accumulated at sites of production, and exporting products through infrastructure that slavery helped sustain. So, if industrial society collapsed, who would be doing the rebuilding? Not anyone most people like. It is hard to get a man to willingly change his traditional way of life; even harder when his new life is going into mines. And though history demonstrates that acts like those of the Maori or slave traders are not beyond man’s will or ability, certainly most in industrial society today would not advocate going through the phases required to reach the industrial stage of development.

### 2NC---M---Environment

#### Environment outweighs---its try or die---land, overfishing, deforestation, food and water shortages have cascading effects on bio-d that’s key to survival

Richard Smith 14, economic historian, has written on capitalism and the environment for The Ecologist, the International Journal of Ecological Economics and Statistics, Real-World Economics Review, and others, and has a PhD in economic history from UCLA. Green Capitalism: The God That Failed, truth-out.org/news/item/21060-green-capitalism-the-god-that-failed

Given the enormous dangers that such a high target implies, critics have asked why Stern is so reluctant to aim for a safer target? Marxist ecologist John Bellamy Foster and his colleagues suggest that the answer is to be found in Stern's economics, not the science: The Stern Review is very explicit, however, that such a radical mitigation of the problem should not be attempted. The costs to the world economy of ensuring that atmospheric CO₂e stabilized at present levels or below would be prohibitive, destabilizing capitalism itself. "Paths requiring very rapid emissions cuts," we are told, "are unlikely to be economically viable." If global greenhouse gas emissions peaked in 2010, the annual emissions reduction rate necessary to stabilize CO2e at 450 ppm, the Stern Review suggests, would be 7 percent, with emissions dropping by about 70 percent below 2005 levels by 2050. This is viewed as economically insupportable.(39) Stern asserted that "the world does not have to choose between averting climate change and promoting growth and development."(40) But if the science is right that we need to keep emissions below 400 ppm, or even get them back below 350 ppm, then more growth is out of the question. Indeed, we would have to make radically deeper cuts in GDP than even the 7 percent reduction per year that Stern calculates would be necessary just to get us down to 450 ppm. Because, under capitalism, a contraction of economic output on anything like that scale would mean economic collapse and depression, it is difficult to see how we can make the reductions in greenhouse gases we have to make to avoid climate catastrophe unless we abandon capitalism. This is the dilemma. So far most scientists have tended to avoid getting into the contentious economic side of the question. But with respect to the issue of growth, the science is unequivocal: Never-ending growth means the end of civilization, if not humanity itself - and in the not-so-distant future. For a summary of the peer-reviewed science on this subject, read a few chapters of Mark Lynas' harrowing Six Degrees.(41) Global warming is surely the most urgent threat we face, but it is far from the only driver of global ecological collapse. For even if we switched to clean renewable electric power tomorrow, this would not stop the overconsumption of forests, fish, minerals, fresh water. It would not stop pollution or solve the garbage crisis or stop the changes in ocean chemistry. Indeed, the advent of cheap, clean energy could even accelerate these trends.(42) Numerous credible scientific and environmental researchers back up what the climate scientists have been telling us, to demonstrate why perpetual growth is the road to collective social suicide. For example: In 2005 the United Nations Millennium Ecosystem Assessment team of 1,300 scientists from 95 countries issued a landmark report on humanity's overconsumption of "nature's services." The scientists reported that 60 percent (15 of 24) of the ecosystems examined that are critical for human survival are being "degraded or used unsustainably," including fresh water, capture fisheries, coral reefs, wetlands, drylands and forests. Around the world, many of these are deteriorating or on the verge of collapse. Thus nature's ability to provide the resources for growing future populations is very much in doubt unless radical steps are taken soon. In its Living Planet Report 2010, the World Wide Fund for Nature (WWF) similarly concluded that people are plundering the world's resources at a rate that far outstrips the planet's capacity to sustain life. As of 2007, the world's 6 billion-plus people were using up 50 percent more natural resources per year than can be naturally regenerated (and many resources, like oil, cannot be replenished at all). Put another way, humanity's current "global footprint" is equal to 1.5 planets. Under a business-as-usual scenario, even with modest projections for population growth, consumption and climate change, the UN predicts that by 2030 humanity will need the capacity of two Earths to absorb CO2 waste and support natural resource consumption. Of course we don't all consume equally: The footprint of high-income countries is three times that of middle-income countries and five times that of low-income countries. Americans have the biggest footprint of all, consuming the most energy and producing the most waste. If everyone lived like Americans do, we would need 5.3 planets to support all this. James Leape, director general of WWF, says, "The implications are clear. Rich nations must find ways to live much more lightly on the Earth - to sharply reduce their footprint, in particular their reliance on fossil fuels. The rapidly growing emerging economies must also find a new model for growth - one that allows for them to improve the well-being of their citizens in ways the Earth can actually sustain."(43) And in its own 2010 State of the World Report, the World Watch Institute says that: As consumerism has taken root in culture upon culture over the past half-century, it has become a powerful driver of the inexorable increase in demand for resources and production of waste that marks our age. ... More than 6.8 billion human beings are now demanding ever greater quantities of material resources, decimating the world's richest ecosystems, and dumping billions of tons of heat-trapping gases into the atmosphere each year. Despite a 30-percent increase in resource efficiency, global resource use has expanded 50 percent over the past three decades. And those numbers could continue to soar for decades to come as more than 5 billion people who currently consume one tenth as many resources per person as the average European try to follow the trail blazed by the world's affluent.(44)

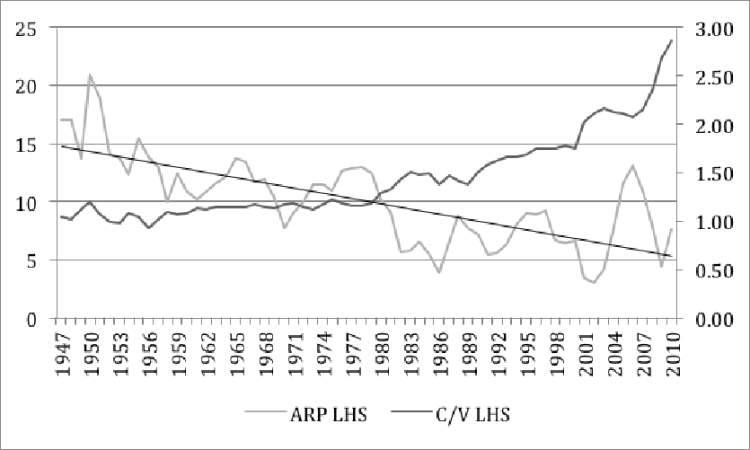
### 2NC---AT: Growth Sustainable

#### Growth is unsustainable---we only need to win one warrant---means it’s not a question of if we should collapse the economy, but when:

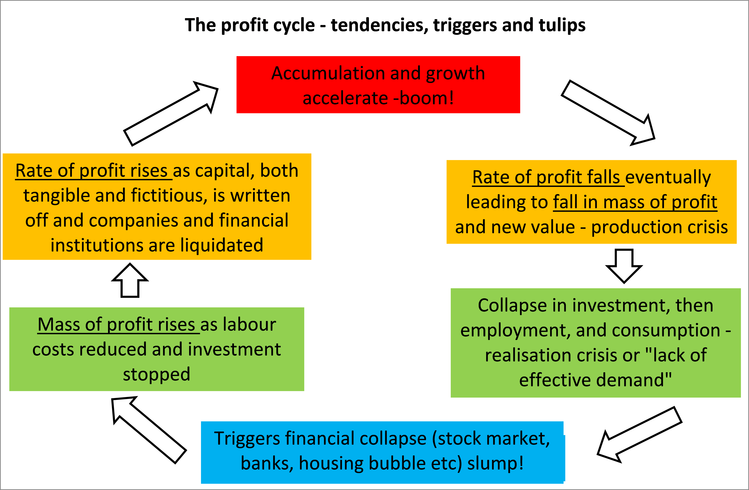
#### Marx’s law of profitability explains cyclical recessions and renders capitalism unsustainable

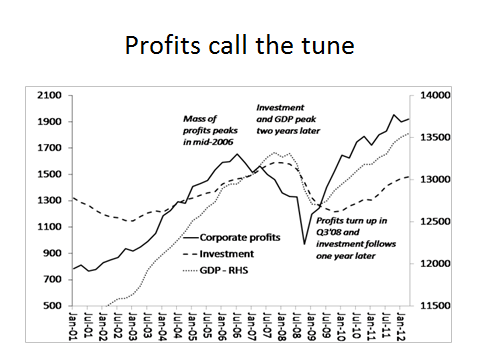
Roberts 15 - London economist (Michael, https://thenextrecession.wordpress.com/2015/12/29/the-marxist-theory-of-economic-crises-in-capitalism-part-two/, emuse)

Does Marx’s law fit the facts? Some Marxist critics of Marx’s law of profitability reckon that the law cannot be empirically proven or refuted because official statistics cannot be used to show Marx’s law in operation. But there are plenty of studies by Marxist economists that show otherwise. The key tests of the validity of the law in modern capitalist economies would be to show whether 1) the rate of profit falls over time as the organic composition of capital rises; 2) the rate of profit rises when the organic composition falls or when the rate of surplus value rises faster than the organic composition of capital; 3) the rate of profit rises, if there is sharp fall in the organic composition of capital as in a slump. These would be the empirical tests and there is plenty of empirical evidence for the US and world economy to show that the answer is yes to all these questions. For example, [Basu and Manolakos](http://gesd.free.fr/basumano.pdf) applied econometric analysis to the US economy between 1948 and 2007 and found that there was a secular tendency for the rate of profit to fall with a measurable decline of about 0.3 percent a year “after controlling for counter-tendencies.” In [my work on the US rate of profit,](http://gesd.free.fr/mr1213.pdf) I also found an average decline of 0.4 percent a year through 2009. And here is a figure by G Carchedi for the rise in the organic composition of capital (OCC) in the industrial sector of the US since 1947 versus the average rate of profit (ARP). It tells the same story. US ARP and OCC (i.e. C/V) versus the average rate of profit (ARP). It tells the same story. US ARP and OCC (i.e. C/V)

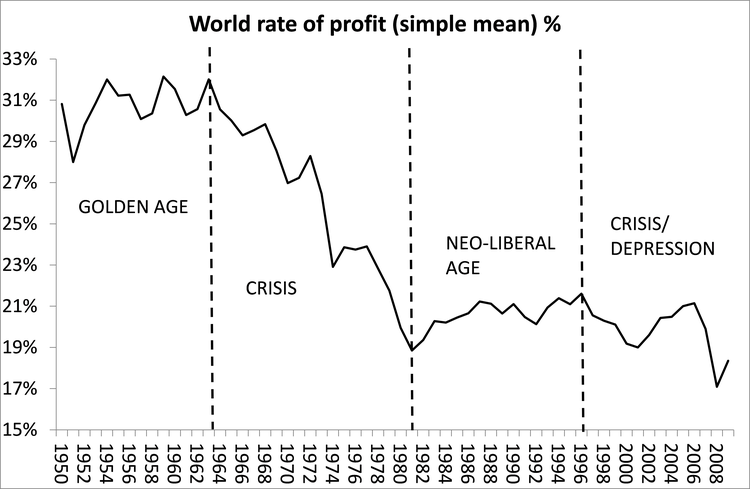
[](https://thenextrecession.files.wordpress.com/2015/12/arp.png)

There is a clear inverse correlation between a rising organic composition of capital and a falling rate of profit. Can Marx’s law explain crises? How does Marx’s law of profitability work as an explanation and forecast of slumps in capitalist economies? The law leads to a clear causal connection to regular and recurrent crises (slumps). It runs from falling profitability to falling profits to falling investment to falling employment and incomes. A bottom is reached when there is sufficient destruction of capital values (the writing off technology, the bankruptcy of companies, a reduction in wage costs) to raise profits and then profitability. Then rising profitability leads to rising investment again. The cycle of boom recommences and the whole ‘crap’ starts again, to use Marx’s colourful phrase. [There is a cycle of profit alongside the long-term tendency for the rate of profit to fall.](https://thenextrecession.files.wordpress.com/2013/07/cycles-in-capitalism.pdf)

[](https://thenextrecession.files.wordpress.com/2015/12/profit-cycle.png) The evidence of this causality between profit and investment is available. Jose Tapia Granados, using regression analysis, finds that, over 251 quarters of US economic activity from 1947, profits started declining long before investment did and that pre-tax profits can explain 44% of all movement in investment, while there is no evidence that investment can explain any movement in profits. I find a higher ‘Granger causality’ of 60% from annual changes in profit and investment (unpublished) and a correlation of 0.67 for the period since 2000. And see this by G Carchedi ([Carchedi Presentation](https://thenextrecession.files.wordpress.com/2015/06/carchedi-presentation.pptx)). In the period leading up to the Great Recession 2008-9, we can see the causality visually for US profits, investment and real GDP in the graphic below. The mass of US corporate profit peaks in mid-2006, investment and GDP follows two years later. Profits turn back up in late 2008 and investment follows one year later.

[](https://thenextrecession.files.wordpress.com/2015/12/profits-lead.png)

There are two basic regularities shown by the data: that a change in profits tends to be followed next year by a change in investment in the same direction; and that a change in investment is usually followed in a few years by changes in profits in the opposite direction. Thus we have a cycle. From these results, the “regularity” of the business cycle, and the fact that profitability stagnated in 2013 and declined in 2014 (and now the mass of profits in 2015) after growing between 2008 and 2012, it can be concluded with some confidence that a recession of the US economy, which will be also part of a world economic crisis like the Great Recession, will occur again in the next few years. And Marx’s law of the tendency of the rate of profit to fall makes an even more fundamental prediction: that the capitalist mode of production will not be eternal, that it is transitory in the history of human social organisation. The law of the tendency predicts that, over time, there will be a fall in the rate of profit globally, delivering more crises of a devastating character. Work has been done by modern Marxist analysis that confirms that the world rate of profit has fallen over the last 150 years. See the graph below ([data from Esteban Maito](https://thenextrecession.files.wordpress.com/2015/05/maito-esteban-the-historical-transience-of-capital-the-downward-tren-in-the-rate-of-profit-since-xix-century.pdfhttp:/gesd.free.fr/mrwrate.pdf) and ‘doctored’ by me).

[](https://thenextrecession.files.wordpress.com/2015/12/world-rate-of-profit-maito.png) Maito’s data for the 19th century have recently been questioned ([DUMENIL-LEVY on MAITO](https://thenextrecession.files.wordpress.com/2015/12/dumenil-levy-on-maito.pdf)), but in a recent work using different sources and countries, I find a similar trend for the post-1945 period globally ([Revisiting a world rate of profit June 2015](https://thenextrecession.files.wordpress.com/2015/12/revisiting-a-world-rate-of-profit-june-2015.pdf)). And earlier groundbreaking work by Minqi Li and colleagues, as well as by Dave Zachariah, show a similar trend. As Maito concludes: “The tendency of the rate of profit to fall and its empirical confirmation highlights the historically limited nature of capitalist production. If the rate of profit measures the vitality of the capitalist system, the logical conclusion is that it is getting closer to its endpoint. There are many ways that capital can attempt to overcome crises and regenerate constantly. Periodic crises are specific to the capitalist mode of production and allow, ultimately, a partial recovery of profitability. This is a characteristic aspect of capital and the cyclical nature of the capitalist economy. But the periodic nature of these crises has not stopped the downward trend of the rate of profit over the long term. So the arguments claiming that there is an inexhaustible capacity of capital to restore the rate of profit and its own vitality and which therefore considers the capitalist mode of production as a natural and a-historical phenomenon, are refuted by the empirical evidence.” So the law predicts that, as the organic composition of capital rises globally, the rate of profit will fall despite counteracting factors

and despite successive crises (which temporarily help to restore profitability). This shows that capital as a mode of production and social relations is transient. Capitalism has not always been here and it has ultimate limits, namely capital itself. It has a ‘use-by-date’. That is the essence of the law of profitability for Marx. Alternative theories This is not to deny other factors in capitalist crises. The role of credit is an important part of Marxist crisis theory and indeed, as the tendency of the rate of profit to fall engenders countertendencies, one of increasing importance is the expansion of credit and the switching of surplus value into investment in fictitious capital rather than productive capital to raise profitability temporarily, but with eventually disastrous consequences, as The Great Recession shows ([The Great Recession](https://thenextrecession.files.wordpress.com/2013/08/the-great-recession.pdf); [Debt matters](https://thenextrecession.files.wordpress.com/2012/11/debt-matters.pdf)). Alternative theories of crisis like underconsumption, or the lack of effective demand, are taken from theories from the reactionary Thomas Malthus and the radical Sismondi in the early 19th century and then taken up by Keynes in the 1930s and by modern inequality theorists like Stiglitz and [post-Keynesian economists](http://bilbo.economicoutlook.net/blog/?p=15854). But lack of demand and rising inequality cannot explain the regularity of crises or predict the next one. These theories do not have strong empirical backing either ([Does inequality causes crises](https://thenextrecession.files.wordpress.com/2015/11/does-inequality-causes-crises.pdf)). Professor Heinrich, after concluding that Marx did not have a theory of crisis and dropped the law of profitability, [does offer a vague one of his own](https://thenextrecession.wordpress.com/2015/05/19/the-two-michaels-heinrich-and-roberts-in-berlin-dogmatism-versus-doubt/): namely capital accumulates and produces more means of production blindly. This gets out of line with consumption demand from workers. So a ‘gap’ develops that has to be filled by credit, but somehow this cannot hold up things indefinitely and production then collapses. Well, it is a sort of a theory, but pretty much the same as the underconsumption (overproduction) theory that Heinrich himself dismisses and [Marx dismissed 150 years ago.](http://www.mcg-j.org/swp_arc/english/etheory/economics/eprm29-2.htm) It seems way less convincing or empirically supported that Marx’s own theory of crisis based on the law of profitability. No other theory, whether from mainstream economics or from heterodox economics, can explain recurrent and regular crises and offer a clear objective foundation for the transience of the capitalist system.

#### Holistic modelling

Hickel and Kallis 19 (Jason Hickel - Professor @ Goldsmiths University of London specializes in development, finance, democracy, violence, and global political economy, PhD in Anthropology at the University of Virginia. & Giorgos Kallis- ICREA Professor in Environmental Sciences, PhD in Environmental Policy and Planning from the University of the Aegean in Greece , 4-17-2019, Taylor and Francis, “Is Green Growth Possible?” <https://doi.org/10.1080/13563467.2019.1598964> accessed: 7-14-2019 \*\*graphs are in the middle of text due to their placement in article, but I completed separated words and removed fragments) //bp

Carbon Emissions – Is Growth Compatible with the Paris Agreement? Unlike with resource use, there is a steady long-term trend toward relative decoupling of GDP from carbon emissions, and we know that absolute reductions in carbon emissions are possible to achieve. When it comes to climate change, however, the objective is not simply to reduce emissions (a matter of flows), but to keep total emissions from exceeding specific carbon budgets (a matter of stocks). For green growth theory, then, the question is not only whether we can achieve absolute decoupling and reduce emissions, but whether we can reduce emissions fast enough to stay within the carbon budgets for 1.5°C or 2°C, as per the Paris Agreement, while still continuing economic growth. A number of high-income countries have seen declining emissions in the twenty-first century, despite continued economic growth. Figure 4(a) shows declining emissions in the US and EU28, in both territorial and consumption-based terms, from 2006 to 2016 (i.e. absolute decoupling). However, emissions from the global South have continued upward, albeit at a slower rate than GDP (i.e. relative decoupling). China’s emissions declined slightly between 2014 and 2016 (a brief period of absolute decoupling), before growing again in 2017. On a global level, CO2 emissions have increased steadily, falling only during periods of economic recession (Figure 4(b)). Global emissions did level off in 2015 and 2016 while GDP continued to rise, prompting the International Energy Agency, a research arm of the OECD, to announce ‘Decoupling of global emissions and economic growth confirmed’ (IEA 2016), while media outlets celebrated ‘peak emissions’ (Meyer 2016). This news briefly came to constitute a key element of optimistic green growth narratives, until global emissions began to rise again in 2017 (1.6 per cent) and 2018 (2.7 per cent). Analysts attribute the temporary plateau to a shift in China away from coal and (mostly) toward oil and gas, and a shift in the US to natural gas.5 Once these shifts were complete, continued economic growth drove emissions up again. Overall, global carbon productivity has been slowing. World Bank data shows that carbon productivity (CO2 per 2010 $US GDP) improved steadily from 1960 to 2000, with decarbonisation happening at an average rate of 1.28 per cent per year (relative decoupling). However, from 2000 to

Chart

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2014 there was no improvement in carbon productivity – in other words, not even relative decoupling has been achieved in the twenty-first century.6 High-income nations have done better, at least in terms of territorial emissions (the World Bank does not track consumption-based emissions), but even so progress has slowed, from an average rate of 1.91 per cent per year from 1970 to 2000, down to 1.61 per cent per year from 2000 to 2014. Existing trends are incompatible with the Paris Agreement targets. Business-as-usual is set to lead to 4.2°C of warming (2.5°C to 5.5°C) by 2100. Even with the Nationally Determined Contributions and Intended Nationally Determined Contributions under the Paris Agreement, global warming is still projected to reach 3.3°C (1.9°C to 4.4°C) – an improvement over the BAU scenario but still far exceeding the 1.5°C and 2°C thresholds.7 In order to keep warming below these thresholds, the world will have to make much more aggressive emissions reductions. The IPCC’s Fifth Assessment Report (AR5) includes 116 mitigation scenarios that are consistent with Representative Concentration Pathway 2.6 (RCP2.6), which offers the best chances of staying below 2°C. All of these scenarios are green growth scenarios in that they stabilise global temperatures while global GDP continues to rise. Rising GDP is a built-in feature of the Shared Socio-Economic Pathways (SSPs), which form the basis for the IPCC mitigation scenarios (Kuhnhenn 2018). AR5 warns, however, that these scenarios ‘typically involve temporary overshoot of atmospheric concentrations’ and ‘typically rely on the availability and widespread deployment of bioenergy with carbon capture and storage (BECCS)’ (2014, p. 23). Indeed, the vast majority scenarios for 2°C (101 of the 116) rely on BECCS to the point of achieving negative emissions.8 BECCS entails growing large tree plantations to sequester CO2 from the atmosphere, harvesting the biomass, burning it for energy, capturing the CO2 emissions at source and storing it underground. Relying on these ‘negative emissions technologies’ allows for a much larger carbon budget (about double the actual size) by assuming that we can successfully reduce global atmospheric carbon in the second half of the century. BECCS is highly controversial among climate scientists. It was first proposed by Obersteiner et al. (2001) and Keith (2001) at the turn of the century. IPCC modelling teams began including it in their scenarios from 2005, despite having no firm evidence of its feasibility. With the publication of AR5, BECCS was enshrined as a dominant assumption. Obersteiner has expressed alarm at the rapid uptake of his idea; he considers BECCS to be what he calls a ‘risk-management strategy’, or a ‘backstop technology’ in case climate feedback loops turn out to be worse than expected, and says the IPCC has ‘misused’ it by including it in regular scenarios to take pressure off of conventional mitigation pathways (i.e. emissions reductions) (Hickman 2016). In Keith’s (2001) initial formulation of the idea, he noted that while ‘measured use’ of biomass could help mitigate environmental problems, ‘large scale use of cropped biomass will not.’ Anderson and Peters (2016) point out that the ‘allure’ of BECCS is due to the fact that it allows politicians to postpone the need for rapid emissions reductions: ‘BECCS licenses the ongoing combustion of fossil fuels while ostensibly fulfilling the Paris Commitments.’ There are a number of concerns. First, the viability of power generation with CCS has never been proven to be economically viable or scalable; it would require the construction of 15,000 facilities (Peters 2017). Second, the scale of biomass assumed in the AR5 scenarios would require plantations covering land two to three times the size of India, which raises questions about land availability, competition with food production, carbon neutrality, and biodiversity loss (Smith et al. 2016; Heck et al. 2018). Third, the necessary storage capacity may not exist (De Coninck and Benson 2014, Global CCS Institute 2015). Anderson and Peters conclude that ‘BECCS thus remains a highly speculative technology’ and that relying on it is therefore ‘an unjust and high stakes gamble’: if it is unsuccessful, ‘society will be locked into a high-temperature pathway.’ This conclusion is shared by a growing number of scientists (e.g. Fuss et al. 2014, Vaughan and Gough, 2016, Larkin et al. 2017, Van Vuuren et al. 2017), and by the European Academies’ Science Advisory Council (2018). It is not clear that we can justifiably rely on BECCS, an unproven technology, to underwrite green growth theory. If we accept this point, then we must return to asking whether it is possible to maintain growth without relying on BECCS to stay within the carbon budgets consistent with the Paris Agreement. Without BECCS, global emissions need to fall to net zero by 2050 for 1.5°C, or by 2075 for 2°C.9 This entails reductions of 6.8 per cent per year and 4 per cent per year, respectively (Figure 5). Theoretically, this can be accomplished with (a) a rapid shift to 100 per cent renewable energy to eliminate emissions from fossil fuel combustion (Jacobson and Delucchi 2011); plus (b) afforestation and soil regeneration to eliminate emissions from land use change; plus (c) a shift to alternative industrial processes to eliminate emissions from the production of cement, steel, and plastic. The question is, can all of this be accomplished quickly enough? Only 6 of the 116 scenarios for 2°C in AR5 exclude BECCS. These work by assuming ‘optimal full technology’ in all other areas, plus mass afforestation, and with high mitigation costs. These represent theoretically possible pathways, but without any empirical evidence as to their feasibility. Results of empirical studies are not promising. Schandl et al. (2016) model what might be achieved with aggressive mitigation policies, without relying on BECCS. Their high-efficiency scenario has a carbon price starting at $50 per ton (rising by 4 per cent per year to $236 by 2050) plus a doubling in the material efficiency of the economy due to technological innovations (improving from a historical average rate of 1.5 per cent per year up to 4.5 per cent). Schandl et al provide no evidence for the feasibility of the efficiency improvements that they assume. Even so, the result shows that with global growth of 3 per cent per year, annual emissions plateau to 2050 but do not decline. In this scenario,

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growth in energy demand outstrips the rate of decarbonisation, violating the carbon budgets for 1.5°C and 2°C. The International Renewable Energy Association (IRENA 2018) have modelled a scenario for continued GDP growth compatible with 2°C by relying on a rapid shift to renewable energy (consistent with Jacobson and Delucchi 2011). The scenario requires adding 12,200 GW of solar and wind capacity by 2050, with a dramatic increase in installation rates (2.3 to 4.6 times faster than the present).10 The scenario also requires that the energy intensity of the global economy falls by twothirds (by 2.8 per cent per year, double the historical rate), lowering energy demand in 2050 to slightly less than 2015 levels.11 This is feasible inasmuch as the transition to wind and solar itself improves energy efficiency (Jacobson and Delucchi 2011).12 Still, even this optimistic scenario accomplishes only 90 per cent of the necessary emissions reductions for 2°C (likely because it pays no attention to emissions from land use change and cement production). The model relies on negative emissions technology to cover most of the remainder. Van Vuuren et al. (2018) consider ‘alternative pathways’ for meeting the Paris Agreement targets without relying on widespread use of negative emissions technologies. They model rising GDP in accordance with SSP2. In addition to a carbon tax and other aggressive mitigation strategies, their optimistic scenario includes the following settings: global population peaks at 8.4 billion in 2050 and declines to 6.9 billion by 2100; meat consumption declines 80 per cent by 2050; all new cars and airplanes are efficient from 2025; the world shifts to the most efficient technologies for steel and cement production, etc. Even with these highly optimistic assumptions in place, they find that the pressures of continued growth drive emissions to exceed the carbon budgets for 1.5°C and 2°C, without negative emissions technologies. Another way to approach this question is by looking at projected rates of decoupling. If we assume global GDP continues to grow at 3 percent per year (the average from 2010 to 2014), then decoupling must occur at a rate of 10.5 per cent per year for 1.5°C, or 7.3 per cent per year for 2°C. If global GDP grows at 2.1 per cent per year (as PWC predicts), then decoupling must occur at 9.6 per cent per year for 1.5°C, or 6.4 per cent per year for 2°C. All of these targets are beyond what existing empirical models indicate is feasible. The Schandl et al model indicates that decoupling can happen by at most 3 per cent per year under optimistic conditions. Other models arrive at similar conclusions. Before adopting BECCS assumptions, the IPCC (2000) projected decoupling of 3.3 per cent per year in a global best-case scenario. The C-ROADS tool (developed by Climate Interactive and MIT Sloan) projects decoupling of at most 4 per cent per year under the most aggressive possible abatement policies: high subsidies for renewables and nuclear power, plus high taxes on oil, gas and coal. All of these results fall short of the decoupling rate that must be achieved if the global economy continues to grow at expected rates. Holz et al. (2018) find that if we rule out widespread use of negative emissions technologies, the required rate of decarbonisation for meeting the Paris Agreement is ‘well outside what is currently deemed achievable, based on historical evidence and standard modelling.’ The challenge is even more difficult for rich nations. Anderson and Bows (2011) have modelled the emissions reductions necessary for achieving a 50 per cent chance of staying under 2°C (more relaxed than the two-thirds chance that the UNFCC calls for), without BECCS. They proceed from the principle of ‘common but differentiated responsibility’, whereby rich nations (Annex-1 nations) make more aggressive emissions reductions than poor nations, owing to their greater historical responsibility for emissions and their greater capacity for managing the costs of transition. They assume that Non-Annex 1 nations defer peak emissions until 2025, and thereafter reduce emissions by 7 per cent per year. They acknowledge that these are extremely ambitious assumptions but consider them to be the most feasible compromise between practicality and equity. To stay within the remaining carbon budget, Annex 1 nations need to reduce emissions by 8–10 per cent per year, beginning in 2015. This model was developed with data up to 2010; as the remaining carbon budget is now smaller, Anderson estimates that Annex 1 nations need to reduce emissions by 12 per cent per year.13 If we accept that Annex 1 nations need to achieve emissions reductions of 12 per cent per year, and if we assume that GDP growth in Annex 1 nations continues at 1.86 per cent per year (the average from 2010 to 2014), then decoupling must occur at a rate of 15.8 per cent per year.14 For perspective, this is eight times faster than the historic rate of decoupling in Annex 1 nations (viz., 1.9 per cent per year from 1970 to 2013), and it is important to bear in mind that the rate of decoupling has generally slowed over this period.15 It also exceeds the decoupling rate implied by the average G20 Nationally Determined Contributions under the Paris Agreement (viz., 3 per cent per year) by a factor of five. There is one empirical model that feasibly accomplishes emissions reductions consistent with the Paris Agreement, without relying on negative emissions technologies. Published by Grubler et al. (2018), it was included in the IPCC Special Report on 1.5°C (2018) in response to growing critiques of the IPCC’s reliance on BECCS. The scenario, known as ‘Low Energy Demand’ (LED), accomplishes emissions reductions compatible with 1.5°C by reducing global energy demand by 40 per cent by 2050. In addition to decarbonisation and afforestation, the key feature of this scenario is that global material production and consumption declines significantly: ‘The aggregate total material output decreases by close to 20 per cent from today, one-third due to dematerialization, and twothirds due to improvements in material efficiency.’ Dematerialisation is accomplished by shifting away from private ownership of key commodities (like cars) towards sharing-based models. LED differentiates between the global North and South. Industrial activity declines by 42 per cent in the North and 12 per cent in the South. With efficiency improvements, this translates into industrial energy demand declining by 57 per cent in the North and 23 per cent in the South. The LED scenario projects continued GDP growth at just over 2 per cent per year, which would make it consistent with green growth theory. However, the empirical basis for this GDP trend is not robust. It is derived from the MESSAGE-Globium model, which calculates GDP from only two inputs: labour supply (population size and productivity) and energy. The low energy demand in the LED scenario does not affect growth because it is offset by efficiency improvements. As the model is insensitive to changes in material throughput, reductions in production and consumption do not affect output. The paper offers no evidence that GDP will continue to grow despite such reductions. Charlie Wilson, one of the paper’s authors, acknowledged that ‘we did not consider broader questions of GDP growth or degrowth, and we did not explicitly report relationships between our scenario and GDP outcomes for this reason.’ 16 Conclusions and discussion The empirical data demonstrate that while absolute decoupling of GDP from emissions is possible and is already happening in some regions, it is unlikely to happen fast enough to respect the carbon budgets for 1.5°C and 2°C against a background of continued economic growth. Growth increases energy demand, making the transition to renewable energy more difficult, and increases emissions from land use change and industrial processes. Models that do project green growth within the constraints of the Paris Agreement rely heavily on negative emissions technologies that are either unproven or dangerous at scale. Without these technologies, the rates of decarbonisation required for 1.5°C or 2°C are significantly steeper than extant models suggest is feasible even with aggressive mitigation policies.

#### Price reactions

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

The innovation and development of clean energy sources such as wind and solar energy are emerging as a key strategy in the battle against global warming. The strategy rests on a seemingly obvious proposition: innovation lowers the cost of clean energy, leading to substitution away from fossil fuels, which lowers carbon emissions and mitigates the problem of global warming. The proposition, unfortunately, is false. Innovation in clean energy can set global temperatures on a permanently higher path. The subsidy of innovation, as a naked policy instrument unsupported by carbon pricing, is not merely suboptimal policy. Subsidizing innovation can make global warming worse. To develop the economic relationship between clean-energy innovation and climate change, I start with a paradox familiar to environmental economists. Fossil fuels are an exhaustible resource. Suppose that tomorrow a clean, inexhaustible energy substitute were universally available at a cost equivalent to 60 dollars per barrel of oil. The owner of any conventional fuel deposit with low extraction costs would prefer to sell at 59.99 or less rather than share the energy market with the substitute. Oil from these deposits will therefore be sold before clean energy captures any market share and at lower prices as a result of the innovation. The effect of the innovation in clean energy is that fuel will be exhausted - and carbon emitted – more intensively and at an earlier date. This paradox is that carbon emissions are initially higher as a result of clean energy innovation. 1 As set out in the literature, however, the theory predicts that in the long run clean energy innovation helps in the battle against global warming. Innovation in clean energy has two effects on carbon emissions. First, as in the example above, carbon is released earlier into the atmosphere as a result of innovation. In existing models, this will be left in the ground rather than extracted. Less carbon is emitted into the atmosphere – a clear benefit of clean-energy innovation. The net effect is that the paradox disappears in the long run. The prediction is that innovation eventually works as intended. 2 This prediction is too optimistic. The theory offered here represents carbon in the biosphere via two state variables, carbon in the atmosphere and carbon on the earth’s surface. This allows us to include a fundamental feature of carbon cycle dynamics: positive feedback effects. As greater atmospheric carbon raises the global temperature, reactive ice-yields melt and methane gas is released from melting permafrost (to take just two examples), resulting in a higher *rate* of flow of carbon to the atmosphere. The effect is that an initial increase in carbon emissions that raises global temperature will increase the rate at which carbon escapes from the earth’s surface and accumulates in the atmosphere. Innovation combined with the sufficiently strong feedback effects then yields higher temperature paths not just in the short run but permanently. The acceleration of carbon emissions (the first effect of innovation) may overwhelm even in the long run the benefit of reduced total carbon emissions (the second effect). Because of positive feedbacks, even a small innovation may lead the temperature path to a discretely higher steady- state temperature. Global warming is a long run problem and it is the long run consequences of global warming policies that are critical for policy. The theory here argues against clean energy innovation subsidies as a naked policy instrument. As a component of a portfolio of policies, however, clean-energy innovation subsidies are of value because the other main policy instrument, carbon pricing, eliminates the “dark side” of innovation. To render innovation of value, carbon prices must be reactive to innovation successes – and reactive in a non-obvious way. When a new innovation gives clean energy producers an advantage over conventional energy, a reactive carbon price policy is often one that magnifies this advantage, by raising the tax on fossil fuel use. Fossil fuel producers are hit with a double whammy. Carbon pricing is thus an important complementary instrument to clean energy innovation, being necessary even to ensure that the net impact of innovation is positive. This complementarity is not well understood among policymakers. With carbon taxes seemingly impossible to implement given U.S. politics, clean-energy research and development is becoming the focus across a range of the political spectrum. 3 Support for the policy trend presupposes that carbon pricing and clean energy subsidies are substitutes in the battle against global warming. This is natural assumption, given that these are two instruments available to solve the same problem, but the assumption is misguided. Carbon pricing is even more essential when clean energy innovation is successful than when it is not. This paper contributes to a growing literature on global warming and an earlier literature on exhaustible resource economics. The clean energy paradox, or green paradox, in terms of the impact of innovation described is developed in Strand (2007) and very clearly in Hoel (2008) as discussed in footnote 1. Acemoglu et al (2011) develop a dynamic model integrating the economy with climate change in which the driver of policy design is endogenous technical change. These authors assume a constant rate of environmental regeneration. This assumption would allow the environment to recover completely from any past damages if the rate of emissions could be reduced sufficiently. It is never too late to recover.

#### Financialization

Nafeez M. Ahmed 17, Executive Director of the Institute for Policy Research and Development, *Failing States, Collapsing Systems: BioPhysical Triggers of Political Violence*, 2017, pp. 28-30

Despite the verdict of BP to the effect that a significant decoupling between energy production and economic growth is already taking place due to increasing energy efficiency, finer-grained studies looking closely at the relevant data come to quite different conclusions. BP has argued that energy intensity, the quantity of energy required per unit of GDP, will decline by 36 % from 2012 to 2035 (Kaminska 2014 ). Outside of the oil industry, the jury is still out on whether decoupling in this form can actually take place. An independent econometric study in Energy Economics finds instead “that the growth of per capita energy use has been primarily driven by economic growth, convergence in energy intensity, and weak decoupling. There is no sign of strong decoupling” (Csereklyei and Stern 2015 ). The most compelling critique of the decoupling mythology was published in the Proceedings for the National Academy of Sciences , which found that data used to claim success in decoupling ignored the role of resource consumption in the expanding role of international trade. Using a consumption-based indicator of resource use known as a Material Footprint (MF) framework, the study found that: “Achievements in decoupling in advanced economies are smaller than reportedor even nonexistent… countries’ use of nondomestic resources is, on average, about threefold larger than the physical quantity of traded goods. As wealth grows, countries tend to reduce their domestic portion of materials extraction through international trade, whereas theoverall mass of material consumption generally increases. With every 10 % increase in gross domestic product, the average national MF increases by 6 %” (Wiedmann et al. 2015 ). Indeed, analyses like that of BP’s ignore extensive evidence that economic growth, to the extent that it has been able to continue, is being driven largely by an increasing availability of cheap credit—rather than any fundamental and permanent transformations in energy intensity. The ratio of global debt, excluding financial institutions, has grown from 175 % of global GDP on the eve of the 2007/2008 fi nancial crisis to 210 % today. Cheap credit has enabled excessive borrowing, risk taking and sharply rising asset prices, driving the same form of unsustainable debtdriven growth that partly led to the 2008 fi nancial crash (Stewart 2015 ). For this reason, the seeming decoupling between energy production and GDP growth detected by analysts at BP and elsewhere is illusory, and conceals the extent to which growth, especially since the 1970s, has been premised increasingly on the financialization of the economy through the creation of new instruments of credit creation to permit extensive leveraging. Such debt-driven growth, however, by accelerating debt and socializing the costs in the event of a financial crisis onto general consumers, while protecting the financial institutions most responsible for debt-generation. In the energy sector, as oil prices have slumped, growth has increasingly been driven by debt. Oil majors ExxonMobil, Royal Dutch Shell, BP, and Chevron hold a combined net debt of $184 billion, more than double their 2014 debt levels (Williams and Olson 2016 ).

#### Supply chains

Guillaume Pitron 18, M.A. in International Law from the University of Georgetown, French journalist and documentary maker for France's Leading Television Channels, 10/30/18, “The energy transition will be a metallic one,” https://www.linkedin.com/pulse/energy-transition-metallic-one-guillaume-pitron?articleId=6463071096034983936#comments-6463071096034983936&trk=prof-post

From December 3rd to 14th, the world will have its eyes set on Katowice. The 24th United Nations Climate Change Conference (COP 24) will take place in this southern Polish city. Green Climate Fund (GCF) subsidies, carbon trading mechanisms, precise deadlines setting... 196 delegations will work for "the practical fulfillment of the Paris climate agreement," signed in 2015 during the COP 21. As laudable as these goals might be, a significant stake risks to go unreported in Katowice: the vast amounts of mining resources necessary for the achievement of the energy transition.¶ Electric cars, windmills, solar panels, cities and intelligent network... All these "green" and digital technologies share the specificity of being highly metal-consuming. Technology minerals include basic metals such as iron, copper or zinc as well as less abundant ones. Cobalt, tungsten, Rare Earth elements, tantalum, vanadium, indium, or gallium are sought after for their great optical, catalytic or magnetic properties. These "small metals" are the lesser known base of digital and green tech, presented as environment-friendly.¶ We already consume over two billion tons of mineral resources each year, i.e., about 500 Eiffel Towers daily. Given these new needs, the German agency for mineral resources predicts that the demand for metals such as germanium could double up around 2035, that for dysprosium and tantalum could quadruple and needs for cobalt could be multiplied by 24. In a 2017 report, the World Bank estimated that lithium extraction, could, on the medium term, grow by 1000% because of the demand for batteries.¶ The energy transition is a metallic one. And yet, the 2015 Paris agreement on climate doesn't say a word on environmental, economic and geopolitical challenges surrounding this new dependency. Words such as "metals," "minerals" or "raw materials" aren't even mentioned. Will we avoid this fatal mistake in Katowice?¶ The question is all the more crucial given that the environmental impact of rare metals' extraction and refining contradict the incantatory spells on the coming of a greener world. In Chile, the Democratic Republic of Congo or even Kazakhstan, copper, cobalt and chrome extraction and refining go hand in hand with ecosystems' pollution and massive sanitary consequences. China has paid a very hefty price. We visited the mining areas of the southern Jiangxi province and the Inner Mongolia Autonomous Region. We can testify about the paradox of green energies. So-called clean technologies require metals which extraction is particularly damaging. Likewise for "renewable" energies: they do not function without non-renewable ones. As for digital technologies meant to dematerialize our lifestyles, they benefit from phenomenal amounts of solid materials.¶ Which ones among these thirty heads of State expected in Katowice know about this darker side of green energies? In the West, the question was concealed from the beginning of the 1990's. At the time, many States closed their mines and refining factories, deemed as too polluting, while less industrialized countries would take on this burden to catch up with their industrial delay. In other words, the westerners have delocalized green technologies' pollution, and these political choices lead the world to a binarism between the dirty ones and those pretending to be clean.¶ The parenthesis of the "happy globalization," with every resource handy, anywhere and at any cost, shuts down little by little. The "markets' invisible hand" is not sufficient to smooth the new tensions around rare metals' supply. We expect the first mineral resource shortages to happen long before petroleum ones! A question arises, incongruous yet essential. Could we fail in leading the energetic transition achievement, not due to a lack of agreement on either GCF or carbon finance in Katowice, on December 14th, instead because we will lack minerals and energies to industrialize them?¶ The COP24 could be the occasion to shut up the doom-mongers while engaging a courageous and practical dialogue on the necessary rationalization of mineral resources. A robust circular economy of metals implies tackling waste ending up in electric discharges on the African continent. This goal also means that we eco-design technological products, an essential condition for better recycling of rare metals (the recycling rate of some doesn't go beyond 1%). The fight against planned obsolescence should as well be systematized.¶ A successful, energetic transition implies to rethink our economic models, that are too focused on short-term benefit and a religious seeking of the lower cost. The deployment of an economy based on functionality that gets most of its profits not from its products but its related-services is an inspiring track. The question of the frugality of our consumption habits is central because without adequate resource management, as the World Banks reminds, "a future founded on green technologies [...] could ruin [...] sustainable development goals".

### 2NC---AT: Tech Solves

#### Tech can’t solve---CCS and renewables fail, empirics, rebound, outsourcing, and politics

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

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

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

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

The likelihood of full and fast deployment of new technologies is the fourth problematic assumption that needs to be addressed given the formidable political and social obstacles standing in the way of rapid implementation. As noted in the recent Post Carbon Pathways review of learning from the implementation of large-scale decarbonization strategies (see Wiseman et al. 2013), experienced climate scientists and policymakers consistently come to the conclusion that the key obstacles standing in the way of rapid decarbonization are political and social rather than technological. Key roadblocks include the following.

### 2NC---AT: Transition Fails

#### Slow growth solves---waiting risks lock-in

Loorbach, et al, 16—DRIFT, Erasmus University, Rotterdam (Derk, with Flor Avelino, DRIFT, Erasmus University, Rotterdam, Alex Haxeltine, School of Environmental Sciences, University of East Anglia, Julia M. Wittmayer, DRIFT, Erasmus University, Rotterdam, Tim O'Riordan, School of Environmental Sciences, University of East Anglia, Paul Weaver, LUCSUS, Lund University, and René Kemp, ICIS, Maastricht University, “The economic crisis as a game changer? Exploring the role of social construction in sustainability transitions,” Ecology and Society 21(4):15)

Meanwhile, many political and public debates seem to be primarily concerned with standard, relatively short-term, economic issues, such as monetary losses, stop-and-start economic growth, increasing unemployment, falling real estate prices, failing banks, virtually bankrupt nations, and how to get back on course to economic growth. The standard responses when national governments are struggling to get their economies healthy again are mostly about inducing more money, austerity measures, and introducing financial regulations, all often part of a broader financial–economic logic (Stiglitz 2010). The dominant focus on fighting economic deficits and problems at the expense of investing in social and ecological deficits—thereby failing to address persistent problems in these areas—can be argued to be a short-term strategy to prop up an inherently unmanageable system. Examples are the support of system banks with public money and the green growth strategy (OECD 2009, 2013a). Transition theory (Grin et al. 2010, Markard et al. 2012) suggests that such short-term fixes are typical regime-based strategies to sustain existing structures, cultures, and practices, and to fend off the threats of more radical systemic change.

The transition perspective suggests that most regular policy and governance strategies essentially reproduce existing systems and, by definition, do not address the root causes of problems that are embedded in the same structures and cultures that determine how solutions are framed and implemented. Such path-dependent development optimizing existing institutional structures will inevitably lead to recurring crises and ultimately a more disruptive, shock-wise structural change of an incumbent regime. Transition studies thus argue that solutions that address symptoms rather than the underlying structural causes tend to reinforce a lock-in and result in further emergent problems (Rotmans and Loorbach 2010, Schuitmaker 2012). We argue that the underlying causes and mechanisms of the economic crises have not been thoroughly analyzed, let alone addressed through effective policies. In a globalized economy, fundamental changes will not likely come from actions by (national) governments or incumbent businesses, as these are inherently intertwined with and dependent upon the currently still dominant financial– economic systems and their governance. The need for alternative economic approaches, discourses, and systems is increasingly emphasized (Schor 2010, Simms 2013, Jackson 2013, van den Bergh 2013, Schor and Thompson, 2014). Even though the benefits of liberalization are still significant, it seems that the transfer of control from government to markets has substantially diminished possibilities for top-down policy making, adding to brittleness, complexity, and lock-in (Loorbach and LijnisHuffenreuter 2013).

In this paper, we take a transition perspective on transformative social innovation to conceptualize and map the systemic dynamics that have caused the economic crisis, as well as how it influences the dynamics of social transformation. We explore how the economic crisis might be considered as a phase in a broader economic transition and which types of changes coincide to develop into this direction. We thus view the economic crisis not as a phenomenon in isolation within a relatively short time frame, but as an intrinsic part, or perhaps a symptom, of deeper underlying structural societal changes over the longer term. The question we seek to address is how the economic crisis interacts with broader societal changes as well as which dynamics might accelerate or hamper more structural (sustainability) transitions. To this end, we ask when and how a macrolevel or landscape development like the economic crisis fundamentally changes the dominant logic, rules, and conditions of incumbent regimes. In other words, when does a macrodevelopment become a game changer (cf. Avelino et al. 2014)?

The paper builds upon theoretical work from the European FP7 project TRANSIT, which draws on transition theory to develop an empirically grounded theory on transformative social innovation. In this paper, we introduce the analytical perspective that we developed on transformative social innovation and two empirical examples. Although our analytical perspective suggests that alternatives and breakthroughs can come from any sector or actor, in this paper, we focus on the agency of social innovation and civil-society-led initiatives in providing and producing alternatives. The paper was developed through a number of iterations, workshops, and theoretical synthesizing. To develop our arguments, we build upon insights from sustainability transitions literature (Grin et al. 2010, Markard et al. 2012), social innovation research (Mulgan 2006, Murray et al. 2010, Franz et al. 2012, Westley 2013, Moulaert et al. 2013) and other fields aiming to understand the economic crisis. In addition, we include two empirical cases, transnational networks of social innovation, time banks, and the transition movement. For both cases, we draw upon a general literature review.

The paper is structured as follows. In the next section, “Economic change or transition?,” we introduce the economic crisis as a multifarious phenomenon, how we understand it from a transition perspective, and how it is understood from an economist’s point of view. We illustrate that it is an ambiguous phenomenon that is simultaneously seen as part of regular changes in that it is part of disruptive or transformative change. In the section “Making sense of the economic crisis?,” we present a number of alternative perspectives on the economic crisis that put forward particular fundamental and systemic causes of the economic crisis and how these are translated in so called “narratives of change.” In “Transformative social innovations,” we highlight two specific social innovation initiatives, time banks and transition towns, which have an evident transformative claim and potential, and reflect upon how such transformative social innovations relate (themselves) to the economic crisis. In “Reconceptualizing societal transformations and the role of the economic crisis,” we synthesize our findings and argue that the concepts of game changers and narratives could help to unpack the landscape and better understand how macro- and microlevels interact to trigger transformative changes at the mesolevel. In conclusion, we address the need for a better understanding of the transformative impacts of the different shades of change (in coevolution) vis-é-vis the restorative dynamics associated with incumbent regimes.

#### Transition isn’t hard

Monbiot 19 (George Monbiot, citing Erica Chenoweth - the Berthold Beitz Professor in Human Rights and International Affairs at Harvard Kennedy School, Foreign Policy magazine ranked her among the Top 100 Global Thinkers in 2013 for her efforts to promote the empirical study of civil resistance, she received the Karl Deutsch Award, which the International Studies Association gives annually to the scholar under the age of 40 who has made the greatest impact on the field of international politics or peace research. And together with Maria J. Stephan, she won the 2013 Grawemeyer Award for Ideas Improving World Order, which is presented annually in recognition of outstanding proposals for creating a more just and peaceful world order. Their book, Why Civil Resistance Works, also won the 2012 Woodrow Wilson Foundation Award, given annually by the American Political Science Association in recognition of the best book on government, politics, or international affairs published in the U.S. in the previous calendar year. 4-1-2019, "Only rebellion will prevent an ecological apocalypse," Guardian, <https://www.theguardian.com/commentisfree/2019/apr/15/rebellion-prevent-ecological-apocalypse-civil-disobedience> accessed: 8-29-2019) //bp

As the environmental crisis accelerates, and as protest movements like YouthStrike4Climate and Extinction Rebellion make it harder not to see what we face, people discover more inventive means of shutting their eyes and shedding responsibility. Underlying these excuses is a deep-rooted belief that if we really are in trouble, someone somewhere will come to our rescue: “they” won’t let it happen. But there is no they, just us. The political class, as anyone who has followed its progress over the past three years can surely now see, is chaotic, unwilling and, in isolation, strategically incapable of addressing even short-term crises, let alone a vast existential predicament. Yet a widespread and wilful naivety prevails: the belief that voting is the only political action required to change a system. Unless it is accompanied by the concentrated power of protest – articulating precise demands and creating space in which new political factions can grow – voting, while essential, remains a blunt and feeble instrument. The media, with a few exceptions, is actively hostile. Even when broadcasters cover these issues, they carefully avoid any mention of power, talking about environmental collapse as if it is driven by mysterious, passive forces, and proposing microscopic fixes for vast structural problems. The BBC’s Blue Planet Live series exemplified this tendency. Those who govern the nation and shape public discourse cannot be trusted with the preservation of life on Earth. There is no benign authority preserving us from harm. No one is coming to save us. None of us can justifiably avoid the call to come together to save ourselves. I see despair as another variety of disavowal. By throwing up our hands about the calamities that could one day afflict us, we disguise and distance them, converting concrete choices into indecipherable dread. We might relieve ourselves of moral agency by claiming that it’s already too late to act, but in doing so we condemn others to destitution or death. Catastrophe afflicts people now and, unlike those in the rich world who can still afford to wallow in despair, they are forced to respond in practical ways. In Mozambique, Zimbabwe and Malawi, devastated by Cyclone Idai, in Syria, Libya and Yemen, where climate chaos has contributed to civil war, in Guatemala, Honduras and El Salvador,, where crop failure, drought and the collapse of fisheries have driven people from their homes, despair is not an option. Our inaction has forced them into action, as they respond to terrifying circumstances caused primarily by the rich world’s consumption. The Christians are right: despair is a sin. As the author Jeremy Lent points out in a recent essay, it is almost certainly too late to save some of the world’s great living wonders, such as coral reefs and monarch butterflies. It might also be too late to prevent many of the world’s most vulnerable people from losing their homes. But, he argues, with every increment of global heating, with every rise in material resource consumption, we will have to accept still greater losses, many of which can still be prevented through radical transformation. Every nonlinear transformation in history has taken people by surprise. As Alexei Yurchak explains in his book about the collapse of the Soviet Union – Everything Was Forever, Until It Was No More – systems look immutable until they suddenly disintegrate. As soon as they do, the disintegration retrospectively looks inevitable. Our system – characterised by perpetual economic growth on a planet that is not growing – will inevitably implode. The only question is whether the transformation is planned or unplanned. Our task is to ensure it is planned, and fast. We need to conceive and build a new system based on the principle that every generation, everywhere has an equal right to enjoy natural wealth. This is less daunting than we might imagine. As Erica Chenoweth’s historical research reveals, for a peaceful mass movement to succeed, a maximum of 3.5% of the population needs to mobilise. Humans are ultra-social mammals, constantly if subliminally aware of shifting social currents. Once we perceive that thxe status quo has changed, we flip suddenly from support for one state of being to support for another. When a committed and vocal 3.5% unites behind the demand for a new system, the social avalanche that follows becomes irresistible. Giving up before we have reached this threshold is worse than despair: it is defeatism. Today, Extinction Rebellion takes to streets around the world in defence of our life-support systems. Through daring, disruptive, nonviolent action, it forces our environmental predicament on to the political agenda. Who are these people? Another “they”, who might rescue us from our follies? The success of this mobilisation depends on us. It will reach the critical threshold only if enough of us cast aside denial and despair, and join this exuberant, proliferating movement. The time for excuses is over. The struggle to overthrow our life-denying system has begun.

#### Even if there’s resistance, the transition is forced

David Holmgren 13, founder of Holmgren Design Services, an environmental design and consulting firm, inventor of the Permaculture system for regenerative agriculture, 2013, “Crash on Demand: Welcome to the Brown Tech Future,” Simplicity Institute report, <http://simplicityinstitute.org/wp-content/uploads/2011/04/CrashOnDemandSimplicityInstitute.pdf>

The evidence that the global financial system is a not-so-slow moving train crash is getting stronger. That investors and the billion or so middle class people who have any savings and discretionary expenditure are losing faith, might be an understatement. It may be that paralysis and inertia is all that is holding the system together. A collapse in credit could make it very difficult to raise the finance necessary for the ongoing extraction of tar sands, shale gas and other mad resource extraction projects that are accelerating the production of GGE[Greenhouse Gas Emissions]. A deflationary spiral that follows from a credit crisis and collapsing asset (housing, etc.) values could change behaviour to the extent that people stop spending on anything but essentials because of job insecurity and the fact that everything will be cheaper next month. I believe the chances of global economic collapse (in the next five years) being severe enough to achieve this have to be rated at least 50%. Further I believe many climate activists and policy professionals are shifting to at least privately hoping this might be the case because the chances of a planned powerdown seems to be fading. If we accept a global financial crash could make it very difficult, if not impossible, to restart the global economy with anything other than drastically reduced emissions, then an argument can be mounted for putting effort into precipitating that crash, the crash of the financial system. Any such plan would of course invite being blamed for causing it when it happens. No one wants to be strung up along with the bankers for causing a global version of Greece, Egypt or many other countries, let alone the horrors of Syria. On the other hand, we have no precedent to indicate how bad conditions might be in currently affluent countries. The picture I am building is that it is almost inevitable that those who warn of the crisis will get the blame for causing it. So if we are going to be blamed anyway, we could be proactive about it and at least get the advantage for humanity of crisis now, rather than later. For the people of Syria caught in the grip of climate, energy and geopolitical struggle, all this hardly matters because it couldn't get worse for them. In fact conditions in such stricken places could actually improve if global superpower competition is disabled by the collapse of the global finance. Even the average citizen in Greece or Egypt might be hoping to see the remaining affluent countries get a 'taste of their own medicine'. The complexity of global human overshoot, so long predicted, and now unfolding, is far too multifaceted to be captured by any simple story about good, innocence, evil and blame. Before considering whether this is a good idea or not, I want to consider whether concerted action by limited numbers of activists could bring it about? Given the current fragilities of global finance, I believe a radical change in the behaviour of a relatively small proportion of the global middle class could precipitate such a crash. For example a 50% reduction of consumption and 50% conversion of assets into building household and local community resilience by say 10% of the population in affluent countries would show up as 5% reduction in demand in a system built on perpetual growth and a 5% reduction in savings capital available for banks to lend. Small fluctuations in the supply-demand balance can have a massive effect on prices. Further, when the system has been growing due to rising debt, arguably for decades, then the vulnerability to drops in demand can be massive. For example, small drops in demand for new houses and the high fuel costs of commuting for those servicing mortgages, triggered the collapse of the housing bubble in the USA and other countries. It seems obvious to me that it is easier to convince a minority that they will be better off by disengaging from the system than any efforts to build mass movements demanding impossible outcomes or convincing elites to turn off the system that is currently keeping them in power. I accept that many people find the idea of assisting economic collapse abhorrent, even if that collapse is becoming more and more likely as a collective outcome of human actions. Daryl Taylor uses the caring metaphor "hospicing and euthanasing" the old/dying system along with "doula-ing and midwifing the new/emerging system. Whatever the metaphors, climate activists who believe we are on the verge of runaway catastrophic climate change that will be far worse than simply stalling the economy, do have options other than shouting louder for mitigation or shifting to adaptation and defence. Rather than simply planning for bad and rocky energy descent delivered initially by economic depression, they could choose to focus their energy on actively trying to destroy faith in the financial system.

### 2NC---AT: Other Countries

#### Goes global

George Friedman 17, Geopolitical Forecaster and Strategist, “An American Recession And The World” https://www.huffingtonpost.com/entry/an-american-recession-and-the-world\_us\_5900b1f6e4b06feec8ac9251

Recessions are unpleasant and hurt some people disproportionately. However, the U.S. recession will likely hurt other countries more than the United States. When combined with other global economic problems, the recession will likely weaken Europe’s anemic recovery and strike another blow at the Chinese. It will also put further downward pressure on commodity prices, considering that the United States is the world’s largest importer and has been, to some extent, the engine stabilizing the international system.

The 2007-09 recession hurt the Chinese tremendously because their biggest export customers were the United States and Europe. In due course, the Chinese slowdown cut China’s consumption of industrial commodities, including oil, hitting countries like Russia and Saudi Arabia. This is part of the global exporters’ crisis I have written about previously. The United States avoided the worst of this because, while it is the second-largest exporter in the world, exports account for only about 12.6 percent of its GDP (the U.S. ranks only 161st in the world in terms of exports as a percent of GDP, according to the World Bank). In part, this lack of dependence on exports helped U.S. GDP grow on its internal engine. More important is that the U.S. is less vulnerable to global downturns than other countries.

The decline in the U.S. economy will inevitably involve a drop in U.S. imports. Under normal circumstances, this slump would not destabilize the system. But we have not been living under normal circumstances since 2008. More precisely, we are now living in a new normal. In the new normal, countries that were driven by exports are now using diminished export demand to simply maintain their economies in the hopes of generating enough domestic demand to replace lost markets. In most cases, they have achieved a fairly precarious balance at this point that is much more subject to destabilization than in previous cycles. A relatively small drop in global demand can have a substantial impact. Thus, a routine U.S. recession will lead to a small global decline, reversing gains in stabilization made in recent years.

The downturn in export demand will have a ripple effect because exporting countries are also importing countries. As American demand contracts, exporters’ economies will be affected and their need for imports will contract as well. This domino effect is normal. The problem is that the international system’s vulnerability has grown dramatically because many countries have become excessively reliant on exports, and this has been accompanied by a general weakness in their domestic economies. Therefore, the ripple effect, while not a tidal wave, will be more substantial than would have been the case before 2008.

### 2NC---AT: Buch-Hansen

#### Obviously there’s not enough political support now---that’s uniqueness---a shock changes that

Buch-Hansen, 18—Department of Business and Politics, Copenhagen Business School (Hubert, “The Prerequisites for a Degrowth Paradigm Shift: Insights from Critical Political Economy,” Ecological Economics Volume 146, April 2018, Pages 157-163, This is Trinity’s card now)

Political projects do not become hegemonic just because they embody good ideas. For a project to become hegemonic, (organic) intellectuals first need to develop the project and a constellation of social forces with sufficient power and resources to implement it then needs to find it appealing and struggle for it. In this context, it is worth noting that degrowth, as a social movement, has been gaining momentum for some time, not least in Southern Europe. Countless grassroots' initiatives (e.g., D'Alisa et al., 2013) are the most visible manifestations that degrowth is on the rise. Intellectuals – including founders of ecological economics such as Nicholas Georgescu-Roegen and Herman Daly, and more recently degrowth scholars such as Serge Latouche and Giorgos Kallis – have played a major role in developing and disseminating the ideas underpinning the project. A growing interest in degrowth in academia, as well as well-attended biennial international degrowth conferences, also indicate that an increasing number of people embrace such ideas. Still, the degrowth project is nowhere near enjoying the degree and type of support it needs if its policies are to be implemented through democratic processes. The number of political parties, labour unions, business associations and international organisations that have so far embraced degrowth is modest to say the least. Economic and political elites, including social democratic parties and most of the trade union movement, are united in the belief that economic growth is necessary and desirable. This consensus finds support in the prevailing type of economic theory and underpins the main contenders in the neoliberal project, such as centre-left and nationalist projects. In spite of the world's multidimensional crisis, a pro-growth discourse in other words continues to be hegemonic: it is widely considered a matter of common sense that continued economic growth is required. It is also noteworthy that economic and political elites, to a large extent, continue to support the neoliberal project, even in the face of its evident shortcomings. Indeed, the 2008 financial crisis did not result in the weakening of transnational financial capital that could have paved the way for a paradigm shift. Instead of coming to an end, neoliberal capitalism has arguably entered a more authoritarian phase (Bruff, 2014). The main reason the power of the pre-crisis coalition remains intact is that governments stepped in and saved the dominant fraction by means of massive bailouts. It is a foregone conclusion that this fraction and the wider coalition behind the neoliberal paradigm (transnational industrial capital, the middle classes and segments of organized labour) will consider the degrowth paradigm unattractive and that such social forces will vehemently oppose the implementation of degrowth policies (see also Rees, 2014: 97). While degrowth advocates envision a future in which market forces play a less prominent role than they do today, degrowth is not an anti-market project. As such, it can attract support from certain types of market actors. In particular, it is worth noting that social enterprises, such as cooperatives (Restakis, 2010), play a major role in the degrowth vision. Such enterprises are defined by being ‘organisations involved at least to some extent in the market, with a clear social, cultural and/or environmental purpose, rooted in and serving primarily the local community and ideally having a local and/or democratic ownership structure’ (Johanisova et al., 2013: 11). Social enterprises currently exist at the margins of a system, in which the dominant type of business entity is profit-oriented, shareholder-owned corporations. The further dissemination of social enterprises, which is crucial to the transitions to degrowth societies, is – in many cases – blocked or delayed as a result of the centrifugal forces of global competition (Wigger and Buch-Hansen, 2013). Overall, social enterprises thus (still) constitute a social force with modest power. Ougaard (2016: 467) notes that one of the major dividing lines in the contemporary transnational capitalist class is between capitalists who have a material interest in the carbon-based economy and capitalists who have a material interest in decarbonisation. The latter group, for instance, includes manufacturers of equipment for the production of renewable energy (ibid.: 467). As mentioned above, degrowth advocates have singled out renewable energy as one of the sectors that needs to grow in the future. As such, it seems likely that the owners of national and transnational companies operating in this sector would be more positively inclined towards the degrowth project than would capitalists with a stake in the carbon-based economy. Still, the prospect of the “green sector” emerging as a driving force behind degrowth currently appears meagre. Being under the control of transnational capital (Harris, 2010), such companies generally embrace the “green growth” discourse, which ‘is deeply embedded in neoliberal capitalism’ and indeed serves to adjust this form of capitalism ‘to crises arising from contradictions within itself’ (Wanner, 2015: 23). In addition to support from the social forces engendered by the production process, a political project ‘also needs the political ability to mobilize majorities in parliamentary democracies, and a sufficient measure of at least passive consent’ (van Apeldoorn and Overbeek, 2012: 5–6) if it is to become hegemonic. As mentioned, degrowth enjoys little support in parliaments, and certainly the pro-growth discourse is hegemonic among parties in government.5 With capital accumulation being the most important driving force in capitalist societies, political decision-makers are generally eager to create conditions conducive to production and the accumulation of capital (Lindblom, 1977: 172). Capitalist states and international organisations are thus “programmed” to facilitate capital accumulation, and do as such constitute a strategically selective terrain that works to the disadvantage of the degrowth project. The main advocates of the degrowth project are grassroots, small fractions of left-wing parties and labour unions as well as academics and other citizens who are concerned about social injustice and the environmentally unsustainable nature of societies in the rich parts of the world. The project is thus ideationally driven in the sense that support for it is not so much rooted in the material circumstances or short-term self-interests of specific groups or classes as it is rooted in the conviction that degrowth is necessary if current and future generations across the globe are to be able to lead a good life. While there is no shortage of enthusiasts and creative ideas in the degrowth movement, it has only modest resources compared to other political projects. To put it bluntly, the advocates of degrowth do not possess instruments that enable them to force political decision-makers to listen to – let alone comply with – their views. As such, they are in a weaker position than the labour union movement was in its heyday, and they are in a far weaker position than the owners and managers of large corporations are today (on the structural power of transnational corporations, see Gill and Law, 1989). 6. Consent It is also safe to say that degrowth enjoys no “passive consent” from the majority of the population. For the time being, degrowth remains unknown to most people. Yet, if it were to become generally known, most people would probably not find the vision of a smaller economic system appealing. This is not just a matter of degrowth being ‘a missile word that backfires’ because it triggers negative feelings in people when they first hear it (Drews and Antal, 2016). It is also a matter of the actual content of the degrowth project. Two issues in particular should be mentioned in this context. First, for many, the anti-capitalist sentiments embodied in the degrowth project will inevitably be a difficult pill to swallow. Today, the vast majority of people find it almost impossible to conceive of a world without capitalism. There is a ‘widespread sense that not only is capitalism the only viable political and economic system, but also that it is now impossible to even imagine a coherent alternative to it’ (Fisher, 2009: 2). As Jameson (2003) famously observed, it is, in a sense, easier to imagine the end of the world than it is to imagine the end of capitalism. However, not only is degrowth – like other anti-capitalist projects – up against the challenge that most people consider capitalism the only system that can function; it is also up against the additional challenge that it speaks against economic growth in a world where the desirability of growth is considered common sense. Second, degrowth is incompatible with the lifestyles to which many of us who live in rich countries have become accustomed. Economic growth in the Western world is, to no small extent, premised on the existence of consumer societies and an associated consumer culture most of us find it difficult to completely escape. In this culture, social status, happiness, well-being and identity are linked to consumption (Jackson, 2009). Indeed, it is widely considered a natural right to lead an environmentally unsustainable lifestyle – a lifestyle that includes car ownership, air travel, spacious accommodations, fashionable clothing, an omnivorous diet and all sorts of electronic gadgets. This Western norm of consumption has increasingly been exported to other parts of the world, the result being that never before have so many people taken part in consumption patterns that used to be reserved for elites (Koch, 2012). If degrowth were to be institutionalised, many citizens in the rich countries would have to adapt to a materially lower standard of living. That is, while the basic needs of the global population can be met in a non-growing economy, not all wants and preferences can be fulfilled (Koch et al., 2017). Undoubtedly, many people in the rich countries would experience various limitations on their consumption opportunities as a violent encroachment on their personal freedom. Indeed, whereas many recognize that contemporary consumer societies are environmentally unsustainable, fewer are prepared to actually change their own lifestyles to reverse/address this. At present, then, the degrowth project is in its “deconstructive phase”, i.e., the phase in which its advocates are able to present a powerful critique of the prevailing neoliberal project and point to alternative solutions to crisis. At this stage, not enough support has been mobilised behind the degrowth project for it to be elevated to the phases of “construction” and “consolidation”. It is conceivable that at some point, enough people will become sufficiently discontent with the existing economic system and push for something radically different. Reasons for doing so could be the failure of the system to satisfy human needs and/or its inability to resolve the multidimensional crisis confronting humanity. Yet, various material and ideational path-dependencies currently stand in the way of such a development, particularly in countries with large middle-classes. Even if it were to happen that the majority wanted a break with the current system, it is far from given that a system based on the ideas of degrowth is what they would demand.

#### This time is unique---intertwining crisis creates the possibility for radical changes

Buch-Hansen, 18—Department of Business and Politics, Copenhagen Business School (Hubert, “The Prerequisites for a Degrowth Paradigm Shift: Insights from Critical Political Economy,” Ecological Economics Volume 146, April 2018, Pages 157-163, This is Trinity’s card now)

3. Crisis Whereas previously in history, the tendency was for major crises to occur roughly one at a time, several deep and intertwined crises are currently unfolding in parallel (Max-Neef, 2014). The 2008 financial crisis may be over, but the economic and social scars it left continue to be deep, and a new financial crisis is already looming. The IMF speaks of a global recovery that is ‘weak and precarious’ and of the risk of ‘stagnation in advanced economies’ (IMF, 2016a: xiv, xvi). The fragility of the global financial system is underscored in a recent study, in which it is noted that global debt levels are now at an all-time high and that high private debt in the rich countries and in a few ‘systemically important emerging market economies […] increases the likelihood of a financial crisis’ (IMF, 2016b: 1). Contemporary capitalism is also characterized by a social crisis, which is related to growing inequality. The income gaps between the top earners (“the 1%” and “the 0.1%”) and the rest of society have become a hotly debated topic in the wake of the 2008 financial crisis as manifested in the emergence of the international Occupy movement and the publication of Thomas Piketty's bestseller Capital in the TwentyFirst Century (Piketty, 2014). While the top earners continue to rapidly accumulate more wealth, a large group of bottom earners – in many rich countries, this group accounts for up to 40% of the population – have scarcely benefitted from economic growth and are being left behind (OECD, 2015a). Economic inequality has profound social consequences; for instance, it reduces educational opportunities and lowers the social mobility of many people at the bottom. As the OECD (2015a: 21) comments, ‘the decline of the 40% raises social and political questions. When such a large group in the population gains so little from economic growth, the social fabric frays and trust in institutions is weakened.’ Income inequality has also increased in many developing countries, and although the number of people living in extreme poverty has been reduced significantly in recent decades (OECD, 2015b: 36), hundreds of millions of people still live in poverty. Another crisis is the environmental crisis, which encompasses a wide range of factors – including, for instance, climate change, biodiversity loss and deforestation – that undermine current and future living conditions for human beings and other species (Speth, 2008). The root cause of this crisis is the endless increase in the world's volume of production and in humanity's consumption of the planet's finite resources. To merely sustain humanity's current level of environmental impact, 1.6 planets would be required (WWF, 2016). This figure obviously obscures the fact that whereas there is massive overconsumption in the rich countries of the world, the populations of a number of underdeveloped countries have a real and pressing need to increase their consumption if they are to meet basic human needs. A host of other actual or impending crises can be mentioned (see, e.g., Brand and Wissen, 2012; Harvey, 2010; Robinson, 2014). In fact, it is likely to be the case that ‘never before in human history have so many crises converged simultaneously to reach their maximum level of tension’ (Max-Neef, 2014: 17). It seems highly unlikely that these crises – which can also be thought of as one multidimensional crisis – could be resolved under the institutional arrangements of neoliberal capitalism. The 2008 financial crisis was – to no small extent – a result of neoliberal policies (Duménil and Lévy, 2011), and the same can be said of growing inequality (Hall et al., 2013). However, even more fundamentally, the question is whether the crises – not least the environmental crisis – can be resolved simultaneously within the framework of an economic system that needs to grow. So far, there is nothing to suggest that it is even remotely possible to bring humanity's environmental impact down to a sustainable level within such a system (Dietz and O'Neill, 2013; Jackson, 2009). To recapitulate, if a deep crisis is an important prerequisite for deep institutional change – as not only critical political economists but also many other social scientists suggest – then we live in a time when such change ought to be possible. In other words, the first precondition for a degrowth paradigm shift exists.

### 2NC---L---Growth

#### Slow growth prevents unfriendly AI

Yudkowsky, 13—co-founder and research fellow at the Machine Intelligence Research Institute, celebrated Harry Potter fanfiction author (Eliezer, “Do Earths with slower economic growth have a better chance at FAI?,” <http://lesswrong.com/lw/hoz/do_earths_with_slower_economic_growth_have_a/>, dml) [(U)FAI=(Un)Friendly AI]

But suppose my main-line projection is correct and the "probability of an OK outcome" / "astronomical benefit" scenario essentially comes down to a race between Friendly AI and unFriendly AI. So far as I can tell, the most likely reason we wouldn't get Friendly AI is the total serial research depth required to develop and implement a strong-enough theory of stable self-improvement with a possible side order of failing to solve the goal transfer problem. Relative to UFAI, FAI work seems like it would be mathier and more insight-based, where UFAI can more easily cobble together lots of pieces. This means that UFAI parallelizes better than FAI. UFAI also probably benefits from brute-force computing power more than FAI. Both of these imply, so far as I can tell, that slower economic growth is good news for FAI; it lengthens the deadline to UFAI and gives us more time to get the job done. I have sometimes thought half-jokingly and half-anthropically that I ought to try to find investment scenarios based on a continued Great Stagnation and an indefinite Great Recession where the whole developed world slowly goes the way of Spain, because these scenarios would account for a majority of surviving Everett branches. Roughly, it seems to me like higher economic growth speeds up time and this is not a good thing. I wish I had more time, not less, in which to work on FAI; I would prefer worlds in which this research can proceed at a relatively less frenzied pace and still succeed, worlds in which the default timelines to UFAI terminate in 2055 instead of 2035.

#### Uniqueness goes neg---we haven’t built UFAI yet---slowing growth is the best way to keep it that way

Nordhaus, 15—Sterling Professor of Economics; Cowles Foundation, Yale University (William, “Are We Approaching an Economic Singularity? Information Technology and the Future of Economic Growth,” Cowles Foundation Discussion Paper No. 2021, dml)

f. Competition among the superintelligent If superintelligent agents develop, we must contemplate the prospect of competition among rival powers. The parallel here is to the game-theoretic dynamics of weaponry. Even though the innovators (of bows and arrows, machine guns, tanks, nuclear weapons, and drones) had an initial advantage over their adversaries, their advantage was temporary. Even the most closely held technological secrets diffuse slowly around the world. We must therefore assume that those who develop the engines of superintelligence will eventually find they are soon shadowed by their military, commercial, and political adversaries. Moreover, to the list of adversaries will be added the superintelligent machines themselves. We might take comfort in Asimov’s Three Laws of Robotics, of which the First Law is, “A robot may not injure a human being or, through inaction, allow a human being to come to harm.” But to take refuge here would surely be super-naïve. It would only take one unethical designer to launch a superintelligent agent who did not incorporate the Laws of Robotics. This would probably launch an arms race among rival superintelligent powers. So the point here is that the approaching Singularity is not one of unambiguous economic and social improvement. This was appreciated by nuclear-weapons developer John von Neumann (1955): Useful and harmful techniques lie everywhere so close together that it is never possible to separate the lions from the lambs. This is known to all who have so laboriously tried to separate secret, classified science or technology (military) from the open kind; success is never more nor intended to be more than transient, lasting perhaps half a decade. Similarly, a separation into useful and harmful subjects in any technological sphere would probably diffuse into nothing in a decade. XI. Concluding Comments on Singularity So the conclusion as of today is that “the Singularity is not near.” This conclusion is based on several tests that place the theory of the Singularity within the context of economic growth theory. Much of the computer science literature on the Singularity examines the growth in specific sectors or processes (such as flops or storage), but the economic perspective insists that the growth must be weighted by the economic valuation of the good or service. The major insight of economics is to emphasize the heterogeneity of both inputs and outputs of the economic system. It is surely true that technological change in the production of raw computation has been phenomenal over the last century. We can process information at a speed that is millions of billions times faster and cheaper than was possible for the fastest lightning calculators of the nineteenth century. Suppose that trend continues indefinitely, including the ability to devise ever more ingenious software and artificial intelligence (AI). For increasing capabilities of computers to lead to the Singularity would require that AI could encompass all human activities, not just add numbers, solve equations, play chess, and interpret speech; but also lay hands on patients, read bedtime stories to children, and select presidential candidates. Whereas computerized AI might do many routine tasks, the non-routine tasks are less easily programmed, and they evolve over time in response to the economic environment, including the environment of artificial intelligence itself. Particularly if we view the world with potential superintelligence as a competition between humans and machines, then we definitely would need a team of humans to consider how to protect humans from machines. We routinely spend 5% of output on defense, and this might rise to a much larger number when faced with a more potential enemies like superintelligent machines. So one occupation at least would survive into the Era of Singularity. Whether other sectors and tasks would be immune to the rise of superintelligence is an open question. The empirical question is the degree of substitutability between information and human efforts. Given the complexity of both humans and jobs, it is unlikely that the question can be decided a priori. The analysis above indicates that information and computers will come to dominate the economy only if the informational capital takes a rising share of inputs. This requires that the expenditure shares or input cost shares of information rise over time, which in turn requires that the volume of inputs rises more rapidly than the relative prices fall. We can call these the “substitution tests” to be concise. There are six tests on the supply side. The conclusions from the empirical tests proposed here is that the substitution tests fail or are ambiguous for four of six tests and succeed barely for two of the six tests. However, the growth trajectories of the variables which pass the test (the share of capital in total income and the share of informational capital in total capital) are extremely slow. Projecting the trends of the last decade or more, it would be in the order of a century before these variables would reach the level associated with the growth Singularity. The conclusion is therefore that the economic Singularity is not near.

### 2NC---M---AT: No AI

#### Overwhelming consensus of AI experts is that AI is inevitable and has a high probability of going rogue

Allan **Dafoe &** Stuart **Russell 16**. Dafoe is an assistant professor of political science at Yale University; Russell is a professor of computer science at the University of California, Berkeley. 11-02-16. “Yes, We Are Worried About the Existential Risk of Artificial Intelligence.” MIT Technology Review. https://www.technologyreview.com/s/602776/yes-we-are-worried-about-the-existential-risk-of-artificial-intelligence/.

Oren Etzioni, a well-known AI researcher, complains about news coverage of potential long-term risks arising from future success in AI research (see “No, Experts Don't Think Superintelligent AI is a Threat to Humanity”). After pointing the finger squarely at Oxford philosopher Nick Bostrom and his recent book, Superintelligence, Etzioni complains that Bostrom’s “main source of data on the advent of human-level intelligence” consists of surveys on the opinions of AI researchers. He then surveys the opinions of AI researchers, arguing that his results refute Bostrom’s. It’s important to understand that Etzioni is not even addressing the reason Superintelligence has had the impact he decries: its clear explanation of why superintelligent AI may have arbitrarily negative consequences and why it’s important to begin addressing the issue well in advance. Bostrom does not base his case on predictions that superhuman AI systems are imminent. He writes, “It is no part of the argument in this book that we are on the threshold of a big breakthrough in artificial intelligence, or that we can predict with any precision when such a development might occur.” Thus, in our view, Etzioni’s article distracts the reader from the core argument of the book and directs an ad hominem attack against Bostrom under the pretext of disputing his survey results. We feel it is necessary to correct the record. One of us (Russell) even contributed to Etzioni’s survey, only to see his response being completely misconstrued. In fact, as our detailed analysis shows, Etzioni’s survey results are entirely consistent with the ones Bostrom cites. How, then, does Etzioni reach his novel conclusion? By designing a survey instrument that is inferior to Bostrom’s and then misinterpreting the results. The subtitle of the article reads, “If you ask the people who should really know, you’ll find that few believe AI is a threat to humanity.” So the reader is led to believe that Etzioni asked this question of the people who should really know, while Bostrom did not. In fact, the opposite is true: Bostrom did ask people who should really know, but Etzioni did not ask anyone at all. Bostrom surveyed the top 100 most cited AI researchers. More than half of the respondents said they believe there is a substantial (at least 15 percent) chance that the effect of human-level machine intelligence on humanity will be “on balance bad” or “extremely bad (existential catastrophe).” Etzioni’s survey, unlike Bostrom’s, did not ask any questions about a threat to humanity. Instead, he simply asks one question about when we will achieve superintelligence. As Bostrom’s data would have already predicted, somewhat more than half (67.5 percent) of Etzioni’s respondents plumped for “more than 25 years” to achieve superintelligence—after all, more than half of Bostrom’s respondents gave dates beyond 25 years for a mere 50 percent probability of achieving mere human-level intelligence. One of us (Russell) responded to Etzioni’s survey with “more than 25 years,” and Bostrom himself writes, of his own surveys, “My own view is that the median numbers reported in the expert survey do not have enough probability mass on later arrival dates.” Now, having designed a survey where respondents could be expected to choose “more than 25 years,” Etzioni springs his trap: he asserts that 25 years is “beyond the foreseeable horizon” and thereby deduces that neither Russell nor indeed Bostrom himself believes that superintelligent AI is a threat to humanity. This will come as a surprise to Russell and Bostrom, and presumably to many other respondents in the survey. (Indeed, Etzioni’s headline could just as easily have been “75 percent of experts think superintelligent AI is inevitable.”) Should we ignore catastrophic risks simply because most experts think they are more than 25 years away? By Etzioni’s logic, we should also ignore the catastrophic risks of climate change and castigate those who bring them up. Contrary to the views of Etzioni and some others in the AI community, pointing to long-term risks from AI is not equivalent to claiming that superintelligent AI and its accompanying risks are “imminent.” The list of those who have pointed to the risks includes such luminaries as Alan Turing, Norbert Wiener, I.J. Good, and Marvin Minsky. Even Oren Etzioni has acknowledged these challenges. To our knowledge, none of these ever asserted that superintelligent AI was imminent. Nor, as noted above, did Bostrom in Superintelligence.

#### The transition to superintelligence is rapid, opaque, and would cause universal extinction

James Daniel **Miller 18**. Based at Smith College, South Deerfield, Massachusetts. 10/11/2018. “When Two Existential Risks Are Better than One.” Foresight. Crossref, doi:10.1108/FS-04-2018-0038.

2. The dangers of unfriendly powerful artificial general intelligence Unlike with whatever wetware runs the human brain, it would be relatively easy to make changes to a PAGI’s software. PAGI could even make changes to itself. Such selfmodification could possibly allow PAGI to undergo an intelligence explosion where it figures out how to improve its own intelligence, then, as it gets smarter, it figures out new ways to improve its intelligence. It has been theorized that through recursive self-improvement a PAGI could go from being a bit smarter than humans to becoming a computer superintelligence in a matter of days (Good, 1965; Yudkowsky, 2008). If our understanding of the laws of physics is correct, the universe contains a limited amount of free energy, and this free energy is necessary to do any kind of work and most types of computing. Consequently, it has been theorized that most types of computer superintelligences would have an instrumental goal of gathering as much free energy as possible to further whatever ultimate goals they had (Omohundro, 2008). Humanity’s continued existence uses free energy. Consequently, if a PAGI did not have promoting human welfare as a goal, it would likely see humanity’s continuing existence as rival to its terminal values. A PAGI that wanted to maximize its understanding of, say, chess would further this end by exterminating mankind and using the atoms in our bodies to make chess computing hardware. A PAGI that wanted to maximize the number of paperclips in the universe would likewise kill us, not out of malice, but to align the atoms in our bodies with its objective. The term “paperclip maximizer” has come to mean a PAGI that seeks to use all the resources it can get for an objective that most humans would not consider worthwhile (Arbital Contributors, 2017). A PAGI that was smarter than humans, but not yet smart enough to take over the world, would have an incentive to hide its abilities and intentions from us if it predicted that we would turn the PAGI off if it scared us. Consequently, the PAGI might appear friendly weak, and unambitious right until it launches a surprise devastating attack on us, by taking what has been called a “treacherous turn” (Bostrom, 2014, pp. 116-119).

### 2NC---AT: Space Col

#### Dedev still has tech

**Trainer 2** (Ted, Senior Lecturer, School of Social Work, University of New South Wales, “If you want affluence, prepare for War,” The International Journal of Inclusive Democracy, July 2002, Volume 8, Issue 2, pg. 281-299)

The logically inescapable implications from the foregoing discussion is that global peace cannot be achieved before there has been a vast and historically unprecedented transition to "The Simpler Way'. The accelerating global predicament cannot be remedied until social, economic, political and cultural systems based on competitive individualism, acquisitiveness, affluence and growth are abandoned and replaced by ways of life based on production to meet needs rather than profits, high levels of individual and local self-sufficiency, co-operation, participation, mutual assistance and sharing, and above all on willing acceptance of materially simple lifestyles within zero-growth national economies.76 This does not mean hardship and deprivation; indeed it can be argued that high levels of simplicity, self-sufficiency and co-operation are the necessary conditions for a high quality of life, as well as for global justice and ecological sustainability. **Nor does it mean absence of** sophisticated **tech**nology **and research**. It does mean a landscape made up mostly of small towns and villages within comfortable distance of small cities by public transport, with relatively little heavy industry, travel and transport, international trade or big firms. Most ‘government’ would have to be carried out through small local participatory assemblies. Because large sectors of the present economy would no longer be necessary, the overall amount of work for monetary income would probably be reduced by two-thirds, enabling a much more relaxed pace of life. There would be no need to reduce the sophistication and quality of research and technology within socially desirable fields.

#### Independent colony is impossible.

**Levchenko et al. 19**. Professors in the Plasma Sources and Applications Centre/Space Propulsion Centre, NIE, Nanyang Technological University. 2019. “Mars Colonization: Beyond Getting There.” Global Challenges, vol. 3, no. 1.

Settlement of Mars—is it a dream or a necessity? From scientific publications to public forms, there is certainly little consensus on whether colonization of Mars is necessary or even possible, with a rich diversity of opinions that range from categorical It is a necessity!20 to equally categorical Should Humans Colonize Other Planets? No.21 A strong proponent of the idea, Orwig puts forward five reasons for Mars colonization, implicitly stating that establishing a permanent colony of humans on Mars is no longer an option but a real necessity.20 Specifically, these arguments are: Survival of humans as a species; Exploring the potential of life on Mars to sustain humans; Using space technology to positively contribute to our quality of life, from health to minimizing and reversing negative aspects of anthropogenic activity of humans on Earth; Developing as a species; Gaining political and economic leadership. The first argument captures the essence of what most space colonization proponents feel—our ever growing environmental footprint threatens the survival of human race on Earth. Indeed, a large body of evidence points to human activity as the main cause of extinction of many species, with shrinking biodiversity and depleting resources threatening the very survival of humans on this planet. Colonization of other planets could potentially increase the probability of our survival. While being at the core of such ambitious projects as Mars One, a self‐sustained colony of any size on Mars is hardly feasible in the foreseeable future. Indeed, sustaining even a small number of colonists would require a continuous supply of food, oxygen, water and basic materials. At this stage, it is not clear whether it would be possible to establish a system that would generate these resources locally, or whether it would at least in part rely on the delivery of these resources (or essential components necessary for their local production) from Earth. Beyond the supply of these very basic resources, it would be quite challenging if not impossible for the colonists to independently produce hi‐tech but vitally important assets such as medicines, electronics and robotics systems, or advanced materials that provide us with a decent quality of life. In this case, would their existence become little more than the jogtrot of life, as compared with the standards expected at the Earth?22

#### Deep space travel is impossible

Robinson 16 [Kim Robinson, Scientific American.] “What Will It Take for Humans to Colonize the Milky Way?” 13 January 2016 (<https://www.scientificamerican.com/article/what-will-it-take-for-humans-to-colonize-the-milky-way1/>) – MZhu

The idea that humans will eventually travel to and inhabit other parts of our galaxy was well expressed by the early Russian rocket scientist Konstantin Tsiolkovsky, who wrote, “Earth is humanity’s cradle, but you’re not meant to stay in your cradle forever.” Since then the idea has been a staple of science fiction, and thus become part of a consensus image of humanity’s future. Going to the stars is often regarded as humanity’s destiny, even a measure of its success as a species. But in the century since this vision was proposed, things we have learned about the universe and ourselves combine to suggest that moving out into the galaxy may not be humanity’s destiny after all. The problem that tends to underlie all the other problems with the idea is the sheer size of the universe, which was not known when people first imagined we would go to the stars. Tau Ceti, one of the closest stars to us at around 12 light-years away, is 100 billion times farther from Earth than our moon. A quantitative difference that large turns into a qualitative difference; we can’t simply send people over such immense distances in a spaceship, because a spaceship is too impoverished an environment to support humans for the time it would take, which is on the order of centuries. Instead of a spaceship, we would have to create some kind of space-traveling ark, big enough to support a community of humans and other plants and animals in a fully recycling ecological system. On the other hand it would have to be small enough to accelerate to a fairly high speed, to shorten the voyagers’ time of exposure to cosmic radiation, and to breakdowns in the ark. Regarded from som e angles bigger is better, but the bigger the ark is, the proportionally more fuel it would have to carry along to slow itself down on reaching its destination; this is a vicious circle that can’t be squared. For that reason and others, smaller is better, but smallness creates problems for resource metabolic flow and ecologic balance. Island biogeography suggests the kinds of problems that would result from this miniaturization, but a space ark’s isolation would be far more complete than that of any island on Earth. The design imperatives for bigness and smallness may cross each other, leaving any viable craft in a non-existent middle. The biological problems that could result from the radical miniaturization, simplification and isolation of an ark, no matter what size it is, now must include possible impacts on our microbiomes. We are not autonomous units; about eighty percent of the DNA in our bodies is not human DNA, but the DNA of a vast array of smaller creatures. That array of living beings has to function in a dynamic balance for us to be healthy, and the entire complex system co-evolved on this planet’s surface in a particular set of physical influences, including Earth’s gravity, magnetic field, chemical make-up, atmosphere, insolation, and bacterial load. Traveling to the stars means leaving all these influences, and trying to replace them artificially. What the viable parameters are on the replacements would be impossible to be sure of in advance, as the situation is too complex to model. Any starfaring ark would therefore be an experiment, its inhabitants lab animals. The first generation of the humans aboard might have volunteered to be experimental subjects, but their descendants would not have. These generations of descendants would be born into a set of rooms a trillion times smaller than Earth, with no chance of escape. In this radically diminished enviroment, rules would have to be enforced to keep all aspects of the experiment functioning. Reproduction would not be a matter of free choice, as the population in the ark would have to maintain minimum and maximum numbers. Many jobs would be mandatory to keep the ark functioning, so work too would not be a matter of choices freely made. In the end, sharp constraints would force the social structure in the ark to enforce various norms and behaviors. The situation itself would require the establishment of something like a totalitarian state. Of course sociology and psychology are harder fields to make predictions in, as humans are highly adaptable. But history has shown that people tend to react poorly in rigid states and social systems. Add to these social constraints permanent enclosure, exile from the planetary surface we evolved on, and the probability of health problems, and the possibility for psychological difficulties and mental illnesses seems quite high. Over several generations, it’s hard to imagine any such society staying stable.

### 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: Growth

#### Retrenchment is peaceful

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.

## Adv---FTC

### 2NC---AT: FTC Solvency

#### FTC structurally fails at regulations

Kades ‘7-28 [Michael; Director of Markets and Competition Policy, former attorney at the Federal Trade Commission; Equitable Growth Foundation, “Competitive Edge: Congress needs to restore the Federal Trade Commission’s authority to seek monetary remedies when companies break the law,” <https://equitablegrowth.org/competitive-edge-congress-needs-to-restore-the-federal-trade-commissions-authority-to-seek-monetary-remedies-when-companies-break-the-law/>]

As the report explains, “Rather than deter anticompetitive behavior, current legal standards do the opposite: They encourage it because such conduct is likely to escape condemnation, and the benefits of violating the law far exceed the potential penalties.” In the face of such warnings, it is a particularly bad time for the Supreme Court to unanimously reject 40 years of lower court rulings and conclude that the Federal Trade Commission can neither force companies to give up the profits they earned by violating the law nor compensate the victims of those violations. (The first remedy is called disgorgement, and the second remedy is called restitution.)

Whether the Supreme Court in April correctly interpreted the statute at issue in the case, AMG Capital Management LLC v. Federal Trade Commission, is less important than its implications. Professor [Andy Gavil discusses a potential silver lining](https://equitablegrowth.org/competitive-edge-the-silver-lining-for-antitrust-enforcement-in-the-supreme-courts-embrace-of-textualism/) in the Supreme Court’s decision—the glass-half-full approach. He argues that if the Supreme Court faithfully applies its approach to statutory interpretation, then it could open the door to broader application of the antitrust laws.

I look at the direct impact of the decision—the glass-half-empty approach. I argue that the decision deprives the antitrust agency of a critical, albeit imperfect, weapon that has deterred anticompetitive conduct particularly in the pharmaceutical industry. Although it has used disgorgement in competition cases sparingly, those awards have deterred the entire industry from engaging in the challenged conduct.

Before the recent Supreme Court decision, the disgorgement awards in competition cases went far beyond the impact in a single case. The savings include benefits from the conduct that did not occur. If the commission cannot seek monetary remedies, then companies will keep the rewards of their illegal conduct. Perversely, the companies causing the greatest harm will benefit the most from April’s decision.

The impact reaches even further. Without the threat of a disgorgement award, companies are more likely to drag out litigation and tax the FTC’s limited resources. Because the commission will spend more resources on egregious cases to reach weaker results, it will have fewer resources to challenge anticompetitive conduct in other areas and, for example, could affect enforcement in merger cases or in the high-tech industry.

#### Even if they did it would be political and ineffective

Lande and Davis ‘17 [Robert; Joshua; 2017; Venable Professor of Law, University of Baltimore School of Law, and a Director of the American Antitrust Institute; Associate Dean for Faculty Scholarship, Professor of Law, and Director, Center for Law and Ethics, University of San Francisco School of Law, and member of the Advisory Board of the American Antitrust Institute; A Report to the 45th President of the United States; “Restoring the Legitimacy of Private Enforcement,” ch. 6]

As has been observed, “government cannot be expected to do all or even most of the necessary enforcement” for numerous reasons – in addition to budgetary constraints – including “undue fear of losing cases; lack of awareness of industry conditions; overly suspicious views about complaints by ‘losers’ that they were in fact victims of anticompetitive behavior; higher turnover among government attorneys; and the unfortunate, but undeniable, reality that government enforcement (or nonenforcement) decisions are, at times, politically motivated.”7

### 2NC---AT: AI

#### No emerging tech regulation

Horowitz 18 Michael C. Horowitz, Professor of political science and the author of The Diffusion of Military Power: Causes and Consequences for International Politics, "World War AI," Foreign Policy, September 12, 2018. https://foreignpolicy.com/2018/09/12/will-the-united-states-lose-the-artificial-intelligence-arms-race/

The fundamental dilemma facing most attempts at arms control is that the more useful a technology is at providing armies with an edge, the harder it is to effectively regulate. There is, after all, no arms control agreement that meaningfully restricts countries from developing tanks, submarines, or fighter jets. Effective agreements tend to restrict the use of less important weapons that don’t decide wars—such as landmines and blinding lasers—or ones that have rarely been used, such as nuclear weapons. Military history suggests that those applications of AI with the greatest relevance for fighting and winning wars will also be the hardest to regulate, since states will have an interest in investing in them.

#### Emerging tech regulation fails and AFF can’t solve.

Greg E. Marchant 20, Regents Professor and Lincoln Professor of Emerging Technologies, Law & Ethics, and Faculty Director, Center for Law, Science & Innovation, Sandra Day O’Connor College of Law, Arizona State University, “Governing Emerging Technologies,” Vanderbilt Law Review, Vol. 73(6), 2020, p. 1863-1865

I. THE WICKED PROBLEM OF EMERGING TECHNOLOGY GOVERNANCE

Emerging technologies—such as synthetic biology, gene editing, nanotechnology, artificial intelligence, internet of things, 3D printing, drones, applied neurotechnologies, and blockchain and cryptocurrencies—present a common set of governance challenges.5 Perhaps most significant is the “pacing problem,” where the pace of technology development far outstrips the capability of regulatory systems to keep up.6 Powered by growing market demand and intense business competition, new technologies are being developed, deployed, and commercialized faster than ever before.7 At the same time, traditional governmental processes of legislation, regulation, and judicial review have been slowed by increasing bureaucratic requirements and the increasing politicization of technological disputes.8 The result of accelerating technology and decelerating regulatory oversight is a growing governance gap. Any new statutes or regulations affecting these new technologies are likely to be outdated before the ink dries. As technology governance expert David Rajeski has noted, “[i]f you think that any existing regulatory framework can keep pace with this rate of change, think again.”9 Facing such a bleak prospect, regulators often sensibly defer regulation, waiting for a more stable technology plateau that may or may not ever come.

A second regulatory challenge of many emerging technologies is that they present risks and concerns outside the scope of existing regulatory agency jurisdictions.10 Regulatory agencies, such as the U.S. Food and Drug Administration, are restricted to regulating the safety and efficacy of products. But many applications of emerging technologies raise broader ethical and social concerns relating to human enhancement, “playing God,” autonomy, dignity, fairness, equitable access, privacy, and longer-term impacts on society.11 These issues are largely outside the safety and efficacy scope of current agency jurisdictions and thus often escape any regulatory oversight.

Yet another challenge to the regulation of emerging technologies is their breadth of application. Technologies such as artificial intelligence, nanotechnology, and blockchain span the entire industry spectrum, as well as many nonindustrial activities and sectors. They are sometimes referred to as “enabling” or “platform” technologies that, like computers or the internet, have the potential to affect virtually every industry sector.12 There are thousands, if not tens or hundreds of thousands, of ways these core technologies are used, each with their own context of risks and benefits. These broad applications not only involve many different types of industries and businesses, but also affect many other types of stakeholders and nongovernmental organizations with particular interests in specific applications. The broad applications of these technologies also span many different regulatory agencies, each with their own organic statutes with different requirements, criteria, and goals. The end result of this multitude of applications, regulated parties, stakeholders, and regulators is tremendous regulatory diversity and complexity. Further complicating the regulatory challenge, emerging technologies are inherently international in application, creating the need for some type of international coordination.13

Finally, the unprecedented uncertainty about emerging technologies also impedes effective regulation.14 Because the technologies are so new and moving forward so quickly, there is enormous uncertainty about the trajectories, benefits, and risks of these technologies.15 Given these uncertainties, it is possible to paint unrealistically optimistic or pessimistic visions of the technology at issue, thus fostering public controversy, conflict, and unease.16

In summary, the governance of emerging technologies is characterized by complexity, diversity, and uncertainty. These same characteristics—complexity, diversity, and uncertainty—are the defining characteristics of a wicked problem.17 As a wicked problem, the governance of emerging technologies is unlikely to be solved by a single or simple solution. Traditional government regulation will not be sufficient, or many times even appropriate, for emerging technologies.18 Rather than traditional regulation—consisting of enforceable rules unilaterally imposed by a regulatory agency—emerging technologies will require a “governance” approach that expands the categories of responsible parties beyond government to include the private sector, nongovernmental organizations, and think tanks and also expands the relevant oversight mechanism beyond enforceable government regulations.19 Four alternative governance approaches for emerging technologies are discussed and evaluated in the next Part.

# 1NR

## cp - taxes

### Solvency---2NC

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

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

1. Tax Transactions

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

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

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

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

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

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

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

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

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

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

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

#### It stops resource depletion---extinction.

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

1. The Four Horsemen

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

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

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

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

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

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

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

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

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

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

2.2.2 Age-Adjusted Optimal Taxation

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

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

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

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

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

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

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

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

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

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

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

2.4 The Fiscal Implications of Risk

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

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

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

(Peterson 1999b, p. 42)

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

‘

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

V. Summary and Conclusions

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

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

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

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

As Steven Sorrell and Jos Slim comment,

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

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

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

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

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

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

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

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

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

#### Accurately measuring and analyzing antitrust rents is necessary to develop an overall theory of regulatory taxation.

Schwerhoff ’20 [Gregor, Ottmar Edenhofer, and Marc Fleurbaey; April 2020; Economist for in the Multilateral Surveillance Division of the IMF's Research Department, PhD from the University of Bonn; Director of the Mercator Research Institute on Global Commons and Climate Change, PhD in Economics from Technical University Darmstadt; Robert E. Kuenne Professor in Economics and Humanistic Studies, and Professor of Public Affairs and the University Center for Human Values at Princeton University, PhD in Economics from Ecole des Hautes Etudes en Sciences Sociales; Journal of Economic Surveys, “Taxation of Economic Rents,” vol. 34]

Abstract

Economic rents have long been identified as an efficient tax base. In addition, the recent literature documents that rent income is highly concentrated and that rents are quickly increasing. Rent taxation thus seems attractive for reasons of both efficiency and equity. Nevertheless, rent taxation remains a marginal topic in research and policy making. In a systematic review of the neoclassical literature on different rent types, we find that some types of rents reflect inefficiencies and should thus be minimized, while others reward investments and should be supported in line with social welfare. What remains for taxation are land rents, one of the few true scarcity rents. Land rents have significant potential to improve the efficiency of the tax system. We then begin to develop a comprehensive theory of land rent taxation by identifying relevant efficiency and equity effects. The interaction of many of these effects remains unexplored, which might explain policymakers' hesitation in using land taxes to date.

1 Introduction

Progressive income taxation as discussed in Mirrlees (1971) has received a great amount of attention by economists as a response to inequality and as an approach to redistribution. Recently, authors, such as Piketty (2014), have pointed out that a strong concentration of wealth is a major source of inequality, which cannot be addressed by progressive income taxation. Stiglitz (2015) refines this analysis by pointing out that a major driver of the concentration in wealth is an acceleration in rent income. He continues to note that models that equate wealth and capital are therefore insufficient to understand increasing inequality.

The high concentration of rents and the disproportionate increase in rents identified in the recent literature suggest that rent taxation could be an ideal tool of redistribution. Rent taxation does not distort the supply of the tax base. For this reason, it is much better suited for redistribution than are capital taxes. Nevertheless, rent taxation is a marginal topic, both in research and policy making.

This paper aims to bridge the gap between the conceptual appeal and the practical irrelevance of rent taxation. As a first step, we outline the scope of a potential theory of optimal rent taxation. We identify seven types of rents. Three types of rents are based on exerting market power and need to be addressed by competition policy. Inframarginal rents have been analyzed theoretically, but empirical analysis is thus far insufficient to guide policy. True scarcity rents and “regulation rents” are suitable for taxation. Regulation rents are those rents that result from regulation motivated by social and environmental concerns.

Empirically, both scarcity rents and regulation rents turn out to be mostly land rents. Land rents are considered to be an efficient source of taxation, but a major obstacle for their introduction is a concern about distributional effects. We propose to make the trade-offs explicit by identifying the most relevant effects for efficiency and equity. Efficiency effects include the nondistortionary effect of land rent taxation on the tax base and incentive effects for the development of land-augmenting technical change. Equity effects include vertical equity, the effect of taxation on households with different levels of wealth, and revenue recycling, reflecting that households may indirectly benefit from increases in land rent taxes, even though they have to pay more for their land.

The empirical literature shows that nonrenewable resources are not scarce in an economic sense. The reason is that progressing technology allows access to ever more resources. The rents obtained in the resource sector have been proven to be rents from market power, not scarcity rents. Rent taxation is thus not an efficient approach for resource rents. Instead, it would be welfare enhancing to apply competition policy and environmental regulation according to the environmental damages caused by the extraction and consumption of the resources. Environmental regulation might include environmental taxes, but these are distinct from rent taxes.

The theoretical appeal of land rent taxation is widely acknowledged and accepted. It is often considered practically infeasible, however. One important reason is the measurement of land rents—they are often bundled with buildings, thereby making the rent not directly observable. This is discussed in more depth in Section 4.2, in which we conclude that identifying land rents is a challenge that has been mastered well enough for practical purposes. A second important reason for the practical infeasibility of land rent taxation is the associated distributional effects. This is discussed in Section 5. We conclude, however, that land rent taxation is very likely to be progressive. As in other areas of optimal taxation, it is important to separate the analysis of welfare optimizing policy from the debate of the political economy of introducing it.

Among economists, the interest in rent taxation has resurged recently (after it had been of great interest to some early economists) due to the empirical observation that rents are quickly increasing and that their ownership is highly concentrated. Piketty (2014) pointed out that there has been a sustained increase in the capital/income ratio, which has been driven largely by housing capital. Knoll et al. (2017) break down the housing value into its components and identifies increasing land prices as the major driver of the increase in housing prices. Cowell et al. (2018) show that housing wealth is distributed very unequally among households in developed countries. Stiglitz (2015) considers different types of rents and argues that they reflect large amounts of wealth and are also highly concentrated.

While there has been no attempt at developing a comprehensive theory of rent taxation, some papers have considered some of the trade-offs between efficiency and equity effects of land rent taxation. Feldstein (1977) and Petrucci (2006) point out that an uncompensated land tax would have distortionary effects. In response to Feldstein, Fane (1984) clarifies the difference between compensated and uncompensated taxes. Koethenbuerger and Poutvaara (2009) analyze the distributional consequences when land ownership is heterogeneous in an overlapping generation model. Plummer (2010) and Choi and Sjoquist (2015) draw attention to potential effects of land rent taxation on horizontal equity. We use these and other papers to assess the full range of effects that would determine the impact of land rent taxation on social welfare.

The idea of developing a theory of optimal rent taxation is based on the existing approaches in the literature concerning other tax bases. Mirrlees (1971) provides a breakthrough concerning labor taxation. One of the important innovations in that study was to consider households with different endowments of labor productivity. The model shaped the basic understanding of how taxes can be made progressive to reconcile the objectives of efficiency and equity. The same basic idea is applied to capital taxes by Chamley (1986) and Judd (1985). Their models consider the effect of capital taxes on households with different capital endowments. In this paper, we take the first steps to develop a theory of land rent taxation in which households with different levels of land rent income are considered.

In this paper, we review the understanding of rents in neoclassical welfare economics and propose a classification of the different types of rent and as well as determinants of optimal rent taxation. A review of the literature on economic rents in all economic schools of thought would go beyond the scope of a single paper and reviews on rents in other schools of thought are already available. Outside of neoclassical economics, other schools of thoughts, such as classical economics and Marxist economics, contributed to the understanding of economic rents. Ward and Aalbers (2016) provide an overview on these approaches. To determine the potential scope of rent taxation, in Section 2 we define a rent and present a systematic classification of rent types. In Section 3, we use empirical evidence to identify the appropriate rent-type classification for some of the most important sources of rents. As land rents are a potentially attractive tax base, we present all major effects of land rent taxation on efficiency in Section 4 and on equity in Section 5. We conclude in Section 6. 2 The Scope of Rent Taxation Theory An analysis of rent taxation requires a precise definition of the term, but also an understanding of the limits of taxation compared to other policy options to influence rents in the interests of social welfare. In this section, we propose a scope of what rent taxation should address. 2.1 Definition of Rent The precise meaning of the term economic rent has been subject to debate (Brown, 1941; Mishan, 1959; Currie et al., 1971). Modern public economics settled for economic rent as being “those payments to a factor of production that are in excess of the minimum payment necessary to have it supplied” (Varian, 2006, p. 412), which is a linguistic update of a definition introduced by Wessel (1967). As the authors providing these definitions have primarily land and natural resources in mind, the definition refers to a factor of production. However, there is nothing in the text of Wessel (1967) and Varian (2006) about rents that is specific to production factors. In addition, inframarginal rents as well as the “pure profits” resulting from market power are understood to be economic rents in the literature. We therefore generalize the definition of economic rent to “those payments to a good that are in excess of the minimum payment necessary to have it supplied.”1 This is a minor adjustment following the spirit of Wessel (1967) and Varian (2006) and reflecting the use of the term in the literature. There is, however, no reason to focus on supply rather than demand, and a further generalization of the definition would refer to “those benefits to an agent that are in excess of the minimum necessary for the agent to accept the transaction.” This additional generalization is important to incorporate monopsony rents in the analysis, in particular. Piketty (2014) gives two more definitions of a rent, one more general and one narrower than the definition used in public economics, see Figure 1. The one he uses in the book is more general: “income on capital, whether in the form of rent, interest, dividends, profits, royalties, or any other legal category of revenue, provided that such income is simply remuneration for ownership of the asset, independent of any labor.” Dictionaries' definition of “rentier” refers to this definition of the word rent. Definitions of Rent. According to Piketty (2014), the meaning of the word rent shifted over time and is now often used “to denote an imperfection in the market (as in ‘monopoly rent'), or, more generally, to refer to any undue or unjustified income.” This explains why “the words ‘rent’ and ‘rentier’ took on highly pejorative connotations in the twentieth century.” This meaning of rent is termed “exploitation rent” by Stiglitz (2015). Piketty (2014) uses a broad definition of rent because his book is concerned with wealth inequality. In this paper, we are concerned with a specific type of assets: those that yield rents in the sense of public economics. In the remainder of this paper, we therefore use the definition of rent given by Wessel (1967) and Varian (2006), and its generalization to demand. 2.2 Types of Rents Among the rents that conform to our definition, different types can be distinguished. Before introducing a taxonomy of rents, it should be clarified that rents can appear in at least three different contexts. Consider the partial equilibrium demand–supply framework. In this framework, two types of rents can be identified, as illustrated in Figure 2. Rents in the Partial Equilibrium Setting. In this figure, a rent appears when the quantity traded is below the equilibrium. This rent will be captured by the supply side in case of monopoly for instance, by the demand side in case of monopsony and by the government in case the wedge between supply and demand is generated by a tax. Whether this situation generates a deadweight loss (DWL in the figure) depends on the presence of social costs and benefits, in addition to private costs and benefits that determine the demand and supply curves. The surplus obtained by either side of the trade is another form of rent, since the curves are not perfectly elastic. The surplus is usually considered to be an acceptable form of benefit. However, the difference between the surplus and rent is sometimes thin, as illustrated below. Moreover, consider an industry in which the firms manage to externalize some of their costs. This increases their surplus (as well as consumer surplus), even under perfect competition, but it is not a socially optimal form of increasing it. Therefore, one can always suspect some of the producer and consumer surplus to come from externalized costs (such as health problems for workers), a form of rent-seeking behavior. Another setting in which similar rents can occur is bilateral trade bargaining. In this case, one can identify rents with the benefit that either side obtains above and beyond the disagreement point. In standard situations, this benefit is very much like surplus. However, rent seeking occurs when a party tries to enhance its bargaining power, and one can also identify a form of rent simply when one party has a greater bargaining power due to certain positional advantages (e.g., wealth that decreases risk aversion). A third setting in which a rent is observed is when information is asymmetric among agents and some agents are able to obtain an advantage by keeping their information private. This type of informational rent is pervasive in adverse selection when high-type (e.g., high skilled or high risk) agents are able to derive a benefit from their ability to mimic low-type agents’ observable behavior. In this paper, we focus on the partial equilibrium setting and devote the remainder of this section to a taxonomy of rents in this setting. In order to make the classification practically relevant, we base the clustering on the different types of government intervention, which are required to address them. We obtain seven categories: regulation rents, political rents, investment rents, natural monopolies, market power, inframarginal rents, and scarcity rents. Following the description of the types of rents, we discuss the optimal policy responses in Section 2.3 and discuss examples in Section 3. 2.2.1 Regulation Rents For goods that cause an externality, there is a difference between the private marginal cost and the social marginal cost of production. In order to internalize the externality, the government can use regulation to shift the market equilibrium from the intersection of the private marginal cost with demand toward the intersection of the private plus social marginal cost with demand. If the dashed line in Figure 2 is interpreted as a government imposed maximum of production, the dark gray area represents the regulation rent. The produced quantity and the price correspond to the social optimum. When the regulation is implemented in the form of taxes or sale of quotas, the government automatically captures the rent and there is no DWL. 2.2.2 Political Rents Political rents are similar to regulation rents in the mechanism, but the objective of the policy is different. Political rents are those that are tolerated or even actively created with the intention of granting a private source of income. The creation of political rents was described by Stigler (1971) and has been broadly documented (Benmelech and Moskowitz, 2010; Mian et al., 2010; Duchin and Sosyura, 2012). Political rent creation often works through excluding competitors (Djankov et al., 2002), so that these rents could also be termed exclusion rents. As politicians create these rents intentionally, it may be naive to attempt to reduce these rents. Djankov et al. (2002), however, show that better institutions, and democracy in particular, are more successful in reducing political rent creation. Political rents can be more or less subtle. An aggressive form of political rent is described in Parente and Prescott (1999), in which policy makers actively maintain monopolies with the intention of enriching themselves. An intermediate form for political rent occurs when firms develop ways to exclude competitors. While the firms take the initiative and in many cases do not share the benefits actively with policy makers, the government still fails to regulate effectively and thus tolerates the creation of rents. Examples for this latter type of political rent are rents in the financial sector, see Section 3.4. Whenever economic activities are restricted, rents are generated. Politicians can channel these rents to support groups, but the rents also provide an incentive for individuals to engage in rent seeking (Krueger, 1974). This effect may be particularly pervasive in the early stage of democratization when more openness increases the opportunity to gain access to rents (Mohtadi and Roe, 2003). In a situation with strong political polarization, governments have an incentive to capture the rents of government spending for their own constituencies, by spending all available revenue. The attempt to spend all available revenue can cause government spending to become procyclical and thus lose the opportunity of using government spending for countercyclical consumption smoothing (Ilzetzki, 2011). Apart from the obvious distributional implications, rent-seeking activities also reduce aggregate efficiency. Murphy et al. (1991) show that economies grow more slowly when they provide incentives for their most talented workers to engage in rent seeking instead of innovation. When there are competing social groups and aid is not linked to binding policy commitments, then foreign aid causes so much rent seeking that the provision of public goods does not increase through the aid (Svensson, 2000). Similarly, newly discovered natural resources shift entrepreneurial activity from productive firms to rent seeking so that aggregate welfare may fall (Torvik, 2002). When the dashed line in Figure 2 is interpreted as a deliberate reduction of supply by a collusion between government and producers, the dark gray area corresponds to political rents. The necessity of government intervention, or a reform of governance to prevent this type of collusion, derives from the creation of a DWL. 2.2.3 Investment Rents Investment rents are created when private investments allow firms to obtain market power. Van Reenen (1996), Bresnahan et al. (1997), and Petrin (2002) show directly how innovation allows the innovator to obtain market power and the resulting rents. The literature on endogenous growth (Grossman and Helpman, 1991; Aghion and Howitt, 1992) points out that rents are crucial as an incentive for innovators. The reason is that creating an innovation requires investment, but the innovation can be used at zero cost. In an unregulated market, this would cause a market failure and no innovations would be created. Regulation can take the form of patents, given to innovators so that they can limit supply, create rents, and finance their innovations with these rents. Hayek (1948) and Weizsäcker (1980) argue that establishing a brand is an investment with similar properties as an investment into innovation. Investment rents are closely related to political rents and are also represented by the dark gray area in Figure 2. The difference between the two is that investment rents compensate the investor for the innovation. They thus serve as a means for correcting a market failure that would otherwise occur for an investment with fixed costs but no marginal costs of production. As the endogenous growth literature emphasizes, investments into research and development are based on a cost–benefit calculation of firms. On the cost side are investments into capital and labor as well as a risk premium, since there is a significant amount of uncertainty involved in research. On the benefit side are the rents, which can be obtained under the protection of the patent for as long as the patent lasts. If the patent duration is too short, there will be no investment into expensive research projects. If it is too long, firms will earn a rent exceeding the amount necessary to motivate the investment. In this case, the exploitation of the market power will last inefficiently long. The government should thus set patent duration to optimize this trade-off. As Antonelli and Gehringer (2017) point out, Schumpeterian creative destruction can have important benefits for society: New innovations destroy the business of wealthy incumbents and thus reduce inequality. A healthy rate of technological progress thus ensures not only economic efficiency, but also contributes to equity. 2.2.4 Natural Monopolies Natural monopolies are defined by Baumol (1977) as “an industry in which multifirm production is more costly than production by a monopoly.” Natural monopolies arise in industries with barriers to market entry like high fixed costs. A natural monopoly can create rents through the monopolist's market power. However, part of the rent may serve to cover the fixed costs, as in the case of investment rents. Here again, the rent is excessive only if it more than compensates for the fixed costs. 2.2.5 Market Power Market concentration can occur spontaneously through economic forces, such as network effects and aggressive anticompetitive behavior by some firms. An example for this are the large internet-based companies. Some of these firms may not engage in anticompetitive activities and may simply try to grow as much as possible. As their market power increases, their rent increases along with their markup (Barkai, 2016; De Loecker and Eeckhout, 2017, 2018). The distinction between these rents and political rents is subtle, considering that it would be the role of the government to regulate these markets in the interest of social welfare. Possible regulation ranges from prohibiting the acquisition of competitors to an enforced break-up of the company. A government that does not make use of regulation is effectively tolerating the creation and exploitation of rents, becoming an accomplice to the persistence of the rent. 2.2.6 Inframarginal Rents Inframarginal rents occur when the production technology is convex, see the lower light gray area in Figure 2. In this case, the market price is higher than the production cost of inframarginal units, so that the revenue on them exceeds costs, thus providing a rent. Hellwig and Irmen (2001) show that inframarginal rents can have a similar role as the rents created through the market power of an innovator: They can finance innovation. Inframarginal rents are difficult to measure precisely, because they require information on the cost of production. Because of their potential role of financing innovation, they might also have a socially beneficial function. In addition, “little is known about the source and significance of these rents” (Boldrin and Levine, 2008). It may appear odd that “little is known” about this type of rents, even though every student of economics is familiar with graphs of increasing supply curves in economics textbooks. The apparent contradiction is resolved by Varian (2006) when he distinguishes between the supply curves of individual firms, which may be increasing, and industry supply curves, which determine the market equilibrium: “In an industry with free entry and exit, the long-run average cost curve should be essentially flat at a price equal to the minimum average cost” (Varian, 2006, p. 408). At such a price, the marginal cost is also equal to the price and there is no scarcity rent in the form of the dark gray area of Figure 2. Moreover, the inframarginal rent (producer surplus) exactly covers the fixed cost. The free entry condition automatically apportions the inframarginal rent to the fixed costs that need to be covered. 2.2.7 Scarcity Rents from Bounded Supply For some goods, the cost of production is an increasing function of the total amount produced. As a result, the supply curve is upward sloping and this slope can become extremely steep. As long as the supply curve is continuous, however, there will be an equilibrium price at which the cost of production is equal to demand. This kind of good yields inframarginal rents, but the good is not really scarce—more could be produced if demand were higher. For some goods, the supply curve is below demand and then breaks off, meaning that no additional production is possible. In these cases, demand at the maximum amount of production determines the price. Since this price is higher than the marginal cost of production, a scarcity rent results, see Figure 3. The intertemporal management of a resource available in finite supply is analyzed in “Hotelling models” named after Hotelling (1931). Scarcity Rents (Gray Area) Result When There is a Definite Limit to the Supply of a Good and When Demand at the Maximum Possible Amount of Production Exceeds the Marginal Cost for Producing the Good. Figure 3 illustrates how similar a scarcity rent is to producer surplus. In the figure, the demand curve intersects the marginal cost curve (in its vertical part) and, referring to Figure 2, the gray area is technically a surplus. But, imagine that for some reason (regulation or political intervention), production stopped just before the maximum amount was reached. In this case, a rent is clearly created. By making the production come closer and closer to the maximum, this rent tends toward the surplus that we see in Figure 3. 2.2.8 Classification of Rents The distinction of rents described above highlights that rents can be classified in different ways. Some rents have similarities that could justify grouping them together: Political rents, investment rents, and natural monopolies all associate with market power. Scarcity rents, due to bounded supply, could be seen as a variety of inframarginal rents, the difference between the two simply being the discontinuity in the supply function in the case of scarcity rents. Regulation rents are related to scarcity rents due to bounded supply since the regulator effectively acts (partially or fully) like a monopolistic owner of a scarce resource by reducing supply to more sustainable levels. Political rents and regulation rents both result from political interventions, which cause a reduction in supply. They are distinguished by whether or not the intervention increases social welfare. If a different criterion of classification were used, naturally, different categories would result. Apart from the superordinate term “economic rent,” only the term “monopoly rent” is defined in the literature. The need for further distinction, however, becomes clear in the literature on rents from resources like oil. The literature shows that rents from the production of oil exist, but also shows that they originate from the market power of the producers and not from a genuine scarcity rent as described here. 2.3 Optimal Policy Based on this classification, we can identify which type of rent should be addressed with which kind of policy. We assume that the government maximizes a Bergson–Samuelson welfare function and that reductions in aggregate efficiency and increasing inequality are reflected in lower welfare. Regulation rents result from deliberate welfare-increasing government intervention. They do not indicate an inefficiency and do constitute an efficient tax base. In many cases, however, the regulation takes the form of market instruments like taxes or certificates. This leaves no room for additional taxation. When the regulation takes the form of excluding a part of the resource from economic use, as in the case of forest protection, the resulting rent can be subjected to taxation. Political rents can be seen as the result of an inherent principal–agent problem between the population (the principal) and the government (the agent), as the government's interests are not perfectly aligned with social welfare. This makes the complete elimination of political rents very difficult. As political institutions mature, however, there are options to minimize political rents. One option is competition policy (Motta, 2004; Wilks, 2010), which is also central for other types of rents. In addition, political rents can be reduced by improving governance. Hill and Hupe (2014) provide an overview of how this can be implemented.

Investment rents are justified by the socially beneficial investments financed with these rents. This type of rents is thus also subject to competition policy, but the focus here is to identify the right level of rents, not to eliminate the rents altogether. An important part of competition policy with respect to investment rents is the regulation that concerns patents and trademark law. The optimal design of patent systems is analyzed in Gilbert and Shapiro (1990), Encaoua et al. (2006), and Judd et al. (2012) for example. In addition, Mazzucato (2013, 2018) emphasizes that the government has an important direct role in developing innovations. When these innovations are made freely available, the respective rent is appropriated by society at large.

For natural monopolies, it is insufficient to remove entry barriers and ensure fair competition. Market power cannot be avoided in this way. Instead, strong government action is required (Joskow, 2007; Joskow and Wolfram, 2012; Lim and Yurukoglu, 2017), for example, in the form of publicly run providers2 with a regulated pricing strategy.

Market power emerging from spontaneous economic forces is the object of competition policy. While competition policy is usually understood as a form of regulation, it actually often involves fines that can be interpreted as a form of taxation of illegitimate profit. In the dynamic evolution of the level of market concentration, taxes on profits made by dominating firms can operate as a deterrent and are efficiency enhancing. Modulating corporate tax as a function of market concentration does not necessarily mean that the optimal average level of corporate tax should be higher than current levels. However, high levels of recidivism, for instance in Europe, indicate that the current level of fines is insufficient, in spite of a steep increase in the last decades (Geradin and Sadrak, 2017).

Taxing rents that result from market power can complement more direct approaches to reducing market power. When rents from market power occur, they should be separated from other components of profits for the purpose of taxation (Griffith and Miller, 2014). Once these rents are identified, it is optimal to tax them at 100% since they are nondistortionary (Judd, 2002; Coto-Martínez et al., 2007).

Inframarginal rents are insufficiently understood thus far (Boldrin and Levine, 2008). Before they can be addressed politically, they will thus have to be analyzed in more detail. As indicated above, in the case of free entry and exit, in the long run these rents adjust to cover fixed costs.

Scarcity rents, due to bounded production, cannot be abolished with competition policy or with any other government intervention. By definition, the production of the good creating the rents cannot be expanded. Just like regulation rents, these rents should thus be subjected to optimal taxation. Optimal taxation does not necessarily mean “maximal taxation,” since taxation can cause negative effects, in particular for the distribution of income. In Sections 4 and 5, we explore which aspects have to be considered in optimization. 3 Major Examples of Rent Generation Different types of assets, including resources, certain types of investments, and government-granted privileges, yield rents. It is not always evident which type of rent they generate. Some resources, for example, are scarce, but the high rents result from regulation that protects these resources from being exploited unsustainably. Other resources are not scarce at all, yet they nevertheless generate rents, because there are only a few producers, who can exert market power and thus generate market power rents or preserve them as political rents. In this section, we review the empirical evidence to classify rent-yielding assets according to the categories defined in Section 2.2. 3.1 Nonrenewable Resources The Hotelling (1931) model of exhaustible resources has strongly influenced the economic analysis of nonrenewable resources. This model is based on the assumption that resources are very limited and thus earn a scarcity rent. Empirical research, however, has revealed that the amount of resources available is sufficient to maintain current economic consumption for centuries (Krautkraemer, 1998). These resources are available more or less easily. As technology progresses more and more, resources can be acquired (Hart, 2016). As a consequence, tests of the Hotelling model are typically rejected (Halvorsen and Smith, 1991; Lin and Wagner, 2007; Atewamba and Nkuiya, 2017). Ellis and Halvorsen (2002) find that the difference between the price and the marginal cost of resources is mostly due to market power rather than scarcity rents. Livernois (2009) concludes that “the empirical evidence seems to suggest that scarcity rent may actually have been the least important determinant of price so far.” Hart and Spiro (2011) find “that scarcity rents seem to have been marginal or non-existent historically” and “that they almost certainly do not dominate resource prices today.” Even profits in the oil sector do not seem to be originating from scarcity rents. Hamilton (2009) conclude that “scarcity rent made a negligible contribution to the price of oil” and Cairns and Calfucura (2012) find the “scarcity rent to Saudi oil production to be negligible.” Instead, the profitability of oil production seems to originate in market power (Hansen and Lindholt, 2008; Huppmann and Holz, 2012; Nakov and Nuno, 2013). Garnaut (2010) claims that there are significant resource rents to be taxed in Australia. However, these rents originate from the allocation of mining leases by the Australian governments and from rents obtained by prior exploration activity (called “quasi-rents”). According to our classification, these are regulation and investment rents, respectively. The regulation rent would not arise if the government would demand market prices for the mining leases. The investment rents should not be taxed, as also highlighted by Garnaut (2010). According to the classification presented in Section 2.2, rents from nonrenewable resources are thus market power rents and political rents. Governments allow their domestic resource producers to exercise market power that keeps prices high even though the resources are not constrained “in the sense of the economics of exhaustible resources” (Cairns and Calfucura, 2012). The case of nonrenewable resources discussed here shows that a single national government cannot ensure fair competition, since there is a global market. It is important to note that the supply of nonrenewable resources could be much higher if regulation encouraged free competition. This stands in contrast to a situation in which resources are naturally scarce. In addition to sound competition policy, a welfare maximizing regulation of resource markets would, of course, require environmental regulation. We thus have to make the important distinction between the taxation of a resource and the taxation of a rent. Consider a government of a closed economy and assume that it intends to regulate resource extraction to maximize social welfare. As resource extraction and/or consumption generates environmental externalities, the government needs to implement Pigouvian taxation. The Pigouvian tax generates a regulation rent that is automatically absorbed by the government. If a given resource is not harmful to the environment, then supplying the resource at a competitive price would optimize social welfare. A resource that does not cause environmental externalities is just a commodity like many others. The literature on commodity taxation (e.g., Atkinson and Stiglitz (1976) and Kaplow (2006)) indicates that the reasons to tax commodities involve issues of complementarity with leisure and correlation of consumption patterns with inequalities. Otherwise, income taxation is a more suitable method of redistributive taxation. Franks et al. (2017) give an apparent counterexample to the claim that resource rents should not be taxed. In the paper, the government of a resource-importing economy taxes CO2 emissions in order to capture the rent of the resource exporter. This indirect taxation of a resource rent increases welfare. The important point, however, is that the two governments do not act cooperatively and thus do not achieve globally optimal policy. It would be efficient from a global perspective to ensure competitive production3 and then, if the resource is environmentally harmful, to apply Pigouvian taxation. 3.2 Land All over the world land is protected from economic use for conservation purposes. The total area of land under protection was 12.9% in 2009 (Jenkins and Joppa, 2009) and 14.6% in 2015 (Butchart et al., 2015), continuing a long run upward trend (Watson et al., 2014). Much of this land would be valuable for agriculture—the conservation policy thereby withdraws some land from the market that would otherwise be used. As a consequence, the remaining land has a higher market price than it would have without the regulation. According to Section 2.2, land thus generates a regulation rent. This regulation rent could be subjected to taxation, since the regulation typically does not take the form of a land tax or permits for land use. The steadily rising prices for urban land, as documented by Knoll et al. (2017), cannot be explained with regulation for conservation purposes alone. Agricultural land is more valuable near cities (Guiling et al., 2009) and urban land is more valuable in city centers (Capozza and Helsley, 1989). Land in good locations is thus scarce and earns a scarcity rent. Lichtenberg (1989), Gurgel et al. (2011), and Bustos et al. (2016) describe technical change that has a land-augmenting effect: it increases land rent because it increases the productivity of the land. The part of the land rent gained with this kind of investment in technology is thus an investment rent. Similarly, investments in infrastructure can generate an investment rent in surrounding land. Caselli and Feyrer (2007), Table 1, give an empirical estimate of the importance of land rents. According to these data, cropland, pasture, and urban land had shares of, respectively, 11.4%, 4.5%, and 13.1% in total wealth globally. Kalkuhl et al. (2018), Table 10 in the Online Appendix, present a calculation of land rent, and thus their empirical importance, in individual countries. 3.3 Renewable Resources Renewable resources are often linked to scarcity. Fish stocks and forest resources, for example, are reduced by harvest and have a natural regrowth. When the harvest exceeds the pace of regrowth, the stock can reach zero without the prospect of recovery (Stavins, 2011). For this reason, in most cases, these resources are regulated: harvest is limited by regulation. This regulation gives rise to rents that are reflected in the high value of fishing quotas (Homans and Wilen, 2005; Andersen et al., 2010; Arnason, 2012). Fish and forest resources are thus examples of regulation rents. In many cases, the government directly skims these rents through the sale of quotas, which is equivalent to taxation. For timber with extremely slow regrowth rates, regulation rents are very similar to the scarcity rent of a monopolist (in this case, the government) selling off a nonrenewable resource (Livernois et al., 2006). A very important type of renewable resource is the “disposal space in the atmosphere” (Edenhofer et al., 2015a; Jakob and Hilaire, 2015). Without regulation, this disposal space is not scarce. Once it is regulated, however, emission rights for CO2 can be very valuable. Governments can appropriate these rents by selling emission certificates or taxing emissions. Hydropower seems to be an interesting special case. As the sources for hydropower are limited, it generates “significant” rents (Banfi et al., 2005; Banfi and Filippini, 2010). As the water flow does not require protection through regulation, this is a genuine scarcity rent. The government of Switzerland captures these rents through fees. 3.4 The Financial Sector There is a strong intuition that some indicators of the financial sector can only be explained with the exploitation of economic rents. Private-sector debt more than tripled as a share of national income between 1950 and 2006, from 50% to 170% (Turner, 2017). Salaries are perceived to be higher than in comparable positions in other sectors with “CEOs who make 10 times as much as they would if they applied their talents to manufacturing firms” (Epstein, 2018). Some charges, for example, interest rates of credit cards, have been described as “extortionate” (Hudson and Bezemer, 2012). Arcand et al. (2015) provide empirical evidence that the relationship between financial depth and output growth is nonmonotonic. When credit to private sector exceeds 100% of GDP, it has a negative effect. If the financial sector manages to grow beyond that, incentives cannot be aligned with social welfare. However, in the words of Epstein (2018), “The sources of these rents… are not completely understood.” Referring to their observation on the effect of financial deepening, Arcand et al. (2015) observe, “the causality issue has not been fully resolved.” Nevertheless, there are some indications where these rents are coming from. Banks derive rents from implicit government guarantees to bail them out in a crisis (Admati and Hellwig, 2014). Actors in the financial sector can also externalize some of their costs (Di Tella, 2019) and manipulate the market (Putniņš, 2012). These cases fall in the category of political rents as they result from insufficient regulation. Further, there are rents from market power. The over-the-counter derivatives market is strongly concentrated (Epstein, 2018) and the credit card market is dominated by just two main companies, for example. Finally, Ryan-Collins et al. (2017) and Turner (2017) describe a feedback cycle between land and private credit. Land value is used as a collateral for private credit and the supply of credit is increasing land value. This indicates that the financial sector takes a share of land rents. 3.5 Electricity Capacity Since the production of electricity from some renewable resources is variable, electricity prices can reach high levels in times of low supply. Electricity providers, like gas-fired power plants, have marginal costs above those of renewable resources, so that renewables are the cheapest supplier when there is a large supply. When supply is low, however, gas-fired power plants can earn prices well above their marginal cost by exercising market power. At these times, they thus earn a rent that they use to finance the cost of maintaining capacity at the times of low demand. See Finon and Pignon (2008) and the other papers in that issue of Utilities Policy. The rents earned by electricity providers in times of low renewable supply are investment rents according to the classification in Section 2.2. Maintaining capacity, just like financing innovations, requires investments, but there is no market for the obtained product (security of supply and innovations, respectively). Instead, the investment is refinanced by selling a derived product (electricity or the product incorporating the innovation) at a high price achieved with the use of market power. 3.6 Rents on Beauty and Height A number of studies report that taller or more beautiful people earn higher wages. This is not among the most pressing of distributional questions, but it does raise the question of what type of rent the “beauty premium” and the “height premium” constitute, if any. The evidence for the height premium indicates that it does not reflect a rent at all. Case and Paxson (2008) find that height is correlated with cognitive ability. Vogl (2014) argues that the correlation results from “childhood inputs” and shows that taller workers sort into occupations with greater intelligence requirements. The beauty premium has been described as “pure employer discrimination” (Hamermesh and Biddle, 1994). It occurs with high school graduates (Fletcher, 2009) and can be based on no more than a photo (Bóo et al., 2013). The willingness of employers to pay more for attractive workers can be explained to some extent by the success of beautiful people with clients (Biddle and Hamermesh, 1998; Pfann et al., 2000), but it occurs across all sectors (Hamermesh and Biddle, 1994). This evidence suggests that part of the beauty premium is a scarcity rent, because customers and employers are willing to pay for beauty, a “good,” which is in limited supply and cannot be produced. In addition, Mobius and Rosenblat (2006) find that beautiful workers obtain a payment premium, because they have particular skills that enable them to manipulate employers in negotiations. 4 Efficiency Effects of Land Rent Taxation As we have seen, many forms of rent are political rents, investment rents, or rents from natural monopolies. The efficient policy response to these rents is governance reform and regulation to reduce them to zero or, in the case of investment rents, to their socially productive level. Inframarginal rents need to be better understood before they can be addressed by policy. This leaves regulation and scarcity rents (and possibly market power) for taxation. In the following, we will focus on land rent taxation as the most clear-cut example. Rent taxation is attractive compared to other forms of taxation because it does not cause tax avoidance in the form of supplying less of the tax base. In practice, however, a number of possible effects need to be considered when rent taxes are introduced. These effects can be grouped into efficiency effects (discussed in this section) and equity effects (discussed in Section 5). We begin with two clarifications. First, land generates different amounts of rents, so that there is a difference between taxing units of land and taxing the land rent, see Section 4.1. Second, there is no direct way of measuring the land rent, it therefore takes some effort to identify, see Section 4.2. With those clarifications made, four effects of how land rent taxes affect aggregate efficiency can be discussed. In Section 5, we go beyond the aggregate view and take the heterogeneity of households into consideration. Households own different amounts of land rents. Introducing a land rent tax would therefore cause a distributional effect: Households would have to pay different amounts of land taxes. This alone would have important implications for political implementation. A comprehensive assessment of distributional effects, however, must consider the effect of the additional revenue by the government. Households could benefit in the form of tax reductions on other taxes or from improved public good provision. The distributional effect will thus depend on the net effect of rent taxes paid and benefits received. 4.1 Types of Taxes In Section 3.1, we distinguished between the taxation of a resource and the taxation of a rent. For land, this translates into unit taxes and value taxes. This difference in the tax base has implications for both the surplus and the supply of land. The leftmost panel of Figure 4 shows the situation without taxes. The total amount of land (urn:x-wiley:09500804:media:joes12340:joes12340-math-0001) is sorted from highest to lowest value (V). The shaded area is the rent received by the landowner. The central panel shows the case of a roughly 50% value tax. Half of the rent remains with the landowner and the other half is taken by the government through the taxes (dotted area). The right panel illustrates the case of a unit tax. Only the land with a high value (up to L1) remains in use. Both types of taxes can be meaningful—they correspond to different policy objectives. Value taxes are applied primarily as a nondistortionary form of taxation, see the first effect described in Section 4.3. Unit taxes serve as a source of government revenue, but also allow for a sparing effect, see the second effect described in Section 4.3. If both a nondistortionary form of taxation and a sparing effect are desired, a combination of these types of taxation is meaningful. Some countries apply unit taxes differentiated by land type without the intention of achieving land sparing. In these cases, the unit tax is an approximate form of value tax as the type of land is the only information the government has available on its value.

4.2 Identifying the Rent

In Section 2.3, we identify which kind of policy is optimal to address the different types of rents. It is, however, not straightforward to separate rents from returns to capital, nor to distinguish the different types of rents. The performance of the policy depends on precisely identifying these rents.

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

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

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

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

#### Generating Congressional will is key to spillover and effectiveness of future taxes.

Yonah ’21 [Reuven Avi and Yoseph Edrey; January 22; Irwin I. Cohn Professor of Law and Director of the International Tax LLM Program at the University of Michigan Law School, PhD in History from Harvard University, AM in History from Harvard University, JD from Harvard Law School; Professor of Law at the University of Haifa, PhD in Law from The Hebrew University of Jerusalem, LLM from The Hebrew University of Jerusalem; Law and Economics Working Papers, “Constitutional Review of Federal Tax Legislation,” no. 175]

The same analysis should be used when it comes to tax incentives. Congress must make an effort and calculate what is the economic advantage the public gains from the activities the government seeks to encourage. If the tax relief rate is higher than the benefit that will be generated for the public, we will be in a situation where the firms which will be entitled to the incentives are treated favorably compared to other firms who do not enjoy the tax relief. Such a legislative process would surely serve the public's constitutional right to information, prevent distortion of the voter's will and lead to efficiency in the fiscal activity of the government. As a result, this may incline some lawmakers to be less receptive to the pressure from lobbyists to enact new tax expenditures to favor their special interests.

In what follows, we will first define pure taxes and regulatory taxes (part 2). We will then discuss the constitutional limits on pure taxes (part 3) and on regulatory taxes, including tax expenditures (part 4). Part 5 concludes.

2. Defining Pure vs. Regulatory Taxes

A pure tax is a tax imposed for the purpose of either raising revenue in order to finance the implantation of the elected government's fiscal policy. A regulatory tax legislation is a tax imposed for the purpose of changing individual behavior.

In essence, regulatory tax legislation aims to improve the free market economy and regulate commercial activity by transferring the damages created by a particular activity (negative externality) from the injured party to the creator of the damage; or to transfer the benefits generated from a desirable activity (positive externality) from the beneficiary (usually the general public) to the firm who create the activity and causes the benefit.

For example: If Congress seeks to impose a Pigouvian tax on tobacco, it must receive a significant accurate evaluation of the amount of damage the public suffers from the smoking, and accordingly calculate the amount of tax/mandatory payment on cigarettes. In case the total amount to be collected from the manufacturers or smokers is higher than the total damage to the public, it means that it is discriminatory – nonsmokers do not pay this tax; or a penalty imposed without due process.

The same analysis should be use when it comes to tax incentives. Congress must make an effort and calculate what is the economic advantage the public gains from the activities the government seeks to encourage. If the tax relief rate is higher than the benefit that will be generated for the public, we will be in a situation where the firms which will be entitled to the incentives are treated favorably compared to other firms who do not enjoy the tax relief. Such a legislative procedure would surely serve the public's constitutional right to information, prevent distortion of the voter's will and lead to efficiency in the fiscal activity of the government.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Solvency is offense - the counterplan solves better than the plan:

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

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

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

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

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

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

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

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

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

Footnote 17:

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

CP causes follow-on. The result will be binding prohibition, later:

1. Supervisory control---taxes force disclosure of practices and rents. That alerts the public, causing pressure for traditional prohibitions AND identifies targets for FTC control. The result is identical by later effect---that’s Yonah.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Removing opacity enables aggressive antitrust enforcement.

Geradin ’21 [Damien and Dimitrios Katsifis; October 18; Professor of Competition Law and Economics at Tilburg University and Visiting Professor at University College London and the University of East Anglia; Senior Associate at Geradin Partners; Social Science Research Network, “Strengthening Effective Antitrust Enforcement in Digital Platform Markets,” https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3945004]

2. Asymmetry of information

Another important challenge for antitrust enforcement in digital markets is the considerable asymmetry of information between dominant digital platforms and antitrust agencies.73 Antitrust agencies (and public authorities more generally) lack insight into the numerous and complex algorithms powering the services of digital platforms which oftentimes determine the fate of business users relying on the platform and the prices paid by end users.74

This opacity can make it extremely hard for an antitrust agency to evaluate allegations of self-preferencing involving algorithmic changes, especially in the absence of dedicated technical teams. Antitrust authorities may also have limited insight into the enormous data collection and processing activities of digital platforms and how these may translate in unique informational advantages (e.g., market intelligence) when combined with state-of-the-art predictive algorithms.75 In practice, this means that platforms may engage in various exclusionary – or even collusive – practices right under the nose of regulators,76 which may at best have only anecdotal evidence of wrongdoing and no “hard” data at their disposal.

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

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

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

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

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

#### That creates a virtuous cycle of future prohibitions

Manduca ’19 [Robert; 2019; Professor of Sociology at the University of Michigan; The Annals of the American Academy of Political and Social Science, “Antitrust Enforcement as Federal Policy to Reduce Regional Economic Disparities,” vol. 685]

The lack of effective antitrust enforcement over the past 40 years has been a major contributor to economic stagnation in many parts of the country, and a reinvigorated approach to enforcement offers a promising route to help restore prosperity across the country. If implemented carefully, with attention to potential policy feedbacks, a renewed antitrust movement could maintain and expand itself over time.

Policy Feedback Considerations in the Development of New Antitrust Policy

There are several features of antitrust enforcement as a political issue that make it a particularly promising federal regional development policy. These features occur with respect to all of the “three E’s” that Jacob Hacker mentions in his article in this issue (Hacker, this volume). Its bipartisan appeal to voters, potential to attract business support, and logistical ease of enactment make the establishment of a reinvigorated antitrust regime likely to be easier than many other regional development policies. Once established, initial successful antitrust actions are likely to change the politics of the issue in ways that make its entrenchment and expansion more likely. Here I briefly describe these attractive features and potential for policy feedbacks, along with certain strategic recommendations related to sequencing and the use of federalism in the initial establishment phase.

Note that two types of regulatory action form the core of the antitrust toolkit. One is to block proposed mergers, preventing new monopolies from being created. The second is to break up currently existing companies with excess market power into their component parts. Both types of enforcement would benefit from the promising political considerations facilitating the establishment of a renewed antitrust movement. But many of the most promising feedback effects related to the entrenchment and expansion of such a movement will be felt most strongly with the successful breakups of currently existing firms. For this reason, a revitalized antitrust movement should strongly consider pursuing such breakups whenever possible, even though regulators have been hesitant to pursue them in the past (Wu 2018).

Features of antitrust enforcement that make its establishment more likely

Among possible federal regional development policies, reinvigorated antitrust enforcement stands out in several ways that make its establishment as a policy more likely. First, it is salient and familiar to voters. Most voters have encountered monopolies in their daily lives, whether they be airlines, utilities, internet providers, or tech platforms. Almost everyone has had a negative experience with a company too large or omnipresent to avoid in the future. Breaking such companies up offers a response to angry customers who would otherwise not have any way to express their frustration.

Moreover, aggressive antitrust enforcement has a long history in the United States, and it was widely practiced within the lifetimes of many voters. It has been a stated principle of capitalist economics since Adam Smith (Smith 1827), albeit one that has often been honored in the breach. In the United States specifically, antitrust enforcement fits with a longstanding American skepticism toward “bigness” (Lemann 2016; Rosen 2016). Perhaps for these reasons, the current antitrust movement has managed to find support among both liberals and conservatives. A poll conducted in September 2018, for instance, found that 65 percent of Americans—and 54 percent of Trump voters—think the government “should do more to break up corporate monopolies” (Dayen 2018). And leading proponents of antitrust enforcement in Congress and the media are found on both sides of the aisle (Crane 2018).

Perhaps more important than its broad appeal among voters, antitrust enforcement has the potential to attract support, or at least avoid opposition, from a wide range of organized interest groups. Of particular note is the potential for corporate ambivalence on this issue. Unlike many progressive economic policies, many companies—including quite powerful ones—stand to benefit from a reinvigorated antitrust regime. Yelp, for instance, has been a major critic of Google’s abuse of its search monopoly for several years (Dougherty 2017). When AT&T attempted to acquire T-Mobile in 2010, some of the most vocal opposition came from competitor Sprint (Singel 2011), though that did not stop Sprint from initiating its own bid for T-Mobile recently. Even Walmart, the largest retailer in the country, recently joined with other brick and mortar retailers to call on the Federal Trade Commission (FTC) to examine “persistent oligopolies in other parts of the retail system,” specifically singling out the market power of Amazon and Google (Dodge 2019). Companies like these could potentially become strong supporters of specific antitrust enforcement actions or a new antitrust movement in general.

This potential to attract corporate support is a key advantage of antitrust enforcement as a regional development policy. A major question will be whether proponents of the new enforcement regime will be able to secure support, or at least neutrality, from overarching corporate lobbying organizations like the U.S. Chamber of Commerce. As I discuss, choosing initial enforcement targets to maximize the possibility of such support or neutrality is a strategic imperative for the new antitrust movement.

A third advantage of antitrust enforcement relative to many potential federal redevelopment policies is the comparative ease with which it could be enacted. For the most part, the current antitrust movement is calling for better enforcement of laws already on the books, by agencies that already exist. This means that large parts of the policy could be implemented without creating new government entities or requiring large increases in federal spending, and perhaps even without new legislation.

These three features of reinvigorated antitrust enforcement—its widespread support among voters, potential for ambivalence from corporations, and legislative ease of enactment—suggest that it may be easier to establish than many other federal regional development policies. Should initial enforcement actions be successful, they are also likely to entrench the policy and lay the groundwork for further expansion.

Entrenchment and expansion: The finality of breaking up companies

Should initial enforcement actions succeed—and specifically should existing oligopolistic companies be broken apart—they are likely to alter the political landscape in ways that entrench the new antitrust regime and promote future regional development efforts in general.

When a company is successfully split apart, it no longer exists as an independent entity capable of political action. That in itself may remove the single biggest source of potential backlash to a given enforcement action—as Patashnik describes in his contribution to this issue, sometimes the most effective way to reduce backlash is to fragment the organizations most likely to mobilize such backlash (Patashnik, this volume).

The entrenchment effects of breaking up existing monopolies extend beyond their particular enforcement action. Monopoly rents are a key source of political donations, either from the companies themselves or from the individuals who own them (Skocpol and Williamson 2012). Reducing those rents through increased competition will thus decrease the money available to fund future anti-enforcement lobbying.

Beyond reducing the availability of monopoly rents to fund future advocacy, successful enforcement actions may reduce the political clout of targeted industries by changing the number and nature of corporate players. In the case where one company is split horizontally into several competitors, this would occur by increasing the total number of actors that need to be coordinated for industry-wide lobbying, which is likely to make such coordination more difficult. In the case where a company is split vertically into firms that each occupy different stages in the chain of production, the successor firms may have policy interests that directly conflict. Amazon the online market platform and its client Amazon the bookseller are likely to have a tense relationship and might end up on opposite sides of debates about Internet policy.

A particularly promising dynamic, which is plausible though by no means guaranteed, would be if the successor companies created by one round of trustbusting become agitators for the next round. Firms in some cases pursue mergers and acquisitions defensively in response to observed or anticipated consolidation in their own or related industries (Gorton, Kahl, and Rosen 2009; Ahern and Harford 2014). This process can lead to vertical or horizontal merger waves where all tiers of an industry’s supply chain quickly consolidate. If some of these mergers were undone, the resulting smaller companies might push for further antitrust enforcement up or down their supply chain to even the playing field once more. That could create a virtuous cycle in which the successor companies from one enforcement action lobby for the next action.

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

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

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

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

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

Abstract

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

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

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

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

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

#### 1. Specificity----the appeal of taxes cannot be proven through broad, abstract applications

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

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

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

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

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

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

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

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

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

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

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

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

3. Distribution in Antitrust and Intellectual Property

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

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

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

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

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

#### Antitrust necessary and suficeint

Meagher ’21 [Michelle; March 24; Competition Lawyer and Senior Policy Fellow at the University College London Centre for Law, Economics and Society; Social Science Research Network, “Adaptive Antitrust,” <https://papers.ssrn.com/abstract=3816662>]

"The unprecedented is necessarily unrecognisable. When we encounter something unprecedented, we automatically interpret it through the lenses of familiar categories, thereby rendering invisible precisely that which is unprecedented."

Shoshana Zuboff, The Age of Surveillance Capitalism2

Antitrust for the present moment

In the 1992 movie Toys, starring Robin Williams and Joan Cusack, a megalomaniacal toymaker creates an arcade game for little kids, a violent shoot-em-up where scores soar as enemies fall. What the kids don’t know is that their joysticks control real drones, in the real world, fighting real battles.

As we rightly debate the core, underlying concept of modern antitrust – the nature of the consumer welfare standard – it is important to remind ourselves that this is not a purely theoretical, academic debate. Historic changes to the scope of antitrust, and the tests by which it is enforced, have had profound impacts on the industrial landscape in the past few decades. The implications of any movement in this concept are sure to be swiftly communicated by antitrust and corporate lawyers to companies, in ways that affect business strategy.

Real world impacts are critical to bear in mind because we find ourselves at a particular moment in history. This is an age of environmental breakdown, of deep inequalities and inequities, of populism and autocracy, of globalism, of monopoly and of surveillance.

It is, even if we are numbed from the repetition, an unprecedented moment. Unfortunately, as Shoshana Zuboff reminds us above, we do not have a good track record of dealing with unprecedented moments. As one example, the last Global Financial Crisis confronted the world with a fundamental truth as to the instability of complex financial networks, and we could have reordered ourselves accordingly. But we didn’t. We instead reverted to familiar patterns of regulation (and deregulation).

As with the arcade game in Toys, those who wield the tools to remake the economy to this design or that rarely suffer the negative effects of it personally. We face massive threats – and they are not hypothetical, for they have been felt by many people for decades, as economic opportunity has disappeared from hollowed out towns, democracies have become unstable, violent discrimination has proliferated, nation states have become cowed by corporations, biodiversity has disappeared and the weather has become more extreme. The concept of consumer welfare in antitrust must be situated and rooted in this context. It cannot be otherwise

There will be limits to how far antitrust can help with all these problems, but it can certainly harm or hinder progress towards solutions.

In its essence, antitrust is industrial policy. It determines which organisations can legally build scale, and what they are allowed to do with the resulting power within the rules of fair market conduct. 3 This makes antitrust central to debates around the future of work, economic development, healthcare, food systems, and the future of technology. The context also urges us to be circumspect and intentional when it comes to comes to innovation. Within antitrust, innovation is efficiency on steroids. According to Tad Lipsky, there is a common understanding “shared across the entire spectrum of expert economic opinion” that “the predominant determinant of overall increases in our economic well-being is innovation”. 4 That is quite a statement. When it comes to climate change, green tech innovations could certainly help us live in a zero-carbon world, but we already have the technologies we need to decarbonise. It is the structure of the economy, and politics, that must catch up. When it comes to inequality, the theory is that innovations increase productivity, raising earnings and increasing the size of the economic pie. That will only solve inequality if the gains are distributed (and redistributed) fairly, not just through the tax and benefits systems, but also at the point of production. Otherwise rising capital productivity can be accompanied by unemployment or, as we also see today, underemployment and the degradation of employment terms.

#### The shift in regulatory function spills over.

Hyman ’14 [David and William Kovacic; November 3; H. Ross and Helen Workman Chair in Law and Professor of Medicine, B.A., M.D., and J.D. from the University of Chicago; Global Competition Professor of Law and Policy, George Washington University Law School and Non-Executive Director, United Kingdom Competition and Markets Authority; GW Law Faculty Publications and Other Works, “Competition Agencies with Complex Policy Portfolios: Divide or Conquer?” no. 631]

When regulatory tasks are reallocated, or a new agency is inserted into the mix, or new powers are given to an existing agency, there is a significant potential to disrupt this regulatory ecosystem. Disruption can take a variety of forms. The new entrant may siphon off money and personnel, making it difficult for incumbent agencies to perform their existing responsibilities. Reallocation of authority may also upset longstanding understandings that formed the basis for fruitful inter-agency collaboration. The entrant may receive a substantive mandate whose formal commands resemble the language that appears in the statutes of other regulatory authorities. The interpretation of the new entrant’s mandate in one judicial could spill over into the interpretation of the mandates of other agencies in separate cases.

#### Especially for taxes, which operate on precedent.

Morris ‘5 [Ryan; 2005; JD from the J. Reuben Clark Law School at Brigham Young University, MA with Distinction from the University of Reading, BA from Brigham Young University; Brigham Young University Law Review, “Substantially Deferring to Revenue Rulings After Mead,” vol. 2005]

II. Revenue Rulings

Revenue rulings are an essential and regular means for the IRS to interpret, explain, and clarify the revenue code and its regulations, 30 even if some courts struggle with the deference the rulings deserve. 31 Generally, the IRS interprets the tax code and, sometimes, its own regulations in "one of four ways," 32 which are "(1) regulations issued pursuant to a specific directive from Congress, (2) regulations issued under the IRS's general authority to interpret the tax laws, (3) revenue rulings, and (4) private letter rulings." 33 Each of these methods operates under slightly different congressional authority, issues under different processes, and warrants different standards of deference. 34

The most formal interpretation or issuance from the IRS appears as a "regulation[] issued pursuant to a specific directive." 35 Throughout the tax code, Congress has inserted various "specific congressional instructions regarding rulemaking." 36 Under these specific directives, the IRS issues regulations to guide the administration of the tax code. These specific regulations issue with full notice-and-comment procedures as required for rule making under the Administrative Procedures Act. 37 Courts generally give [\*1007] these regulations complete deference unless they are unreasonable, arbitrary, or capricious. 38

The IRS also issues regulations under a general grant of authority by Congress. 39 Congress has provided that the IRS has authority to issue regulations pursuant to its power to "prescribe all needful rules and regulations." 40 Unlike specific regulations, these general directive regulations do not necessarily require full notice and comment for issuance, although the IRS generally follows such formal APA processes. 41 General regulations usually receive a high level of deference, akin to specific regulations, although the exact amount of deference accorded them is not firmly established. 42

Additionally, the IRS issues letter rulings to private parties. While specific and general directives, as well as revenue rulings, have general applicability to a variety of parties, "letter rulings apply only to the parties who specifically request them." 43 These letter rulings may not be used as precedent by either courts or the IRS and receive little or no deference. 44

If the four IRS formats were viewed in a continuum, revenue rulings would be positioned between general authority regulations and letter rulings, though revenue rulings are much more akin to general regulations. 45 While revenue rulings "do not have the force and effect of Treasury Department regulations," 46 they are "an official interpretation by the Service which has been published in the Internal Revenue Bulletin." 47 Additionally, they "provide precedents to be used in the disposition of other cases, and may be cited and relied upon for that purpose." 48 Thus, revenue rulings are "authoritative and binding on the IRS." 49 Though not regulations, these rulings "seem similar to regulations" and often provide the IRS's official stance and interpretation of the law that it has been assigned to administer. 50

#### It sets a precedent for other tax areas.

Grewal ’16 [Amandeep; 2016; Joseph F. Rosenfield Scholar and Professor of Law at the University of Iowa; Iowa Law Review, “The Un-Precedented Tax Court,” vol. 101]

The nonprecedential status of these Tax Court opinions gives rise to practical problems, however. A judicial exposition of a case is difficult to ignore, and taxpayers frequently invoke Memo or S opinions as authority in connection with their tax disputes, whether in front of the IRS, the Tax Court, or other federal courts. And the Tax Court seemingly cannot ignore its own opinions. Although plenty of cases dismiss Memo opinions as nonprecedential, other cases treat them like persuasive or binding authorities. More troubling still, Memo opinions sometimes address controversial issues of tax law, and not only heavily factual or clear-cut legal issues. The ambiguous weight of Memo opinions thus sows confusion in the tax law.

#### Unilateral regulation through corporate taxes shapes global policy.

Yonah ’15 [Reuven Avi; July 21; Irwin I. Cohn Professor of Law and Director of the International Tax LLM Program at the University of Michigan Law School, PhD in History from Harvard University, AM in History from Harvard University, JD from Harvard Law School; University of Michigan Public Law Research Paper, “Constructive Unilateralism: US Leadership and International Taxation,” no. 463]

4. Conclusion: Constructive Unilateralism or Multilateralism?

The above has been an attempt to suggest that unilateral actions by the US have historically played a positive role in constructing the international tax regime, and some suggestions for further US unilateral actions that could also be constructive.

But, it will be argued, why not try a multilateral approach, which seems to better fit 21st century multipolar realities than unilateral action by the no longer quite as hegemonic US?

The problem is that there is yet no good example of multilateralism working in tax matters. Both the MAATM and BEPS are very much works in progress. In my opinion MAATM has potential as a deterrence device and BEPS, while imperfect, has achieved some meaningful progress, especially in the treaty context. But change comes slowly, and for now I believe that constructive unilateralism is still the most promising way forward.

In the end, we should remember what our normative goals are. I believe that the individual income tax is necessary to achieve redistribution, and for that to happen each residence country should be able to effectively tax its individual residents on a global basis at its domestic rate structure. I also believe that the corporate tax is necessary to regulate corporate behavior, and for that corporations should be subject to tax on a global basis at a rate that represents the current consensus for corporate tax rates at source (in the 20-­‐30% range). Those have been the normative goals of the international tax regime since its inception close to a hundred years ago, and the above has been an attempt to suggest some ways to move it forward into its second century.