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Death Cult K

#### **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.

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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

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Statute-Independent Common Law CP

#### Without reference to the laws of the United States, the United States federal government should determine that private sector anticompetitive licensing practices constitutes an unlawful restraint on trade and commerce. The United States Congress should restrict the scope of its core antitrust laws to exclude increasing prohibitions on private sector anticompetitive licensing practices.

#### The CP creates federally preemptive statute-independent common law with the same effect as the plan.

HLR 20, Harvard Law Review, “Antitrust Federalism, Preemption, and Judge-Made Law,” 133 Harv. L. Rev. 2557, Lexis

None of this is to say that ERISA preemption fails to raise federalism concerns or that the concerns addressed in Part II are unique to anti- trust. In its decision to expressly preempt state law in ERISA, a wise Congress should have considered the difficulties of preemption via judge-made law. Part II’s concerns with preemption via judge-made law could be applied to any delegation to the judiciary that overrides the states’ will. But given the brevity of federal antitrust statutes and the relative lack of executive branch involvement, Congress should be even more wary if it decides to preempt state antitrust law.159 [FOOTNOTE 159 BEGINS] 159 Complaints about brevity and lack of executive branch involvement land an even stronger blow against preemption via statute-independent federal common law. A grant of federal common lawmaking power does not have to be statutory. All that is needed to support the development of federal common law is “some expressed or implied affirmative grant of power to the national government by the Constitution or a statute enacted pursuant to it.” 19 MILLER, supra note 132, § 4514. When courts make law from a constitutional grant, there may not even be a brief statute. See, e.g., Clearfield Tr. Co. v. United States, 318 U.S. 363, 366–67 (1943) (“When the United States disburses its funds . . . it is exercising a constitutional function or power. . . . In absence of an applicable Act of Congress it is for the federal courts to fashion the governing rule of law according to their own standards.”); see also 19 MILLER, supra note 132, § 4515; Volokh, supra note 94, at 1429 (discussing courts’ “statute-independent federal common-lawmaking powers”). Because statute-independent common law is created completely by the courts, preemption via statute- independent common law will preempt the states while also excluding the federal executive branch.

Part II’s critique then undermines statute-independent common law preemption even more than it undermines a preemptive Sherman Act. But Part II proffers only an argument that weighs against preemption; that argument must be balanced against the various pro-preemption critiques of Part I. When it comes to statute-independent common law, the pro-preemption arguments may simply be greater than they are in the antitrust arena. After all, such statute-independent common-lawmaking power exists only “in suits implicating a sufficiently strong interest of the national government.” 19 MILLER, supra note 132, § 4515. And it makes sense that common law grounded in the Constitution has more sway than does common law grounded in statute. Although antitrust law has sometimes been likened to the Constitution or other founding documents, see United States v. Topco Assocs., Inc., 405 U.S. 596, 610 (1972) (“Antitrust laws . . . are the Magna Carta of free enterprise.”); Thomas B. Nachbar, The Antitrust Constitution, 99 IOWA L. REV. 57, 69 (2013), courts simply give its commands less weight than those of the Constitution. Compare, for example, the (limited) deference given to professionals in the antitrust sphere, see Nat’l Soc’y of Prof’l Eng’rs v. United States, 435 U.S. 679, 696 (1978) (analyzing agreements by professionals under the rule of reason), to the zero deference given to professionals under the First Amendment, see Nat’l Inst. of Family & Life Advocates v. Becerra, 138 S. Ct. 2361, 2371–72 (2018). Even if statute-independent common law’s complete lack of input from the democratic branches increases the power of the federalism critique, that increase is rebutted by an increase in the power of the pro-preemption arguments. [FOOTNOTE 159 ENDS]

CONCLUSION

There is little doubt that Congress could decide to preempt state antitrust law. However, although the merits of avoiding a patchwork antitrust regime are compelling, Congress would trigger federalism pitfalls if it were to reform antitrust law by expressly preempting state antitrust law. A preempting Congress should weigh any benefits against the complications of federalism’s procedural and political safeguards and of the judiciary’s weak policymaking ability.

Of course, there is reason to believe that if Congress were to expressly preempt state antitrust law, it would do so as part of a more major antitrust reform effort. Recently, federal antitrust policy has been the subject of critique. Fed up with the seeming omnipresence of corporate giants, some scholarly160 and journalistic161 discourse has turned on the federal government’s antitrust policies. As things stand, if Congress decides to preempt state antitrust law with current federal antitrust jurisprudence, it would have to decide that the pros of preemption mentioned in Part I outweigh the federalism cons of Part II. But if Congress were to reform antitrust law by creating a new, detailed antitrust regime for courts to interpret, preemption of state antitrust law could avoid the perils of preemption via judge-made law.

#### That revitalizes non-statutory common law as binding, spurs quick climate mitigation---extinction

Mark P. Nevitt & Robert V. Percival 19, Mark P. Nevitt is the George Sharswood Fellow at the University of Pennsylvania Law School and a former active duty Navy Judge Advocate General (JAG) officer who served in the rank of commander; Robert V. Percival is the Robert F. Stanton Professor of Law & Director of the Environmental Law Program, University of Maryland Francis King Carey School of Law, “Could Official Climate Denial Revive the Common Law as a Regulatory Backstop?,” Washington University Law Review, Vol. 96, No. 3, pp 441-494

“Global warming may be a ‘crisis,’ even ‘the most pressing environmental problem of our time.’ Indeed, it may ultimately affect nearly everyone on the planet in some potentially adverse way, and it may be that governments have done too little to address it. It is not a problem, however, that has escaped the attention of policymakers in the Executive and Legislative Branches of our Government, who continue to consider regulatory, legislative, and treaty-based means of addressing global climate change.”

— Chief Justice John Roberts, dissenting in Massachusetts v. EPA (2007)1

“The concept of global warming was created by and for the Chinese in order to make U.S. manufacturing non-competitive.”

— Donald J. Trump, Nov. 6, 20122

INTRODUCTION

Prior to the advent of comprehensive regulatory programs to protect the environment, the common law served as the primary vehicle for redressing environmental harm. More than a century ago, states used the common law of interstate nuisance to seek redress for the most serious transboundary pollution problems.3 Exercising its original jurisdiction over disputes between states, the U.S. Supreme Court issued injunctions limiting smelter emissions4 and requiring cities to build sewage treatment plants5 and garbage incinerators.6

Today the common law has been eclipsed by the enactment of federal legislation requiring agencies to regulate sources of pollution. These statutes have been interpreted broadly to give agencies great power to respond to emerging problems. For example, in Massachusetts v. EPA the U.S. Supreme Court held that the Clean Air Act (CAA) gives the U.S. Environmental Protection Agency (EPA) the authority to regulate greenhouse gas (GHG) emissions if they “endanger public health or welfare”7 by contributing to global warming and climate change.8 The Court rejected not only the claim that EPA lacked such authority, but also the agency’s other rationales for refusing to take action. 9 Following the ruling, EPA had to decide “whether sufficient information exist[ed] to make an endangerment finding.”10 It made the endangerment finding two years later.11

In a series of cases beginning in the 1970s, the Court has held that the comprehensive regulatory programs erected by the Clean Water Act (CWA) and the CAA displace federal common law nuisance claims.12 When states sought to use public nuisance law to address the threats posed by climate change, industry groups urged the Court to bar such actions on constitutional grounds. 13 Instead, in June 2011 the Court held in American Electric Power Co., Inc. v. Connecticut (AEP) that the CAA displaced federal common law nuisance claims in the context of regulating GHG emissions. At the time of the ruling, the Obama Administration EPA was moving aggressively to regulate GHG emissions. But, writing for a unanimous Court, Justice Ginsburg warned that a decision by the EPA not to regulate greenhouse gas emissions would invite litigation and would be subject to judicial review.14

With the election of President Trump, federal environmental policy has sharply shifted. The President has announced his intent to withdraw the U.S. from the Paris Agreement that every other country in the world has accepted as a global response to climate change.15 EPA is moving aggressively to repeal the Obama Administration’s Clean Power Plan, 16 roll back Corporate Average Fuel Economy (CAFE) standards, and attempt to preempt state programs to reduce GHG emissions. 17 Many Trump supporters want EPA to reverse its finding that GHG emissions endanger public health and welfare by contributing to climate change.18

If the Trump EPA reverses the 2009 endangerment finding, this would foreclose the EPA’s ability to use the CAA to regulate GHG emissions. This Article considers whether such an action unwittingly could revive the federal common law of nuisance as a regulatory backstop. While the Supreme Court ruled in AEP that the CAA displaces any federal common law right to seek abatement of carbon-dioxide emissions from fossil fuelfired power plants, this was predicated on EPA actually making a reasoned and informed judgment of GHG emission dangers—not jettisoning agency expertise in favor of politics.19 This litigation, particularly if brought by states as quasi-sovereigns against EPA, could serve as a powerful prod to force federal action on climate change. After all, states have the “last word as to whether [their] mountains shall be stripped of their forests and [their] inhabitants shall breathe pure air.”20

In light of the Trump EPA’s current stance on environmental regulations, the Court’s decision in AEP, and other nuisance cases decided by federal appellate courts, 21 this is a propitious time to reconsider the use of public nuisance law to redress environmental problems. This Article focuses on what we call “the common law of interstate nuisance”—a body of law developed when states, acting in a parens patriae capacity, sought to protect their citizens from environmental harm originating in other states through public nuisance actions under either federal or state common law.22

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Futarchy CP

#### The United States federal government should remove its prohibitions and eliminate the scope of its laws, transferring its resources and authority to a new futarchich government.

#### The United States futarchic government should substantially increase antitrust prohibitions on standard essential patent holders that engage in anticompetitive licensing practices.

#### Solves the aff better and extinction

Tabarrok 14 Alex Tabarrok, 5-13-2014, "Should the Future Get a Vote?," Marginal REVOLUTION, https://marginalrevolution.com/marginalrevolution/2014/05/should-the-future-get-a-vote.html

Philosopher Thomas Wells argues that [future citizens need the vote today](http://aeon.co/magazine/living-together/a-mechanism-to-give-future-citizens-the-vote/): …future generations must accept whatever we choose to bequeath them, and they have no way of informing us of their values. In this, they are even more helpless than foreigners, on whom our political decisions about pollution, trade, war and so on are similarly imposed without consent. Disenfranchised as they are, such foreigners can at least petition their own governments to tell ours off, or engage with us directly by writing articles in our newspapers about the justice of their cause. The citizens of the future lack even this recourse. The asymmetry between past and future is more than unfair. Our ancestors are beyond harm; they cannot know if we disappoint them. Yet the political decisions we make today will do more than just determine the burdens of citizenship for our grandchildren. They also concern existential dangers such as the likelihood of pandemics and environmental collapse. Without a presence in our political system, the plight of future citizens who might suffer or gain from our present political decisions cannot be properly weighed. We need to give them a voice. But how can we solve this problem? Wells has some very good insights: If current citizens can’t help but be short-sighted, perhaps we should consider introducing agents who can vote in a far-seeing and impartial way. They would need to be credibly motivated to defend the basic interests of future generations as a whole, rather than certain favoured subsets, and they would require the expertise to calculate the long-term actuarial implications of government policies. But then his solution turns laughable: Such voters would have to be more than human. I am thinking of civic organisations, such as charitable foundations, environmentalist advocacy groups or non-partisan think tanks. Well’s solution (give these groups votes) is so tied to his conception of what the “enlightened” future will bring that it clearly fails the far-seeing, impartiality, credibly motivated and expertise requirements that he outlines as desirable. We need not conclude, however, that Well’s plea is disingenuous or impossible but we do need a better implementation. Robin Hanson’s government of prediction markets (“[futarchy](http://hanson.gmu.edu/futarchy.html)“) is a better approach. It is know well understood that relative to other institutions prediction markets draw on expertise to produce predictions that are [far seeing](https://www.sciencedirect.com/science/article/pii/S0169207008000320) and [impartial](http://hanson.gmu.edu/biashelp.pdf). What is less well understood is that through a suitable choice of what is to be traded, prediction markets can be designed to be credibly motivated by a variety of goals including the interests of future generations. To understand futarchy note that a prediction market in future GDP would be a good predictor of future GDP. Thus, if all we cared about was future GDP, a good rule would be to pass a policy if prediction markets estimate that future GDP will be higher with the policy than without the policy. Of course, we care about more than future GDP; perhaps we also care about environmental quality, risk, inequality, liberty and so forth. What Hanson’s futarchy proposes is to incorporate all these ideas into a weighted measure of welfare. Prediction markets would then be used to predict and make policy choices based on future welfare. Incorporated within the measure of welfare could be factors like environmental quality many years into the future. Note, however, that even this assumes that we know what people in the future will care about. Here then is the final [meta-twist](http://inception.davepedu.com/). We can also incorporate into our measure of welfare predictions of how future generations will define welfare. We could, for example, choose a rule such that we will pass policies that increase future environmental quality unless a prediction market in future definitions of welfare suggests that future generations will change their welfare standards. It sounds complicated but then so is the problem. In short, more than any other form of government, futarchy is based on far seeing, impartial, expertise driven and credibly motivated predictions of future welfare and it is flexible enough to allow for a wide definition of welfare including taking into account the interests of future generations.

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States CP

#### The fifty states and relevant subnational entities should substantially increase antitrust prohibitions on standard essential patent holders that engage in anticompetitive licensing practices.

#### 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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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 shreds PC

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.

#### B3 shores up nuclear power funding gaps

Daniels ’11-11 [Steve; 2021; senior business reporter, citing Exelon CEO Chris Crane; Crane’s Chicago Business, “A Build Back Better bonanza for Exelon,” https://www.chicagobusiness.com/utilities/nuclear-power-subsidies-bidens-build-back-better-proposals-would-be-worth-far-more-exelon]

The massive spending program that Democrats in Washington are hashing out, if enacted, is almost sure to include a tax subsidy for nuclear plants that would give Exelon a taxpayer-funded jolt dwarfing what it’s muscled out of state legislatures, including Illinois’.

The parent company of Chicago-based utility Commonwealth Edison says the draft language in the legislation would give local electricity customers a break on paying the bailout surcharges for Exelon’s Illinois nukes in their electric bills. But the 2016 state law that bailed out Exelon’s Clinton and Quad Cities plants wouldn’t explicitly prevent Exelon from taking both federal and state subsidies.

The final answer to the question of just how much and from whom Exelon will receive extra revenue depends on what emerges from the months-long debate over President Joe Biden’s "Build Back Better" initiative.

Biden has made preserving the nation’s existing nuclear fleet a part of his plan to attack climate change. Nukes don’t emit carbon, and Chicago-based Exelon and other operators long have argued that closing them prematurely would worsen carbon emissions thanks to the natural gas-fired plants that likely would replace their output.

“We're confident that when the legislation does pass, it will include a production tax credit for the existing nuclear,” Exelon CEO Chris Crane said on the company’s Nov. 6 conference call with analysts.

#### Solves nuclear terrorism---extinction

Shultz et al 12 (George, former U.S. Secretary of State and PhD in industrial economics, and Sidney Drell – PhD in physics, arms control specialist and senior fellow at the Hoover Institution at Stanford University and a professor of theoretical physics emeritus at Stanford’s SLAC National Accelerator Laboratory, Steven P. Andreasen -- lecturer at the Humphrey School of Public Affairs at the University of Minnesota, “Reducing the Global Nuclear Risk” October 2, 2012, Policy Review, No. 175, Hoover Institution, <http://www.hoover.org/research/reducing-global-nuclear-risk>)

In the 26 years since the meltdown of the nuclear reactor at Chernobyl in Soviet-era Ukraine, the nuclear power industry has strengthened its safety practices. Over the past decade, growing concerns about global warming and energy independence have actually strengthened support for nuclear energy in the United States and many nations around the world. Yet despite these trends, the civil nuclear enterprise remains fragile. Following Fukushima, opinion polls gave stark evidence of the public’s deep fears of the invisible force of nuclear radiation, shown by public opposition to the construction of new nuclear power plants in close proximity. It is not simply a matter of getting bet­ter information to the public but of actually educating the public about the true nature of nuclear radiation and its risks. Of course, the immediate task of the nuclear power component of the enterprise is to strive for the best possible safety record. The overriding objective could not be more clear: no more Fukushimas. Another issue that must be resolved involves the continued effectiveness of a policy of deterrence that remains primarily dependent on nuclear weapons, and the hazards these weapons pose due to the spread of nuclear technology and material. There is growing apprehension about the determination of terrorists to get their hands on weapons or, for that matter, on the special nuclear material — plutonium and highly enriched uranium — that fuels them in the most challenging step toward develop­ing a weapon. The global effects of a regional war between nuclear-armed adversaries such as India and Pakistan would also wield an enormous impact, potentially involving radioactive fallout at large distances caused by a limited number of nuclear explosions. This is true as well for nuclear radiation from a reactor explosion — fallout at large distances would have a serious societal impact on the nuclear enterprise. There is little understanding of the reality and poten­tial danger of consequences if such an event were to occur halfway around the world. An effort should be made to prepare the public by providing information on how to respond to such an event. An active nuclear diplomacy has grown out of the Cold War efforts to regulate testing and reduce superpower nuclear arsenals. There is now a welcome focus on rolling back nuclear weapons proliferation. Additional important measures include the Nunn-Lugar program, started in 1991 to reduce the nuclear arsenal of the former Soviet Union. Such initiatives have led to greater investment by the United States and other governments in better security for nuclear weapons and material globally, including billions of dollars through the g8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction. The commitment to improving security of all dangerous nuclear material on the globe within four years was made by 47 world leaders who met with Presi­dent Obama in Washington, D.C., in April 2010; this commitment was reconfirmed in March 2012 at the Nuclear Security Summit in Seoul, South Korea. Many specific commitments made in 2010 relating to the removal of nuclear materials and conversion of nuclear research reactors from highly enriched uranium to low-enriched uranium fuel have already been accomplished, along with increasing levels of voluntary commitments from a diverse set of states, improving prospects for achieving the four-year goal. Three principles It is evident that globally, the nuclear enterprise faces new and increasingly difficult challenges. Successful leadership in national security policy will require a continu­ous, diligent, and multinational assessment of these newly emerging risks and consequences. In view of the seriousness of the potentially deadly consequences associated with nuclear weapons and nuclear power, we emphasize the importance of three guiding principles for efforts to reduce those risks globally: First, the calculations used to assess nuclear risks in both the military and the civil sectors are fallible. Accurately analyzing events where we have little data, identifying every variable associated with risk, and the possibility of a single variable that goes dangerously wrong are all factors that complicate risk calculations. Governments, industry, and concerned citizens must constantly reexamine the assumptions on which safety and security measures, emergency preparations, and nuclear energy production are based. When dealing with very low-probability and high-consequence operations, we typically have little data as a basis for making quantitative analyses. It is therefore difficult to assess the risk of a nuclear accident and what would contribute to it, and to identify effective steps to reduce that risk. It's important to remember that the calculations used to assess nuclear risks in the military and civil sectors are fallible. In this context, it is possible that a single variable could exceed expec­tations, go dangerously wrong, and simply overwhelm safety systems and the risk assessments on which those systems were built. This is what happened in 2011 when an earthquake, followed by a tsunami — both of which exceeded expectations based on history — overwhelmed the Fuku­shima complex, breaching a number of safeguards that had been built into the plant and triggering reactor core meltdowns and radiation leaks. This in turn exposed the human factor, which is hard to assess and can dramatically change the risk equation. Cultural habits and regulatory inadequacy inhibited rapid decision-making and crisis management in the Fukushima disaster. A more nefarious example of the human factor would be a determined nuclear terrorist attack specifically targeting either the military or civilian component of the nuclear enterprise. Second, risks associated with nuclear weapons and nuclear power will likely grow substantially as nuclear weapons and civilian nuclear energy production technology spread in unstable regions of the world where the potential for conﬂict is high. States that are new to the nuclear enterprise may not have effective nuclear safeguards to secure nuclear weapons and materials — including a developed fabric of early warning systems and nuclear confidence-building measures that could increase warn­ing and decision time for leaders in a crisis — or the capability to safely manage and regulate the construction and operation of new civilian reactors. Hence there is a growing risk of accidents, mistakes, or miscal­culations involving nuclear weapons, and of regional wars or nuclear ter­rorism. The consequences would be horrific: A Hiroshima-size nuclear bomb detonated in a major city could kill a half-million people and result in $1 trillion in direct economic damage. On the civil side of the nuclear ledger, the sobering paradox is this: While an accident would be con­siderably less devastating than the detonation of a nuclear weapon, the risk of an accident occurring is probably higher. Currently, 1.4 billion people live without electricity, and by 2030 the global demand for energy is projected to rise by about 25 percent. With the added need to mini­mize carbon emissions, nuclear power reactors will become increasingly attractive alternative sources for electric power, especially for develop­ing nations. These countries, in turn, will need to meet the challenge of developing appropriate governmental institutions and the infrastruc­ture, expertise, and experience to support nuclear power efforts with a suitably high standard of safety. As the world witnessed in Fukushima, a nuclear power plant accident can lead to the spread of dangerous radia­tion, massive civil dislocations, and billions of dollars in cleanup costs. Such an event can also fuel widespread public skepticism about nuclear institutions and technology. Some developed nations — notably Germany — have interpreted the Fukushima accident as proof that they should abandon nuclear power altogether, primarily by prolonging the life of existing nuclear reactors while phasing out nuclear-produced electricity and developing alternative energy sources. Third, we need to understand that no nation is immune from risks involving nuclear weapons and nuclear power within their borders. There were 32 so-called “Broken Arrow” accidents — nuclear accidents that do not pose a danger of an outbreak of nuclear war — involving U.S. weapons between 1950 and 1980, mostly involving U.S. Strategic Air Command bombers and earlier bomb designs not yet incorporating modern nuclear detonation safety designs. The U.S. no longer maintains a nuclear-armed, in-air strategic bomber force, and the record of incidents is greatly reduced. In several cases, accidents such as the North Caro­lina bomber incident came dangerously close to triggering catastrophes, with disaster averted simply by luck. The United States has had an admirable safety record in the area of civil nuclear power since the 1979 Three Mile Island accident in Pennsylvania, yet safety concerns persist. One of the critical assumptions in the design of the Fukushima reactor complex was that, if electrical power was lost at the plant and back-up generators failed, power could be restored within a few hours. The combined one-two punch of the earthquake and tsunami, however, made the necessary repairs impossible. In the United States today, some nuclear power reactors are designed with a comparably short window for restoring power. After Fukushima, this is an issue that deserves action — especially in light of our own Hurricane Katrina expe­rience, which rendered many affected areas inaccessible for days in 2005, and the August 2011 East Coast earthquake that shook the North Anna nuclear power plant in Mineral, Virginia, beyond expectations based on previous geological activity. Reducing risks To reduce these nuclear risks, we offer four related recommendations that should be adopted by the nuclear enterprise, both military and civilian, in the United States and abroad. First, the reduction of nuclear risks requires every level of the nuclear enterprise and related military and civilian organizations to embrace the importance of safety and security as an overarching operating rule. This is not as easy as it sounds. To a war fighter, more safety and control can mean less reliability and availability and greater costs. For a com­pany or utility involved in the construction or operation of a nuclear power plant, more safety and security can mean greater regulation and higher costs. The absence of a culture of safety and security is perhaps the most reliable indicator of an impending disaster. But the absence of a culture of safety and security, in which priorities and meaningful standards are set and rigorous discipline and accountability are enforced, is perhaps the most reliable indicator of an impending disaster. In August 2007, after a b-52 bomber loaded with six nuclear-tipped cruise missiles flew from North Dakota to Louisiana without anyone realizing there were live weapons on board, then Secretary of Defense Robert Gates fired both the military and civilian heads of the U.S. Air Force. His action was an example of setting the right priorities and enforcing accountability, but the reality of the incident shows that greater incorporation of a safety and security culture is needed. Second, independent regulation of the nuclear enterprise is crucial to setting and enforcing the safety and security rule. In the United States today, the nuclear regulatory system — in particular, the Nuclear Regu­latory Commission (nrc) — is credited with setting a uniquely high standard for independent regulation of the civil nuclear power sector. This is one of the keys to a successful and safe nuclear program. Effec­tive regulation is even more crucial when there are strong incentives to keep operating costs down and keep an aging nuclear reactor fleet in operation, a combination that could create conditions for a catastrophic nuclear power plant failure. Careful attention is required to protect the nrc from regulatory capture by vested interests in government and industry, the latter of which funds a high percentage of the nrc’s budget. In too many countries, strong, independent regulatory agencies are not the norm. The independent watchdog organization advising the Japanese government was working with Japanese utilities to influence public opin­ion in favor of nuclear power. Strengthening the International Atomic Energy Agency (iaea) so that it can play a greater role in civil nuclear safety and security would also help reduce risks,and will require substantially greater authorities to address both safety and security, and most importantly, more resources for an agency whose budget is only €333 million, with only one-tenth of that total devoted to nuclear safety and security. In addition, **exporting** “**best practices**” **of the U.S.** Nuclear Regulatory Commission — **that is, lessons of nuclear regulation, oversight, and safety learned over many decades — to other countries would pay a huge safety dividend.** Third, independent peer review should be incorporated into all aspects of the nuclear enterprise. On the weapons side, independent **experts in the U**nited **S**tates — from both within and outside the various concerned organizations — are relied on to review or “red team” each other, rigorously challenging and debating weapons and systems safety, and communicating these points up and down the line. The Institute of Nuclear Power Operations (inpo) provides strong peer review and oversight of the civil nuclear sector in the United States. Its global counterpart, the World Association of Nuclear Operators (wano), should give a higher priority to further strengthening its safety operations, in particular its peer review process, learning from the experiences of the United States and other nations. Strong outside peer review — combined with an enhanced capacity to arrange fines based on incidents occurring in far distant countries — would help states entering the world of high-consequence opera­tions to develop a **culture and standard needed to achieve an exemplary safety record**

## Adv---Case

### 1NC---AT: Solvency

#### Vote neg on presumption:

#### zeno’s paradox

SEP 19 (Stanford Encyclopedia of Philosophy, <https://plato.stanford.edu/cgi-bin/encyclopedia/archinfo.cgi?entry=paradox-zeno>, EM)

The first asserts the non-existence of motion on the ground that that which is in locomotion must arrive at the half-way stage before it arrives at the goal. (Aristotle Physics, 239b11) This paradox is known as the ‘dichotomy’ because it involves repeated division into two (like the second paradox of plurality). Like the other paradoxes of motion we have it from Aristotle, who sought to refute it. Suppose a very fast runner—such as mythical Atalanta—needs to run for the bus. Clearly before she reaches the bus stop she must run half-way, as Aristotle says. There’s no problem there; supposing a constant motion it will take her 1/2 the time to run half-way there and 1/2 the time to run the rest of the way. Now she must also run half-way to the half-way point—i.e., a 1/4 of the total distance—before she reaches the half-way point, but again she is left with a finite number of finite lengths to run, and plenty of time to do it. And before she reaches 1/4 of the way she must reach 1/21/2 of 1/4=1/81/4=1/8 of the way; and before that a 1/16; and so on. There is no problem at any finite point in this series, but what if the halving is carried out infinitely many times? The resulting series contains no first distance to run, for any possible first distance could be divided in half, and hence would not be first after all. However it does contain a final distance, namely 1/2 of the way; and a penultimate distance, 1/4 of the way; and a third to last distance, 1/8 of the way; and so on. Thus the series of distances that Atalanta is required to run is: …, then 1/16 of the way, then 1/8 of the way, then 1/4 of the way, and finally 1/2 of the way (for now we are not suggesting that she stops at the end of each segment and then starts running at the beginning of the next—we are thinking of her continuous run being composed of such parts). And now there is a problem, for this description of her run has her travelling an infinite number of finite distances, which, Zeno would have us conclude, must take an infinite time, which is to say it is never completed. And since the argument does not depend on the distance or who or what the mover is, it follows that no finite distance can ever be traveled, which is to say that all motion is impossible. (Note that the paradox could easily be generated in the other direction so that Atalanta must first run half way, then half the remaining way, then half of that and so on, so that she must run the following endless sequence of fractions of the total distance: 1/2, then 1/4, then 1/8, then ….) A couple of common responses are not adequate. One might—as Simplicius ((a) On Aristotle’s Physics, 1012.22) tells us Diogenes the Cynic did by silently standing and walking—point out that it is a matter of the most common experience that things in fact do move, and that we know very well that Atalanta would have no trouble reaching her bus stop. But this would not impress Zeno, who, as a paid up Parmenidean, held that many things are not as they appear: it may appear that Diogenes is walking or that Atalanta is running, but appearances can be deceptive and surely we have a logical proof that they are in fact not moving at all. Alternatively if one doesn’t accept that Zeno has given a proof that motion is illusory—as we hopefully do not—one then owes an account of what is wrong with his argument: he has given reasons why motion is impossible, and so an adequate response must show why those reasons are not sufficient. And it won’t do simply to point out that there are some ways of cutting up Atalanta’s run—into just two halves, say—in which there is no problem. For if you accept all of the steps in Zeno’s argument then you must accept his conclusion (assuming that he has reasoned in a logically deductive way): it’s not enough to show an unproblematic division, you must also show why the given division is unproblematic.

#### anti-induction

SEP 19 (Stanford Encyclopedia of Philosophy, https://plato.stanford.edu/entries/induction-problem/, EM)

Hume asks on what grounds we come to our beliefs about the unobserved on the basis of inductive inferences. He presents an argument in the form of a dilemma which appears to rule out the possibility of any reasoning from the premises to the conclusion of an inductive inference. There are, he says, two possible types of arguments, “demonstrative” and “probable”, but neither will serve. A demonstrative argument produces the wrong kind of conclusion, and a probable argument would be circular. Therefore, for Hume, the problem remains of how to explain why we form any conclusions that go beyond the past instances of which we have had experience (T. 1.3.6.10). Hume stresses that he is not disputing that we do draw such inferences. The challenge, as he sees it, is to understand the “foundation” of the inference—the “logic” or “process of argument” that it is based upon (E. 4.2.21). The problem of meeting this challenge, while evading Hume’s argument against the possibility of doing so, has become known as “the problem of induction”. Hume’s argument is one of the most famous in philosophy. A number of philosophers have attempted solutions to the problem, but a significant number have embraced his conclusion that it is insoluble. There is also a wide spectrum of opinion on the significance of the problem. Some have argued that Hume’s argument does not establish any far-reaching skeptical conclusion, either because it was never intended to, or because the argument is in some way misformulated. Yet many have regarded it as one of the most profound philosophical challenges imaginable since it seems to call into question the justification of one of the most fundamental ways in which we form knowledge. Bertrand Russell, for example, expressed the view that if Hume’s problem cannot be solved, “there is no intellectual difference between sanity and insanity”

#### many worlds

Powell 19 (Corey, <https://www.nbcnews.com/mach/science/weirdest-idea-quantum-physics-catching-there-may-be-endless-worlds-ncna1068706>, EM)

Ever wonder what would have happened if you'd taken up the "Hey, let's get coffee" offer from that cool classmate you once had? If you believe some of today’s top physicists, such questions are more than idle what-ifs. Maybe a version of you in another world did go on that date, and is now celebrating your 10th wedding anniversary. The idea that there are multiple versions of you, existing across worlds too numerous to count, is a long way from our intuitive experience. It sure looks and feels like each of us is just one person living just one life, waking up every day in the same, one-and-only world. But according to an increasingly popular analysis of quantum mechanics known as the “[many worlds interpretation](https://urldefense.com/v3/__https:/plato.stanford.edu/entries/qm-manyworlds/__;!c3kmrbLBmhXtig!7R0VCJPvzByJzznSQY7gFCLBlF85Vk5M6Uf3Tzv-_wJEZSNqbcef1oQ63GS63sFafj4$),” every fundamental event that has multiple possible outcomes — whether it’s a particle of light hitting Mars or a molecule in the flame bouncing off your teapot — splits the world into alternate realities. Even to seasoned scientists, it’s odd to think that the universe splits apart depending on whether a molecule bounces this way or that way. It’s odder still to realize that a similar splitting could occur for every interaction taking place in the [quantum world](https://www.nbcnews.com/mach/science/google-claims-quantum-computing-breakthrough-ibm-pushes-back-ncna1070461). Things get downright bizarre when you realize that all those subatomic splits would also apply to bigger things, including ourselves. Maybe there’s a world in which a version of you split off and bought a winning lottery ticket. Or maybe in another, you tripped at the top of a cliff and fell to your death — oops. “It's absolutely possible that there are multiple worlds where you made different decisions. We're just obeying the laws of physics,” says Sean Carroll, a theoretical physicist at the California Institute of Technology and the author of a new book on many worlds titled "Something Deeply Hidden." Just how many versions of you might there be? “We don't know whether the number of worlds is finite or infinite, but it's certainly a very large number," Carroll says. "There’s no way it’s, like, five.” Carroll is aware that the many worlds interpretation sounds like something plucked from a science fiction movie. (It doesn’t help that he was an adviser on "Avengers: Endgame.") And like a Hollywood blockbuster, the many worlds interpretation attracts both passionate fans and scathing critics. Renowned theorist Roger Penrose of Oxford University dismisses the idea as “reductio ad absurdum”: physics reduced to absurdity. On the other hand, Penrose’s former collaborator, the late Stephen Hawking, [described](https://books.google.com/books?id=qjYbQ7EBAKwC&pg=PA345&lpg=PA345&dq=%22self-evidently+correct%22+hawking+many+worlds&source=bl&ots=F9WTAkliQA&sig=ACfU3U26vRO7r38BkcZbgTvWnMf0yN05hQ&hl=en&sa=X&ved=2ahUKEwjquoTgkK3lAhVhkeAKHZFJDZsQ6AEwCnoECAcQAQ#v=) the many worlds interpretation as “self-evidently true.” Carroll himself is comfortable with the idea that he’s but one of many Sean Carrolls running around in alternate versions of reality. “The concept of a single person extending from birth to death was always just a useful approximation,” he writes in his new book, and to him the many worlds interpretation merely extends that idea: “The world duplicates, and everything within the world goes along with it.” The mind-bending saga of the many worlds interpretation began in 1926, when Austrian physicist Erwin Schrödinger [mathematically demonstrated](https://plus.maths.org/content/schrodinger-1) that the subatomic world is fundamentally blurry. In the familiar, human-scale reality, an object exists in one well-defined place: Place your phone on your bedside table, and that’s the only spot it can be, whether or not you're looking for it. But in the quantum realm, objects exist in a smudge of probability, snapping into focus only when observed. “Before you look at an object, whether it's an electron, or an atom or whatever, it's not in any definite location,” Carroll says. “It might be more likely that you observe it in one place or another, but it's not actually located at any particular place.” Nearly a century of experimentation has confirmed that, strange as it seems, this phenomenon is a core aspect of the physical world. Even Einstein struggled with the notion: What happened to all of the other possible locations where the object could have been, and all the other different outcomes that could have ensued? Why should an object’s behavior depend on whether or not somebody was looking at it? In 1957, a Princeton student named [Hugh Everett III](https://space.mit.edu/home/tegmark/everett/everett.html) came up with a radical explanation. He proposed that all possible outcomes really do occur — but that only a single version plays out in the world we inhabit. All the other possibilities split off from us, each giving rise to its own separate world. Nothing ever goes to waste, in this view, since everything that can happen does happen in some world.

#### agrippa’s trilemma

SEP 19 (Stanford Encyclopedia of Philosophy, <https://plato.stanford.edu/entries/skepticism/#PyrrSkep>, EM)

Agrippa’s trilemma, then, can be presented thus:

If a belief is justified, then it is either a basic justified belief or an inferentially justified belief.

There are no basic justified beliefs.

Therefore, If a belief is justified, then it is justified in virtue of belonging to an inferential chain.

All inferential chains are such that either (a) they contain an infinite number of beliefs; or (b) they contain circles; or (c) they contain beliefs that are not justified.

No belief is justified in virtue of belonging to an infinite inferential chain.

No belief is justified in virtue of belonging to a circular inferential chain.

No belief is justified in virtue of belonging to an inferential chain that contains unjustified beliefs.

Therefore, There are no justified beliefs.

#### cartesian skepticism

DPM 4 (Dictionary of Philosophy of Mind, <https://sites.google.com/site/minddict/cartesian-skepticism#:~:text=Cartesian%20skepticism-,Cartesian%20skepticism,demons%2C%20or%20brains%20in%20vats>, EM)  
The gist of Cartesian-style skeptical arguments is that some empirical proposition (e.g. that there are trees) cannot be known because we might be deceived (e.g. we might be brains in vats hallucinating that there are trees). Related forms of these arguments attack our justification for believing some empirical proposition on grounds of possible deception. These 'justification' versions undermine claims to knowledge insofar as justification is a necessary condition on knowledge. The arguments I examine below are all of the 'knowledge' variety, but they can easily be transformed into arguments of the 'justification' variety by simply replacing all occurrences of 'knowledge' with 'justification'.

### 1NC---AT: Tech Leadership

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### Chinese tech leadership is crucial to BRI success---prevents domestic instability

Nordin and Weissmann 18—Director of the Lancaster University China Centre, also writes good Baudrillard cards AND Associate Professor at the Swedish Defence University and a Senior Research Fellow at the Swedish Institute of International Affairs (Astrid and Mikael, “Will Trump make China great again? The belt and road initiative and international order,” International Affairs, Volume 94, Issue 2, 1 March 2018, Pages 231–249, dml) [BRI=Belt and Road Initiative, formerly “One Belt, One Road”]

The vision document is articulated in terms of the repeated imperative ‘we should’; and although China is clearly behind the ‘vision’ and the subsequent ‘plan’, the ‘we’ to which such calls refer is somewhat ambiguous. In comparison to previous generations of Chinese leadership, and the recommendations of some Chinese academics, Xi's administration is uncharacteristically open about China's and Xi's own bid for regional and world leadership. The vision document makes clear that, ‘in advancing the Belt and Road Initiative, China will fully leverage the comparative advantages of its various regions’, and that President Xi and Premier Li Keqiang are providing ‘high-level guidance and facilitation’ for the initiative.56 In his 2017 speeches to the World Economic Forum and the Belt and Road Forum, Xi made it clear that it was he who had launched the BRI.57 As such, the BRI is a step up from previous leadership slogans, such as Hu's ‘harmonious world,’ that remained very much rhetorical outside China's own borders. Where previous slogans were more ambivalent about Chinese leadership, and regularly harked back to Deng Xiaoping's suggestion that China should hide its strength and bide its time, the BRI shows Xi's readiness to take on new levels of leadership, in both word and deed. As one of our academic interviewees put it, the BRI is best understood as ‘the essence of the realisation of the Chinese dream and the rejuvenation of our nation … It is the framework for foreign policy in the decades to come.’58 Under such Chinese leadership, BRI narratives claim to be open to all countries, but the vision document specifically refers to the connectivity of the ‘Asian, European and African continents’, simply tacking on a reference to ‘the rest of the world’ in one instance.59 At the Belt and Road Forum, these three continents were said to be the focus of the BRI, but Xi stated that the initiative was also open to cooperation partners from the Americas.60 Nonetheless, the most notable absence from such official BRI narratives remains the United States. And yet, while the official plans for the BRI rarely mention the United States, as Callahan notes, the western superpower ‘haunts China's aspirations as a ghost that is both attractive (China likewise wants to be the global hegemonic power) and repellent (China insists that it will be a benevolently superior global power)’.61 Notably, Xi's Davos speech came not long after Donald Trump's inauguration as president of the United States, and Trump himself was not present at either the World Economic Forum or the Belt and Road Forum. Though the Trump administration has been perceived by many as unpredictable, many spotted a clear contrast between Xi's keen leadership of capitalist development and a United States perceived as pursuing a new inward-looking and protectionist direction, more keen to demand than to lead.62 This understanding was reinforced from within the Trump administration, where the then senior political adviser Steve Bannon, a lead author of Trump's inaugural speech, was among those who cited the contrast: ‘I think it'd be good if people compare Xi's speech at Davos and President Trump's speech in his inaugural. You'll see two different world views.’63 In the run-up to this new development, both Chinese official documents and our interviewees stuck to the script that the BRI will lead to ‘a new type of major power relations’ (xinxing daguo guanxi) and that it will contribute to rather than challenge the existing international order.64 The relatively new concept of ‘a new type of major power relations’ focuses on mutual respect and the management of differences to ensure mutually beneficial cooperation—what China calls ‘win–win cooperation’—and an avoidance of conflicts and confrontation.65 The concept tends to focus on Sino-US relations, although, as argued by Pang, it is possible to extend it to encompass other ‘new types’ of Great Powers such as Russia, the EU, India and Brazil, and possibly all G20 countries.66 The BRI is important here, as the clearest manifestation to date of China's attempts to present itself as a major global actor. If the BRI is successful, new Great Power relations will be needed or will emerge by default; and indeed, the initiative itself, with the new leadership role it implies for China, requires such facilitating relations to be developed. It is therefore not far-fetched for commentators to understand Xi's speech at Davos as a proposition to world leaders that, if they wish to continue and improve the existing capitalist and free market order, China should enter the leadership vacuum left by Trump's expected isolationism and Europe's continuing internal problems. Even though the Trump administration will be limited to four or at most eight years, and even if Europe's internal problems are resolved (though this seems unlikely at the moment), the current vacuum is nevertheless a window of opportunity that Xi Jinping and the Chinese government have been quick to exploit. Even if we see a new US foreign policy and a revival of Europe in the relatively near future, China's position of power will still be stronger than before as a result of recent developments. This putative displacement of the United States is apparent not only in America's absence from official BRI documents and from the maps that illustrate it. It is also underlined by the repetition in the vision document of the frequently aired statement that ‘China is committed to shouldering more responsibilities and obligations within its capabilities’ by embracing an alleged ‘trend towards a multipolar world’.67 Chinese officials and academics are typically careful to note that China opposes hegemonism (on the sometimes unspoken understanding that the United States promotes it), but scholars have noted that the alternatives offered often look surprisingly like the hegemonism they claim to reject.68 Most notably, the Sinocentric world-view espoused in both official and academic rhetoric in China operates by setting up a dichotomy between China and the United States, in which China's goodness is contrasted to American badness.69 Another prime example of this rhetorical strategy in BRI narratives is the tendency for English-language commentary on the BRI coming from China to emphasize that it is different from the Marshall Plan because, as Shan Wenhua, editor-in-chief of the Chinese Journal of Comparative Law, puts it: Unlike the Marshall Plan, it does not exclude any countries, nor is it intended to serve any purposes of international power struggle. Rather it intends to explore a new model of international cooperation and global governance on the basis of the ‘Silk Road Spirit’, i.e., the spirit of peace and cooperation, openness and inclusiveness, mutual learning and mutual benefits.70 It is interesting that such comments are now so commonplace,71 given that the Marshall Plan was also formally open to all, but states in the Soviet bloc chose not to join, but to form Comecon instead. Most significantly, these comments contribute to a rhetoric in which China provides the open, equal and mutually beneficial alternative to an American-led world order that is by contrast portrayed as exclusionary, unequal and power-grabbing. The attempted replacement or displacement of the United States in BRI rhetoric plays out in particularly significant ways in relation to the Asian region, in respect of which the narration and implementation of Chinese leadership become particularly significant and controversial. The idea for BRI was originally put forward by the prominent academic Wang Jisi, in a 2012 article for the Global Times, at the same time that Xi was making his transition into the leadership of the party state.72 Wang argued that China should react to America's ‘pivot to Asia’ under President Obama by ‘marching west’ to expand economic and security ties with its western neighbours. The idea was that this would enable China and the United States to avoid entering into direct competition, and instead to cooperate around shared interests in continental Eurasia. Xi took up the suggestion to expand westwards, but chose at the same time to focus on east Asia too. As Callahan points out in his article on the BRI and the new regional order, the BRI is part of a new Chinese ‘peripheral diplomacy’ (zhoubian waijiao) in operation since 2013: this is variously presented by others as reflecting either a shift to Asia that displaces a previous focus on Europe and the United States, or a new direction that (re)balances China's relations with Asia, Africa and Europe more appropriately.73 The vision document and the rhetoric surrounding it go to considerable lengths to emphasize that although this is a Chinese initiative, it represents ‘a common aspiration of all countries along their routes’.74 Over the period in which Xi has developed the BRI, he has criticized the existing security architecture in Asia, which is built around bilateral security treaties between the United States and its allies. In what Callahan terms an ‘Asia-for-Asians’ doctrine, Xi has argued that: In the final analysis, it is for the people of Asia to run the affairs of Asia, solve the problems of Asia and uphold the security of Asia. The people of Asia have the capacity and wisdom to achieve peace and stability in the region through enhanced cooperation.75 Who are the likely winners and losers from the BRI? In this article, we have suggested that the BRI is important both as a driver of networked capitalism and as an expression of a grand narrative of China as a national and nationalist unit. We have argued that these two forms of spatialization are not mutually exclusive, but rather come together in BRI narratives. The effect is a joint narrative that portrays China as the leader and protector of capitalism, and as a better alternative to American world leadership. Who, then, is most likely to gain from such an arrangement, and who is more likely to lose out? The winners and losers of the BRI will of course depend on the continued development of the initiative, on the state of the global economy as a whole, and on the success or otherwise of its various components. It is by no means a foregone conclusion that the BRI will be a success. If the BRI does succeed in developing in the way envisaged by the Chinese government, however, the clear capitalist drive identified by Summers means that we can expect megalopolises across Eurasia in particular—the key nodes of the network—to experience an economic upturn. Other places connected to the key network, in areas including east Africa and the south Pacific, may also stand to benefit economically by access to the envisaged lines of connectivity. Such economic strength may of course benefit some specific locations and not others, depending on how new and existing wealth is distributed and on how other things of value, such as local cultures or the environment, are negotiated in relation to this capitalist drive. As Summer also notes, where money, goods and certain communications may flow relatively freely in network capitalism, labour does not. This will no doubt cause tensions along the belt and road, as growth is unevenly spread and capital migrates away from locales where it has hitherto been focused. One major issue with networked capitalism in the context of BRI is the possible impact of large-scale movements of populations. There are legitimate worries that BRI projects will result in an outward flow of Chinese migrants who will not return to China. On the basis of extant data and literature on Chinese migration flows, it is to be expected that the BRI will bring with it a movement of Chinese people, including workers, state employees, entrepreneurs and accompanying families, to countries along both belt and road, though it is still too early to assess the extent of such a movement.76 It is also difficult to assess how these migrants are likely to affect, and be received in, host countries. On the one hand, skilled migration may contribute to employment, capital accumulation and income in destination countries; on the other hand, there is a risk that Chinese labourers may be seen as competing for low-wage jobs and thereby cause tensions and negative responses.77 There is an additional risk of tension arising out of a certain suspicion towards the intentions of China and Chinese populations in some areas, for example Russia, central Asia and India. There have already been sporadic clashes along the path of the BRI, for example in Kyrgyzstan and Uzbekistan. Some long-term settlement, even if it is not the purpose of migration, is likely to happen. While migration can bring benefits in human resource terms, as can be seen in parts of Africa where Chinese investment has helped to build the capacity of local enterprises, ‘whole industry chain export’ is a common form of Chinese export in Africa and elsewhere.78 It is clear that the question of the migration that will undoubtedly follow the BRI needs to be addressed, and so far there seems to have been little preparation in China for dealing with the associated issues and the inevitable repercussions. This said, the biggest winner from BRI success would no doubt be the CCP. It is commonly understood that the legitimacy of party-state rule, or at least consent to it, relies on the combination of economic growth and nationalism.79 The party state has been relatively successful at convincing Chinese citizens that only the CCP has the will, strength and ability that are necessary to deliver improved living standards for the Chinese people and a territorially unified and culturally great Chinese nation. The election of Donald Trump as US president and the British decision to leave the EU on the basis of a popular referendum have both boosted the Chinese government's claim that liberal democracy leads to self-harm and bad outcomes. If the BRI enables the Chinese party state to position itself as the leader of a more stable, open and mutually beneficial international development than these western systems are perceived to offer, the CCP will further secure its rule through increased legitimacy or consent in the eyes of the domestic Chinese audience. So far as other countries and peoples are concerned, the vision document follows the established line on the trope of ‘win–win’ cooperation, declaring China's values and desires to be everybody's values and desires.80 For example, the vision document begins its conclusion by proclaiming: ‘Though proposed by China, the Belt and Road Initiative is a common aspiration of all countries along their routes.’81 As we have seen, the ‘Silk Road spirit’ is said to be shared by ‘all countries in the world’. However, even if this claim is valid, the BRI focuses on benefiting Asia, and to some extent Europe and Africa, with an emphasis in the belt and road on ‘countries along their routes’.82 This indicates that even if everybody wins, some are likely to win more than others. Neither the United States nor the other countries of North and South America are included along the routes, though they may be able to cooperate with the initiative, for example as investors. As the lofty initiative materializes into more concrete plans and actions, it will become clearer who is likely to gain less—or lose more—from this new amalgam of Chinese nationalism and capitalist expansion. Even at the high-profile Belt and Road Forum organized by Xi in May 2017 signs of division began to appear between those countries that see themselves as benefiting from the BRI, in both economic and geostrategic terms, and those that do not. The event was attended by representatives from 66 countries and organizations, with participants including state leaders such as Russia's Vladimir Putin and Turkey's Recep Tayyip Erdogan, and many delegations took great pains to publicly praise the initiative. However, state leaders from the United States and its G7 allies were notably absent, though an American delegation did end up participating (reportedly as the result of a last-minute decision). The difficulties of maintaining China's all-inclusive approach also became visible, for example when it welcomed a North Korean delegation at the same time as Pyongyang launched its latest missile test, to widespread and outspoken international criticism. In a different setback, several EU countries stated their general support for the initiative, but declined to sign a key trade statement that the Chinese leadership had hoped to produce from the forum. This reluctance was said to stem from concerns over transparency of public procurement and social and environmental standards.83 India decided to boycott the event completely, citing similar concerns, but more importantly its displeasure at the China–Pakistan Economic Corridor—which, as noted above, is planned to run through Kashmiri areas that India considers to be illegitimately occupied by Pakistan. In an ironic twist, India came out in open criticism of the BRI, stating that no country could join a project that disregards its core concerns of sovereignty and territorial integrity.84 These are principles that Chinese government actors regularly claim to defend, and much of the Chinese claim to better global leadership relies on the portrayal of China respecting other countries' sovereignty in claimed or implied contrast to the United States or a more general ‘West’. Despite these difficulties, Xi and his party state have now invested so much money and prestige in the BRI that backing down or scaling back seems unlikely. Unexpectedly, Chinese media hailed the Forum as a great success; and Xi announced that a second Forum would be held in 2019. Despite the fact that support for the BRI is likely to be tempered as the initiative takes more concrete forms, its ability to rally support to date stands in stark contrast to the United States' ‘America First’ policy stance under President Trump. In line with this slogan, Trump has denounced several free trade agreements as unfair to American workers, and has pledged to withdraw the United States from the Trans-Pacific Partnership (TPP) agreement. The most likely replacement for TPP as the Asia–Pacific trade agreement is the Beijing-backed Regional Comprehensive Economic Partnership (RCEP) agreement.85 This agreement would allow China to ‘claim to be setting the rules of trade for Asia’, while American firms would be locked out of preferential benefits and access to Asian markets that would accrue instead to their regional rival.86 President Xi has also suggested that it would be possible for the TPP's expected members to join the RCEP. In the end, the other eleven TPP countries—Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam—did reach an agreement to go ahead without the US, at a meeting in Tokyo on 23 January 2018.87 While of course being a temporary setback for Xi, this ‘new’ TPP without the US is a very different kind competitor from TPP with the US. Ironically, Trump's reluctance to collaborate might ultimately enable Xi to realize the dream of making China great again. At the point of publication, it looks as though a possible US withdrawal from NAFTA may add to this global repositioning in a not too distant future.

#### Causes lashout and extinction

Tepperman 18—editor in chief of Foreign Policy (Jonathan, “China’s Great Leap Backward,” <https://foreignpolicy.com/2018/10/15/chinas-great-leap-backward-xi-jinping/>, dml)

On the domestic level, Beijing’s policymaking is already becoming less agile and adept. Examples of this more rigid approach, and its downsides, aren’t hard to find. Consider last winter, when the government decided to force an abrupt nationwide switch from the use of coal to gas in heating systems. It sounded like a smart move for a country as polluted as China. But the edict was enforced suddenly across the country, with no exceptions. Thus in China’s frigid north, many coal-burning furnaces were ripped out before new gas ones could be installed—leaving entire towns without heat and forcing villagers to burn corn cobs to survive. If China continues down its current course, expect many more cases where even well-intentioned policies are implemented in a rash and clumsy way, leading to still more harmful consequences. Since personalized dictatorships are necessarily bad at admitting fault—for nothing can be permitted to damage the myth of the omnipotent leader—China will also likely become less adept at correcting mistakes once it makes them. Or at confronting the underlying problems that are dragging down its economy, such as an overreliance on bloated and inefficient state-owned enterprises (SOEs), which have only grown bigger and more powerful since Xi took office; dangerously high debt levels, especially among local governments; and a tendency to react to every downturn by pumping more cash into the system, especially for unnecessary infrastructure projects. In fact, China is not only unlikely to address any of these shortcomings; it’s likely to compound them. That is just what it did on Oct. 7, when the People’s Bank of China announced yet another costly stimulus program: a $175 billion plan to shore up small and medium-sized businesses. With each new budget-busting move, and in the absence of reform, the odds that China will experience a seriously destabilizing economic crisis—which China bears such as Ruchir Sharma, the head of emerging markets at Morgan Stanley, have been predicting for years—keep rising. “The big question is whether one of the ticking time bombs—bad debt, overheated property markets, oversized SOEs—will explode,” Gabuev says. “Because of Xi’s concentration of power, no one will give him advance warning if one of these bombs is about to go off. And because he doesn’t actually understand macroeconomics very well, and everyone is afraid to contradict the emperor, there’s a huge risk that he’ll mismanage it when it does.” Indeed, the government’s response to any instability is likely to be ugly. As Schell explains, “Xi has really put China at enormous risk. And because his only tool is repression, if things go wrong we’re likely to see even more crackdowns.” Such predictions should worry everyone. China is the world’s largest economy by some measures, so if it melts down, the entire planet will pay the price. But the history of other autocracies, such as Vladimir Putin’s Russia or Kim’s North Korea, suggests that Xi’s relentless power play could produce even worse consequences. Since taking power, Xi has charted a far more aggressive foreign policy than his predecessors, alienating virtually every neighbor and the United States by pushing China’s claims in the South China Sea, threatening Taiwan, and using the military to assert Beijing’s claims to disputed islands. Should China’s economic problems worsen, Xi could try to ratchet up tensions on any of these fronts in order to distract his citizens from the crisis at home. That temptation will prove especially strong if U.S. President Donald Trump keeps poking China by intensifying the trade war and publicly denouncing it. And things could get scarier still, Pei warns, if China’s economic problems spin out of control completely. In that case, the Chinese state could collapse—a typical occurrence among typical dictatorships when faced with economic shocks, external threats (especially a defeat in war), or popular unrest—but one that, given China’s size, could have cataclysmic consequences if it happened there.

#### BRI is key to Kazakhstani growth---prevents nuclear war and prolif

Abdrakhmanov 17—former Foreign Minister of the Republic of Kazakhstan (Kairat, “Kazakhstan and the Global Vortex - A Quest for Peace and Security,” <https://www.cirsd.org/en/horizons/horizons-autumn-2017-issue-no-9/kazakhstan-and-the-global-vortex>, dml)

By ensuring progress and development domestically, Kazakhstan will continue to contribute to global diplomacy, making the world safer, more stable, and more secure. There are numerous remaining global challenges that demand our immediate attention. Yet, it is important to point out that we have worked tirelessly to contribute to progressive dialogue, as well as to provide assistance and support in reaching diplomatic solutions wherever possible. A single glance at our involvement in the recent Syrian peace process is enough to prove our commitment to issues in which we believe we have the capacity to work towards achieving peace. We hosted multiple rounds of Syrian peace talks in Astana, thanks to our reputation as a neutral and capable mediator, as well as an honest broker. At a recent round of talks, we saw another clear example of the results of the Astana Process: an agreement to create four de-escalation zones within Syria—a deal that has been backed by states supportive of both the government and the armed opposition. We have remained adamant from the onset that the Astana Process is complementary to the Syrian peace talks in Geneva, and we have incessantly praised the crucial role of the United Nations in establishing peace in a conflict that continues to be seen as the greatest humanitarian challenge of the past few decades. We continue in the hope that we can collectively put an end to the Syrian civil war, and have made it clear that we are willing to share our path of peace, security, stability, and cooperation with those in need. Kazakhstan will also continue to transform the world for the better through our work to promote nuclear disarmament and non-proliferation. More than a million people in our country were exposed to radioactive fallout during Soviet nuclear testing, with vast swathes of land in Semipalatinsk and surrounding areas still contaminated with radiation. Since we renounced our inherited stockpile of nuclear weapons, we have constantly called for international nuclear disarmament by encouraging the international community to pursue a nuclear weapons-free world agenda. In August 2016, for example, Kazakhstan organized an international conference entitled “Building a Nuclear-Weapon-Free World," which brought together more than 200 international and 800 local participants in commemoration of the UN International Day against Nuclear Tests on August 29th, which corresponded with the 25th anniversary of the closure of the Semipalatinsk test site. This year, on August 29th, the IAEA Low-Enriched Uranium (LEU) Bank will be officially launched in Kazakhstan. The LEU Bank is an incredibly important initiative, which comes at a time of growing global concern over nuclear security. The proliferation of weapons of mass destruction, along with the risk that such weapons may fall into the hands of terrorist groups, remains the number one threat to all of our countries and citizens. By enabling nations to develop civilian nuclear power programs without risking the potential spreading of nuclear weapons, the LEU Bank will help make our world a safer place. In the context of preparations to commemorate the centenary of the end of World War I next year, we come face to face with the perilous fact that war still looms as a grim memory; and we are reminded as to why diplomacy is valued as a constant and a necessity. Within a broader context, nuclear disarmament additionally plays a role in preventing the threat of worldwide war, with President Nazarbayev having expressed his desire to see Kazakhstan playing its role in preventing military confrontations at regional and global levels in his manifesto: “The World: The 21st Century." Another key priority of our diplomacy for the years ahead is regional stability and cooperation. Kazakhstan has made it clear, through channels like the United Nations, that it wants to establish a zone of peace, security, cooperation, and development in Central Asia, and to play its part in bringing peace and stability back to Afghanistan. Kazakhstan has also embraced China's Belt and Road Initiative (BRI), recognizing the potential value that it brings for our state, the region, and interconnectedness between Europe and Asia. The accelerated development of Khorgos, an eastern gateway city between Kazakhstan and China that serves as a logistical hub for the future network of transcontinental trade routes that will be created by BRI, is a clear example of the extent to which we value regional cooperation. Not only is it an infrastructural marvel, but it will hopefully provide benefit to the extended region, enabling people, goods, and cultures to flow freely between East and West.

### 1NC---AT: AI

#### AI counterforce erodes stability – makes nuke war more likely, and negatives outweigh any stability-inducing effects

Davis March 19 [Zachary Davis is a senior fellow at the Center for Global Security Research at Lawrence Livermore National Laboratory and a research professor at the Naval Postgraduate School in Monterey, California, where he teaches courses on counterproliferation. He has broad experience in intelligence and national-security policy and has held senior positions in the executive and legislative branches of the U.S. government. His regional focus is South Asia. Davis began his career with the Congressional Research Service at the Library of Congress and has served the State Department, Congressional committees, and the National Security Council. Davis was the group leader for proliferation networks in LLNL’s Z Program and, in 2007, senior advisor at the National Counterproliferation Center, in the office of the Director of National Intelligence. He has written many government studies and reports on technical and regional-proliferation issues and currently leads a project on the national-security implications of advanced technologies, focusing on special operations forces. ARTIFICIAL INTELLIGENCE ON THE BATTLEFIELD. March 2019. https://cgsr.llnl.gov/content/assets/docs/CGSR-AI\_BattlefieldWEB.pdf] **\*\*\*ISR = Intelligence, surveillance, and Reconnaissance – in this context, it is used to describe finding an adversary’s nuclear weapons**

First and most fundamentally, Al could erode stability by increasing the perceived risk of surprise attack. The combination of effective defenses with exquisite ISR that makes it possible to locate mobile targets and strike with speed and precision raises long-held fears of an Al-guided “bolt from the blue” first strike. While the fundamental logic of deterrence is unchanged, perceptions that an adversary has sufficient intent and capability to conduct a preemptive attack on vital assets is likely to motivate a variety of countermeasures.

Evaluating the incentive to strike first evokes consideration of Pearl Harbor, in which the US underestimated Japan’s risk calculus while fully recognizing Tokyo’s capacity to launch a cross-Pacific raid. Al contributions to military and intelligence capabilities do not override political considerations—with an important caveat added for the possibility of Al-fueled manipulation of public attitudes that could distort political judgment. Avoiding and deterring conflict remains a paramount responsibility for national leaders. Slightly improved odds of eliminating all but a few of an adversary’s strategic weapons and shooting down any surviving retaliation with missile defenses still involves catastrophic risks—and does not even begin to answer questions about the aftermath of such a conflict.

Nevertheless, possessing the theoretical capability to conduct a disarming first strike inevitably triggers a classic security dilemma, which is guaranteed to provoke countermeasures from those threatened by enhanced striking power. Further advances in defenses against counterforce strikes would be a predictable response, as well as hardening and camouflage to evade and confuse exquisite ISR. To the extent that Al influences perceptions of intent and capability and alters the calculus of risk and reward, it will inspire new thinking about possible offensive and defensive maneuvers in the evolution of nuclear strategy.61

#### Amplifies the risk of cyberwar

Healy 19 [Jason Healy, School of International and Public Affairs, Columbia University, “The implications of persistent (and permanent) engagement in cyberspace” Journal of Cybersecurity, 2019, https://academic.oup.com/cybersecurity/article/5/1/tyz008/5554878#140575448]

The new strategy is a compelling assessment of cyber conflict as a state of constant contact and presents a strong case that reduced operational constraints enabling tactical friction to regain the initiative will nudge conflict back towards lower levels of aggression [9]. It is worth noting that forward defense is only one among several policies that can be termed active defense or indeed cyber deterrence: the administration of Donald Trump has continued and expanded a wide set of policy tools used by previous administrations, including sanctions and indictments [59]. It has also introduced new responses, most importantly coordinated international attribution of Russian [60] and North Korean [61] operations seen as particularly insulting to global norms and getting search warrants for computers outside of US territory in order to disrupt a North Korean botnet [62]. Still, it is no wonder that the US military has embraced an academic concept justifying its decade-long desire for reduced operational constraints and a more active posture to “take the fight to the enemy.” There remain major concerns. An overarching worry is that US Cyber Command does not appear to see this approach as fundamentally risky. The Vision asserts that the Command wants to be “not risk averse but risk aware” but it only highlights one procedural risk (an insufficient body of highly trained personnel) and one diplomatic risk (adversaries will falsely “seek to portray our strategy as ‘militarizing’ the cyberspace domain”). But those are the only risks the Command can imagine, or at least, is willing to publicly acknowledge. Indeed, because defending forward is framed as essential—“if the United States is to shape the development of international cyberspace norms, it can do so only through active cyber operations” [54], and “not a choice, but a structurally and strategically driven imperative” [57]—then the main risk is failing to adapt quickly and forcefully enough. To get to the promised land of milk and honey, superiority and stability, there is only one path: forward defense. It is technically determined that there is a single dominant strategy, one that is the best regardless of the strategies chosen by US adversaries. As in the Cold War, the military is again attempting to “pose starker alternatives and to couch them in terms of necessity rather than choice:” either remove constraints on the military or lose [63]. Imperatives are slippery things. Some are not imperatives at all, just a particularly unyielding perspective or preference presented as a dichotomy. How many US airmen died in World War Two because of the bomber-driven cult of the offensive? Other imperatives may be critical to tactical success but imperil the larger strategy, perhaps winning the battle but losing the war. The battlefield imperative to use overwhelming firepower can, for example, be fatal to a counterinsurgency strategy if it causes extensive collateral damage. Even seeming strategic imperatives can lead to catastrophic national security outcomes, as with Wilhelmine Germany’s pursuit of a grand fleet-in-being to challenge the British [64]. The dynamics here may be similar. A more thorough assessment of the risks must be rooted with the simplest one, the strategy might fail and intensify competition. Many assumptions, apparently unrecognized, underlie the belief that the USA can have both superiority and overmatch as well as stability. Yet, in a system as complex as the Internet, “we can never merely do one thing” [9, page 10].8 As Herb Lin and Max Smeets of Stanford University highlight, “neither ‘escalate’ or ‘escalation’ appear in the [Vision] document,” a significant omission which suggests US Cyber Command is downplaying, or not fully thinking through, the full dynamics of conflict [65]. A more engaged forward defense might result not in “negative” feedback—reducing conflict by bringing it back to the historical norm—but instead “positive” feedback, exacerbating the conflict and adversaries may see the new US vision as a challenge to rise to, rather than one from which to back away [9, chapter 4]. According to my colleague Robert Jervis, “a failure to anticipate positive feedback is one reason why consequences are often unintended,” [9, page 165] and sufficient positive feedback can push the system past a tipping point, at which the system resets itself into a new, and potentially far more dangerous, equilibrium. States have decided to keep their attacks below certain thresholds, but conflict and competition in cyberspace is only a few decades old. This may only be a phase, and an early one at that. As cyberspace becomes more existential for more states, the stakes continue to rise, elevating the risks along with them.

#### No cyber risk.

Valeriano & Maness 18 – Brandon Valeriano, PhD, Chair of Armed Politics at the Marine Corps University, Cyber Security Senior Fellow at the Atlantic Council. Ryan Maness, an American cybersecurity expert, Defense Analysis Professor at Naval Postgraduate School. [How We Stopped Worrying about Cyber Doom and Started Collecting Data, Politics and Governance, 6(2), Cogitatio Press]

6. Expanding Cyber Security Data Our team has been coding cyber incident data since 2010 and serves as a unique example of how the process of collecting cyber security data and evidence can be done. Our first peer reviewed published work appeared in 2014 in Journal of Peace Research (Valeriano & Maness, 2014). In this article we note that cyber conflict is much more restrained than generally understood by popular discourse. Threat inflation is ripe in cyber security, and the real use of cyber tools seems to be to enhance the power of strong states.

The data that Valeriano and Maness (2014, 2015) have built challenges the cyber revolution perspective and does so with the tools of social science, and is a necessary turn given the general tone of the debate. We first determine that a viable data collection method in light of limited resources was to focus on states that are committed interstate rivals (Diehl & Goertz, 2001). This allows us to focus on those actors with an intense history of recent hostilities that should be the most likely users of cyber technology on the battlefield (Maness & Valeriano, 2018).

In our research (Maness & Valeriano, 2016; Maness, Valeriano, & Jensen, 2017; Valeriano & Maness, 2014, 2015), we have been able to marshal a massive amount of evidence that is useful in dissecting the actual trends on the cyber battlefield in a geopolitical context. We demonstrate that while cyber-attacks are increasing in frequency, they are limited in severity, are directly connected to traditional territorial disagreements, and mostly take the shape of espionage and low-level disruptive campaigns rather than outright warfare.

Given this data-based perspective, we question the dynamics of the cyber security debate and offer a countering theory where states are restrained from using more malicious cyber actions due to the limited nature of the weapons, the possibly of blowback, the connection between the digital world and civilian infrastructure, and the reality that any cyber weapon launched can be replicated and used right back against the attacker. Given all of these perspectives gleamed from the data, we must moderate our views about the transformation that is offered by cyber strategists who stress a more revolutionist tone (Lango, 2016).

Social science clearly matters for contemporary technological policy debates. Absent rigorous methods, much of what is in the field is basically guesswork. Our work really owes an intellectual debt to J. David Singer, who started the effort to quantify war at the University of Michigan with the Correlates of War (COW) project (Small & Singer, 1982). Our project builds on this methodology and uses many of the same coding strategies. We recognize that data is a work in progress and seek to build more and more knowledge through subsequent updates. By gathering the full picture, we can gain the perspective that really matters in these emerging policy debates regarding the cyber battlefield.

### 1NC---AT: Resources

#### No resource shortages and doesn’t cause extinction

**Lynch 16** [Michael, President of Strategic Energy and Economic Consulting, Director of Asian Energy and Security at the Center for International Studies at MIT, and a Lecturer at Tufts and Vienna University, *The “peak oil” scare and the coming oil flood*, p. 63-74]

More recently, there has been a clamor about "peak everything" based on the idea that, well, everything is finite and we 're using it up, so it is "running out." Or at least, production must peak. Or, as one physicist [END OF PAGE 63] points out, eventually human energy production will generate as much heat as the sun does-eventually being 1400 years.¶ Flat Earth ¶ Colin Campbell, in the famed (well, famous in the IEA's offices) debate at the IEA in 1997, compared resource optimists to the conservative Spanish court that opposed the visionary, Columbus, and has since referred to those, like Adelman and me, who disagreed with him as "flat-earth economists." Albert Bartlett later explained that the term actually meant that economists thought the earth had two dimensions and thus was infinite, containing equivalently infinite resources.¶ But this description ignores two important variables: capital and knowledge. Additional investment can often increase the production of renewables like agricultural products and nonrenewables like minerals and oil in the same amount of space, as can better technology. Neo-Malthusians tend to ignore this factor and argue that the rate of technological advance (and greater scientific knowledge) has diminished or disappeared, as described in Chapter 7.¶ The argument is somewhat specious and relies in part the question of the finiteness of resources, discussed earlier-or a static measure of resources and dynamic view of consumption, as in The Limits to Growth. ¶ HOW LONG?¶ Perhaps the most important factor that raises skepticism is the fact that at least some exponential alarmists fear the distant future. Any number of pundits have looked at long-term forecasts of economic and/or technological development and characterized them as foolish. We have no flying cars, nuclear power is not too cheap to meter, and no one is eating Soylent Green. On the other hand, most of these were not serious forecasting efforts, but rather off-the-cuff remarks (or the equivalent), and those making them were not particularly serious about achieving them within a specific time frame. And we do eat Soylent Green already; only we call it tofu and vegemite. (Read the book, it wasn't people.)¶ NEWTON'S FIRST LAW¶ The biggest mistakes have come from an apparent source: extrapolation of a trend endlessly, as if there were no feedback or other variables [END PAGE 64] involved. Jay Forrester, the inventor of Systems Dynamics, which was used in The Limits to Growth model (and which I have used), reportedly once said that feedback effects tend to overwhelm the initial stimuli, which is probably true in many cases. Yet, many neo-Malthusians and especially peak oil advocates tend to extrapolate a given trend endlessly, assuming no feedback effect whatsoever.¶ Indeed, the first wave of peak oil advocates explicitly argued that no feedback effect would occur: prices didn't affect production or consumption levels. Technological advances were either unimportant or had ceased and so could not increase the resource base.¶ An important element of the fear of exponential growth is the analysts' choice of particularly high growth rates. As Figure 4.1 showed, Ehrlich chose the highest observed growth in the 20th century for his calculations, even though it represented the post-World War II baby boom and should have been considered an exception, not the norm. Similarly, Bartlett, writing in 1998, talks about the growth in oil demand from the 1950s and 1960s at 7 [percent] a year, which causes a doubling of use every decade, 25 which sounds alarming, given the arguments about the difficulty of making a speedy energy transition, until you realize that consumption growth dropped to 3% per year in the 1970s (a doubling time of 24 years), and under 1 [percent] per year in the 1980s (a doubling period of 75 years), before recovering to 1.5% in the seven years before his talk (48 years).¶ This emphasizes the lack of feedback mechanism used in these simplistic models and how important they are in the real world.¶ REAL SCARCITY¶ Indeed, the subtext of the fear of resource scarcity is that renewable resources have repeatedly been the source of problems. In Tainter's The Collapse of Complex Societies, he talks about resources as causing the fall of a number of (mostly) ancient civilizations; nearly all suffered from problems like lengthy droughts and salt buildup in irrigated farmland. 26¶ And similar problems continue today, especially if you consider endangered species, from rhinos to tuna. In all cases, these are renewable resources, the very ones that are NOT finite, that are sustainable, that we can rely on for all eternity-in theory. No lasting shortage of nonrenewable resources minerals and energy-has occurred since the advent of the global economy.

#### No resource wars

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

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

# 2NC

## T---Subsets

## Adv

### 2NC---Heg---OV

#### Comparatively outweighs the benefits of hegemony

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

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

#### Extinction

Klare 18 – Professor of peace and world security studies at Hampshire College. (Michael T., “The Pentagon Is Planning a Three-Front ‘Long War’ Against China and Russia,” April 4, 2018, <https://fpif.org/the-pentagon-is-planning-a-three-front-long-war-against-china-and-russia/>)//sy

In relatively swift fashion, American military leaders have followed up their claim that the U.S. is in a new long war by sketching the outlines of a containment line that would stretch from the Korean Peninsula around Asia across the Middle East into parts of the former Soviet Union in Eastern Europe and finally to the Scandinavian countries. Under their plan, American military forces — reinforced by the armies of trusted allies — should garrison every segment of this line, a grandiose scheme to block hypothetical advances of Chinese and Russian influence that, in its global reach, should stagger the imagination. Much of future history could be shaped by such an outsized effort. Questions for the future include whether this is either a sound strategic policy or truly sustainable. Attempting to contain China and Russia in such a manner will undoubtedly provoke countermoves, some undoubtedly difficult to resist, including cyber attacks and various kinds of economic warfare. And if you imagined that a war on terror across huge swaths of the planet represented a significant global overreach for a single power, just wait. Maintaining large and heavily-equipped forces on three extended fronts will also prove exceedingly costly and will certainly conflict with domestic spending priorities and possibly provoke a divisive debate over the reinstatement of the draft. However, the real question — unasked in Washington at the moment — is: Why pursue such a policy in the first place? Are there not other ways to manage the rise of China and Russia’s provocative behavior? What appears particularly worrisome about this three-front strategy is its immense capacity for confrontation, miscalculation, escalation, and finally actual war rather than simply grandiose war planning. At multiple points along this globe-spanning line — the Baltic Sea, the Black Sea, Syria, the South China Sea, and the East China Sea, to name just a few — forces from the U.S. and China or Russia are already in significant contact, often jostling for position in a potentially hostile manner. At any moment, one of these encounters could provoke a firefight leading to unintended escalation and, in the end, possibly all-out combat. From there, almost anything could happen, even the use of nuclear weapons. Clearly, officials in Washington should be thinking hard before committing Americans to a strategy that will make this increasingly likely and could turn what is still long-war planning into an actual long war with deadly consequences.

#### Best data goes aff

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

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

### 2NC---Heg---AT: Cling

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

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

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

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

#### No transition wars

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

### 2NC---Heg---Secession

#### Recency doesn’t matter for the impact ev---electoral pressures are rising, its only a matter of time for numerous dominoes

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In Belgium, tensions between French-speaking Walloons and the Flemish (Dutch) population have been on the rise in recent years and there is a simmering sense among many in Flanders that they should be independent. Belgium would not simply split in half: it is likely that the map of Europe would have to be redrawn, with Wallonia perhaps attaching itself (de jure or de facto) to Paris and other splinters attaching to Luxembourg. In any event, Belgium as a country would be done and none of these tiny countries would make a major contribution to NATO or European unity.

More likely is Catalan independence, the effort to break up the country of Spain. Spain’s Catalans feel that they carry a disproportionate economic load as their wealth is redistributed around the country. They have an independent history, language, and spirit, and a Catalan “revolt” could re-inspire the vision of a separate Basque state, resulting in the demise of Spain as we know it today.

To the surprise of many, the old Republic of Venice seems to have resurrected itself in 2014. Earlier this year, 89 percent of voters in Venice approved a ballot calling for Venetian independence. Of course, it is unclear what will happen in the future, but united Italy is less than a century and a half old and thus one can imagine parts of it—like Venice—going their own way.

Among the largest NATO countries, one other has a history of secessionist movements: Canada. Although it seems as if the razor-thin Quebecois defeats in the past 20 years have settled the question of French-Canadian independence, nonetheless an independent Scotland could have quickly reignited old flames. In 1995 the secessionists lost 50.6 percent to 49.4 percent. It would not take much for that movement to grow beyond its usual 40 percent popularity in Quebec and significantly limit the strength of one of America’s most valuable allies.

Washington and Berlin should be watching all of this very, very carefully. Independence and secessionist movements of various kinds are en vogue worldwide: Kosovo, South Sudan, Somaliland, eastern Ukraine, and Central Asia…

If major European powers, like the U.K. and Spain, fall prey to secessionary movements, it means an even greater load for the U.S. as the world’s lone responsible superpower. In the NATO alliance few countries even pretend to maintain their financial commitments to arm and train their national militaries. The alliance is already a bit threadbare, but secessions would put the U.S. into an even more difficult position.

### 2NC---Heg---AT: Revisionism

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

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

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

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

#### China is a purely defensive nuclear power. Security desires drove acquisition, force posture continues to be defensive, arsenals lack fundamental warfighting aspects, and there’s no history of nuclear extortion.

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How should one understand China’s no-first-use nuclear policy? In its very first official statement on the no-first-use nuclear policy, the Chinese government purposefully chose powerful expressions, such as “at any time” and “under any circumstances,” to stress that this pledge is absolute, unconditional, and crystal clear. This fact has four implications. First, the unconditional no-first-use policy means that in China’s security calculation, nuclear weapons play only one role: to deter other states from attacking China with nuclear weapons. Simply put, if you do not use or threaten to use nuclear weapons against China, then China’s nuclear arsenal is no threat to you. If you choose to launch nuclear attacks on China, you must anticipate nuclear retaliation, most likely in the form of counterattacks on several large cities that would demonstrate the “unbearable and disastrous consequences” that accompany the use of nuclear weapons. Following this logic, China hopes to achieve its objective of deterring any state from resorting to the nuclear option against China. In short, China’s no-first-use commitment reflects the purely defensive nature of its nuclear policy. In this respect, China’s strategy that is aimed at deterring a nuclear attack differs fundamentally from the deterrence strategy pursued by the Western nuclear community. It aims strictly to prevent a nuclear war, whereas the deterrence strategy long maintained by other nuclear powers, particularly the United States and the USSR (now Russia), is based on preparing to win a nuclear war and is offensive in nature. This offensive strategy caused the US and the USSR to enter into a near-crazy nuclear arms race, escalating to a total of more than 70,000 warheads at the peak of the Cold War, far beyond any rational defensive needs. The US nuclear strategy has another striking feature: it is also applicable to non- nuclear-weapon states. Particularly with respect to those states considered unfriendly or disobedient, the US presents its nuclear weapons as a principal means of military threat and political blackmail, using its nuclear strategy as a powerful pillar to dominate the world. Intent on disassociating itself from Western deterrence theory, the Chinese government has little interest in going along with those Western defense analysts (as well as some nuclear theorists in China itself) who try to observe China’s nuclear strategy through the lens of the Western deterrence concept and who describe China’s nuclear doctrine with such labels as “limited deterrence” or “minimum deterrence” (Xu 1987, 366–369; Chen 1989, 214; Yang 1990, 407–411).3 China believes that these are specious interpretations that blur the clearly self-defensive nature of its nuclear strategy. Second, its unconditional no-first-use policy implies that China has no need to engage in an arms race with other nuclear weapon states. No doubt, China must maintain a survivable nuclear force that can withstand the first wave of nuclear attacks with sufficient counterattack capability. However, China believes it is much more practical and sensible to keep its nuclear weapon development at that level than to pursue a strategy like that of the US and the USSR (Russia), which led inevitably to a nuclear arms race during the Cold War. Throughout those decades of rivalry, the two nuclear superpowers had to stand ready to strike first, thereby plunging themselves into a paranoid mindset. They never knew how much nuclear strike capability was sufficient, and they constantly worried about being overtaken by the other country. Each side, never sure when the other might launch the first bomb, remained constantly at the highest possible “launch on warning” alert; each exaggerating the other’s nuclear capabilities and proceeding with its own nuclear armament and readiness planning based on the worst-case scenario. From China’s perspective, a strategy containing these elements is the root cause of the escalating risk of a nuclear war. China has never been bothered by such over-anxiety or over-action in its nuclear thinking. China believes that to prevent a nuclear war from happening, it is sufficient to target just a few big cities for retaliation; thus it is not necessary to build a huge arsenal or develop massive offensive capabilities. Since acquiring its own nuclear capability in 1964, China has conducted the least number of nuclear tests among the five Nuclear Nonproliferation Treaty (NPT) nuclear weapon states, and it has maintained only a minimum number of warheads throughout that time. Also notably, China sees no need to develop non-strategic nuclear weapons, such as tactical nuclear weapons, which in China’s view are primarily for use on the battlefield; to develop so-called precision- strike nuclear war-fighting capabilities; or to deploy nuclear weapons on the soil of other countries. Furthermore, China considers it unnecessary to keep its nuclear forces at the launch-on-warning alert level, because it is prepared only to mount counter- attacks if attacked. Before any counterattack takes place, China must first determine whether the attack against China is of a nuclear nature and who the attacker is. Such investigation and verification will be time-consuming. In fact, China generally keeps its warheads away from intercontinental ballistic missile (ICBM) launchers, installing them only when launching becomes necessary. This approach not only improves the survivability of its nuclear force but also, more importantly, tells the world that China’s nuclear posture is never offensive. All these are logical effects of the no-first-use policy, which indeed determines China’s nuclear posture, including the mission, size, and structure of its nuclear weapons, as well as the doctrine governing them. For this reason, the common depiction of China’s no-first-use policy as unverifiable rhetoric is demonstrably groundless. Currently, along with its technological and political development, China, like other nuclear weapon states, is also modernizing its array of nuclear armaments, particularly by enhancing the surety, reliability, and effectiveness of its ballistic missiles. This includes, among others, building a nuclear triangle focusing on land- launching ICBMs complemented by bombers and submarines. China is also strengthening its capacity for rapid reaction, effective penetration, conventional precision strikes, damage infliction, and its own protection and survivability. All these actions are geared toward effectively handling future war threats and emergencies. And all these steps, as pointed out by China’s Defense White Paper, have been taken in line with the country’s pledge never to be the first to resort to nuclear weapons (Information Office of the State Council (China) 2013, 12). In short, the no-first-use policy keeps China out of an arms race with other states, and this healthy mindset allows China to proceed with its nuclear modernization programs at a more measured and unruffled pace, in conformity with its national defense needs and within the limits of its overall national strength.

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

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

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

### --2NC---AT: Russia

#### Russia lacks the will and capacity for broad conquest---they’re defensively responding to threat perceptions

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The bottom line is that Russia is a conventional, somewhat conservative, power, whereas the Soviet Union was a messianic, totalitarian power. That’s a rather large and significant difference, and U.S. policy needs to reflect that realization.

An equally crucial difference is that the Soviet Union was a global power (and, for a time, arguably a superpower) with global ambitions and capabilities to match. It controlled an empire in Eastern Europe and cultivated allies and clients around the world, including in such far-flung places as Cuba, Vietnam, and Angola. The USSR also intensely contested the United States for influence in all of those areas. Conversely, Russia is merely a regional power with very limited extra-regional reach. The Kremlin’s ambitions are focused heavily on the near abroad, aimed at trying to block the eastward creep of the North Atlantic Treaty Organization (NATO) and the U.S.-led intrusion into Russia’s core security zone. The orientation seems far more defensive than offensive.

It would be difficult for Russia to execute anything more than a very geographically limited expansionist agenda, even if it has one. The Soviet Union was the world’s number two economic power, second only to the United States. Russia has an economy roughly the size of Canada’s and is no longer ranked even in the global top ten. It also has only three-quarters of the Soviet Union’s territory (much of which is nearly-empty Siberia) and barely half the population of the old USSR. If that were not enough, that population is shrinking and is afflicted with an assortment of public health problems (especially rampant alcoholism).

All of these factors should make it evident that Russia is not a credible rival, much less an existential threat, to the United States and its democratic system. Russia's power is a pale shadow of the Soviet Union's. The only undiminished source of clout is the country's sizeable nuclear arsenal. But while nuclear weapons are the ultimate deterrent, they are not very useful for power projection or warfighting, unless the political leadership wants to risk national suicide. And there is no evidence whatsoever that Putin and his oligarch backers are suicidal. Quite the contrary, they seem wedded to accumulating ever greater wealth and perks.

### 2NC---Heg---AT: China Bad

#### US is worse---their empirics are bunk

Damon Linker 18, senior correspondent at The Week, PhD in Political Science from Michigan State University, MA from NYU, 4-17-2018, "International law won't save us," The Week, <http://theweek.com/articles/767687/international-law-wont-save>

International law will not save us from stupidity or hubris in the conduct of American foreign policy. That much should be obvious to everyone 15 years after George W. Bush launched a war against Saddam Hussein's Iraq that was justified as an effort to enforce international law while being simultaneously denounced at home and abroad as such an egregious violation of international law that leading members of the Bush administration deserved to be hauled before The Hague as war criminals. But alas, it isn't obvious — or at least not as obvious as it should be. Just look at the reaction of leading members of Washington's foreign policy establishment to the decision of the Trump administration (along with the governments of Great Britain and France) to launch a punitive strike against Syria in retaliation for the government of Bashar al-Assad allegedly using chemical weapons against his own people in his country's interminable civil war. Many of the people cheering on this show of force have taken this tension or contradiction to a whole new level — somehow embracing both positions at once, maintaining that the American-led attack probably violated international law (whether under the 1997 Chemical Weapons Convention or the vaguer humanitarian imperative to protect the victims of violence and injustice) but was nevertheless welcome and perhaps even long overdue in order to uphold and enforce … international law. The instinct to appeal to an extra-political, universal legal standard to hem in the actions of states is very deeply embedded in the thinking of Western elites. As a recent, illuminating book explains, it has roots in early modern just-war theory, picked up momentum in the years following World War I, when several writers, thinkers, and political actors attempted to pass laws that would effectively outlaw war at the international level, and then gained decisive traction after World War II, with the creation of the norms and institutions of the liberal international order. Today the legitimacy and wisdom of the attempt to devise and enforce a body of international law is taken for granted across the West by almost everyone on the center left and center right. Yet this project is also riddled with conceptual confusions that render it far less salutary than is commonly recognized and could well doom it to eventual irrelevancy. Those who would like to forestall that fate would be well advised to take note of these defects so they can respond with eyes wide open. Although international law was first devised to bind the actions of states on the world stage and make them less likely to start wars, in reality international law is often invoked as a justification for launching military attacks. Hence the arguments in favor of bombing Assad's forces in Syria in order to enforce international laws against the use of chemical weapons and in favor of protecting civilians in the name of humanitarianism. That's because international law is modeled on the only kind of laws with which human beings are familiar: the laws that abide within particular states. And those laws obviously work in both ways as well. They do not simply outlaw certain actions on the part of individuals and groups. They also punish those who transgress the law, uphold certain ideals of justice, and seek to realize the common good of the political community, including the maintenance of order. Under certain circumstances, all three can require the use of force by the government. Similarly, international law doesn't just outlaw certain kinds of wars. It also establishes conditions under which war is authorized and required. And that's where the trouble starts. The citizens of a particular political community frequently disagree with each other about the nature of justice and what it demands in particular circumstances. That disagreement helps to set politics in motion, as different factions seek political rule, including the power of settling the question of justice (at least for the time being — until another faction takes power). Liberal democratic government is an elaborate institutional mechanism for regularizing to this clamor for power on the part of competing factions. If international law is going to authorize and require war to enforce the law, including the meting out of punishment to states that wage the wrong kind of wars or wage them in the wrong ways, then the question immediately arises of who is writing the laws and making the decisions in particular cases — and whether both are being done justly. Those are political issues. To get a sense of how quickly they can become intractable in an international context, consider a tweet by foreign policy analyst Emma Ashford that posed a series of pointed questions shortly after the bombing of Syria commenced: "Why Syria, not Yemen? Why Libya, not Myanmar? Why chemical weapons, not barrel bombs?" The answer, of course, is that international law is primarily written and enforced by Western powers, and Western powers (like all state actors) have distinctive interests that shape their priorities in international affairs. But then the enforcement of international law isn't truly international at all. It's an expression of the outlook of one part — the most powerful part — of the global community of nations. This sets up the conditions for justified accusations of double standards, as critics of Western, and especially American, foreign policy accuse the West of turning a blind eye to Israel's violations of international law, or ignoring the criminal acts of senior members of the Bush administration, or engaging in hero worship of the mass murderer Winston Churchill. This implies that the problem could be solved by enforcing international law more consistently and fairly. But the problem runs deeper than that. Liberal politics has stringent standards for establishing the legitimacy for law: The governed must give their consent, public opinion must be consulted through the medium of elections for representative offices, and the people must also be given a say in who gets to serve as judge, jury, and executioner of violations of justice. But of course the international system doesn't work like this at all. As the world's most powerful nation and primary founder of the international system itself, the U.S. has assigned itself the role of authoring the laws and enforcing them as it sees fit, with a little help from a few relatively powerful friends. And that brings us to a final, potentially fatal paradox in the international system. Even when the United States and its allies act to enforce international law — as NATO did in Libya in 2011 — the results are often disappointing and sometimes outright horrifying, with people formerly living under an abusive despot faced with the prospect of life in a Hobbesian civil war, defending themselves any way they can in the ruins of a crumbling state. This isn't what the U.S. aimed to achieve in Libya, or Iraq, or Afghanistan. But it's what we've bequeathed to each of them — because breaking a nation is far easier than building one. The idea of international law only makes sense in the context of a single political community of worldwide extent. Yet if the international order as it currently exists were a single political community, it would be a failed state led by a powerful, well-meaning, but extremely capricious and often clueless tyrant who governs without consent, metes out punishment inconsistently, and loves to make sweeping moral pronouncements that raise expectations for justice while failing to secure it for most of those living under its rule. "International law" sounds good. But that doesn't mean it makes sense.

#### China is not using soft power to export authoritarianism

Suzuki 09, Politics Prof at U of Manchester (Shogo, Chinese Soft Power, Insecurity Studies, Myopia and Fantasy, www.tandfonline.com/doi/full/10.1080/01436590902867300?scroll=top&needAccess=true)

It is debatable whether China is propagating its soft power to undermine Western preponderance. While it is true that some Chinese commentators do argue that China's model of development is part of its soft power, does it necessarily follow that the PRC's soft power strengthens autocratic regimes? Beijing is in fact criticised for not caring about the nature of the regime it deals with: it gives out aid with no strings attached, and does not promote ‘good governance’ based on Western liberal democratic models. If it does not attach many ‘strings’ to its relations with other states (with the exception of the ‘one China’ principle), there is no a priori reason to assume that Beijing is going to start ‘selling’ the ‘Beijing model’ of development.

#### Only multipolary can foster global cooperation

**Pouliot 11** — Professor of Political Science at McGill University (Vincent Pouliot, “Multilateralism as an End in Itself,” International Studies Perspectives (2011) 12, 18–26)//NG

Because it rests on open, nondiscriminatory debate, and the routine exchange of viewpoints, the multilateral procedure introduces three key advantages that are gained, regardless of the specific policies adopted, and tend to diffuse across all participants. Contrary to the standard viewpoint, according to which a rational preference or functional imperative lead to multilateral cooperation, here it is the systematic practice of multilateralism that creates the **drive to cooperate**. At the theoretical level, the premise is that it is not only what people think that explains what they do, but also what they do that determines what they think (Pouliot 2010). Everyday multilateralism is a self-fulfilling practice for at least three reasons. First, the joint practice of multilateralism creates mutually recognizable [and] patterns of action among global actors. This process owes to the fact that practices structure social interaction (Adler and Pouliot forthcoming).2 Because they are meaningful, organized, and repeated, practices generally convey a degree of mutual intelligibility that allows people to develop social relations over time. In the field of international security, for example, the practice of deterrence is premised on a limited number of gestures, signals, and linguistic devices that are meant, as Schelling (1966:113) put it, to ‘‘getting the right signal across.’’ The same goes with the practice of multilateralism, which rests on a set of political and social patterns that establish the boundaries of action in a mutually intelligible fashion. These structuring effects, in turn, allow for the development of **common frameworks** for appraising global events. Multilateral dialog serves not only to find joint solutions; it also makes it possible for various actors to zoom in on the definition of the issue at hand—a particularly important step on the global stage. The point is certainly not that the multilateral procedure leads everybody to agree on everything—that would be as impossible as counterproductive. Theoretically speaking, there is room for skepticism that multilateralism may ever allow communicative rationality at the global level (see Risse 2000; Diez and Steans 2005). With such a diverse and uneven playing field, one can doubt that discursive engagement, in and of itself, can lead to common lifeworlds. Instead, what the practice of multilateralism fosters is the emergence of a shared framework of interaction—for example, a common linguistic repertoire—that allows global actors to make sense of world politics in mutually recognizable ways. Of course, they may not agree on the specific actions to be taken, but at least they can build on an established pattern of political interaction to deal with the problem at hand—sometimes even before it emerges in acute form. In today’s pluralistic world, that would already be a considerable achievement. In that sense, multilateralism may well be a constitutive practice of what Lu (2009) calls ‘‘political friendship among peoples.’’ The axiomatic practice of principled and inclusive dialog is quite apparent in the way she describes this social structure: ‘‘While conflicts, especially over the distribution of goods and burdens, will inevitably arise, under conditions of political friendship among peoples, they will be negotiated within a global background context of norms and institutions based on mutual recognition, equity in the distribution of burdens and benefits of global **cooperation, and power-sharing** in the institutions of global governance rather than domination by any group’’ (2009:54–55). In a world where multilateralism becomes an end in itself, this ideal pattern emerges out of the structuring effects of axiomatic practice: take the case of NATO, for instance, which has recently had to manage, through the multilateral practice, fairly strong internal dissent (Pouliot 2006). While clashing views and interests will never go away in our particularly diverse world, as pessimists are quick to emphasize (for example, Dahl 1999), the management of discord is certainly made easier by shared patterns of dialog based on mutually recognizable frameworks. Second, the multilateral procedure typically ensures a remarkable level of **moderation** in the global policies adopted. In fact, a quick historical tour d’horizon suggests that actors engaged in multilateralism tend to **avoid radical solutions** in their joint decision making. Of course, the very process of uniting disparate voices helps explain why multilateralism tends to produce median consensus. This is not to say that the multilateral practice inevitably leads to lowest common denominators. To repeat, because it entails complex and often painstaking debate before any actions are taken, the multilateral procedure forces involved actors to devise and potentially share **similar analytical lenses** that, in hindsight, make the policies adopted seem inherently, and seemingly ‘‘naturally,’’ moderate. This is because the debate about what a given policy means takes place before its implementation, which makes for a much smoother ride when decisions hit the ground. This joint interpretive work, which constitutes a crucial aspect of multilateralism, creates outcomes that are generally perceived as inherently reasonable. Participation brings inherent benefits to politics, as Bachrach (1975) argued in the context of democratic theory. Going after the conventional liberal view according to which actors enter politics with an already fixed set of preferences, Bachrach observes that most of the time people define their interests in the very process of participation. The argument is not that interests formed in the course of social interaction are in any sense more altruistic. It rather is that the nature and process of political practices, in this case multilateralism, matter a great deal in shaping participants’ preferences (Wendt 1999). In this sense, not only does the multilateral practice have structuring effects on global governance, but it is also constitutive of what actors say, want, and do (Adler and Pouliot forthcoming). Third and related, multilateralism lends **legitimacy** to the policies that it generates by virtue of the debate that the process necessarily entails. There is no need here to explain at length how deliberative processes that are inclusive of all stakeholders tend to produce outcomes that are generally considered more socially and politically acceptable. In the long run, the large ownership also leads to more **efficient implementation**, because actors feel **invested** in the enactment of solutions on the ground. Even episodes of political failure, such as the lack of UN reaction to the Rwandan genocide, can generate useful lessons when re-appropriated multilaterally—think of the Responsibility to Protect, for instance.3 From this outlook, there is no contradiction between efficiency and the axiomatic practice of multilateralism, quite the contrary. The more multilateralism becomes the normal or self-evident practice of global governance, the more benefits it yields for the many stakeholders of global governance. In fact, multilateralism as an end in and of itself could generate even more diffuse reciprocity than Ruggie had originally envisioned. Not only do its distributional consequences tend to even out, multilateralism as a global governance routine also creates **self-reinforcing dynamics** and new focal points for strategic interaction. The axiomatic practice of multilateralism helps define problems in commensurable ways and craft moderate solutions with wide-ranging ownership—three processual benefits that further strengthen the impetus for multilateral dialog. Pg. 21-23

### 2NC---Heg---AT: Deterrence

#### Reasons deterrence empirically worked are no longer true---emerging technology INCREASES the necessity for power parity and makes leadership uniquely destabilizing

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

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

### 2NC---AI---OV

#### Slew of intrinsic faults make miscalculated escalation significantly more likely

Davis March 19 [Zachary Davis is a senior fellow at the Center for Global Security Research at Lawrence Livermore National Laboratory and a research professor at the Naval Postgraduate School in Monterey, California, where he teaches courses on counterproliferation. He has broad experience in intelligence and national-security policy and has held senior positions in the executive and legislative branches of the U.S. government. His regional focus is South Asia. Davis began his career with the Congressional Research Service at the Library of Congress and has served the State Department, Congressional committees, and the National Security Council. Davis was the group leader for proliferation networks in LLNL’s Z Program and, in 2007, senior advisor at the National Counterproliferation Center, in the office of the Director of National Intelligence. He has written many government studies and reports on technical and regional-proliferation issues and currently leads a project on the national-security implications of advanced technologies, focusing on special operations forces. ARTIFICIAL INTELLIGENCE ON THE BATTLEFIELD. March 2019. https://cgsr.llnl.gov/content/assets/docs/CGSR-AI\_BattlefieldWEB.pdf]

These are not primarily technical issues. Al is enhancing the performance of many tactical and strategic systems, but not giving definitive unilateral advantages to anyone. The nature of warfare is changing; Al is fueling many of those changes, but the fundamental calculus of deterrence remains sturdy. Competition for military capabilities that preserves a balance of power can be stabilizing.

Fourth, uncertainties about Al may bring unintended consequences for deterrence and stability. Predicting the future of technology is a risky business. We know with certainty that Al is being incorporated into a wide array of military missions with the intent of improving our knowledge of the operational environment, adversary capabilities, and the speed and precision of offensive and defensive weapons. We can usefully speculate how these developments are poised to change the face of modern warfare and how those changes might affect regional and strategic deterrence stability, based on our understanding of political and military realities. More elusive, however, is a clear picture of how Al might converge with other technologies to produce unexpected outcomes, or “unknown unknowns.” Nevertheless, below are a few possibilities that could have major strategic consequences and alter the underlying realities on which regional and strategic stability are founded.

• Distorted data could lead Al systems to take unintended actions, such as incorrectly identifying and striking targets. As discussed above, data can be polluted intentionally via counter-AI methods, or occur naturally for many reasons. Unintended actions could hasten escalation and interfere with conflict management.

• Compounding the problems of distorted data, Al makes mistakes with a frequency that is untenable for decisions affecting strategic stability. Misinterpretations of data could lead to unintended actions that spark catastrophic reactions, including escalation and retaliation.

• The convergence of Al and cyber presents several possibilities for unintended consequences and strategic surprise. Al-informed cyberattacks on NC3 could present the target of such an attack with a “use it or lose it" situation, prompting early resort to nuclear weapons.

• Al supported cyber/information warfare, including fake news and deep fakes, could distort public and leadership perceptions of international events, inflaming passions and prompting escalation.

• The accelerated battle rhythm made possible by multidomain ISR could preclude diplomatic efforts to avoid or de-escalate conflict. Even if Al works perfectly to increase the speed and lethality of warfare, moving at the speed of Al might not be optimal in all cases.

• Unpredictable Al interactions with foreign and friendly platforms could produce unwanted Al calculations that misrepresent human intentions. The black box underlying Al decisions is not well understood and could produce destabilizing results, such as striking wrong targets.

• Unexpected convergences with other technologies, such as quantum computing and electromagnetic pulse, could confuse/distort offensive or defensive instructions and lead to undesirable results, such as striking wrong targets.

• If it were eventually possible through a variety of Al-supported information gathering methods, emerging technologies, and analytic tools to track strategic assets such as submarines, the sanctity of assured retaliation could come into question. Such a strategic surprise could prompt a variety of destabilizing actions, including possible movement toward launch on warning postures.

#### First strike deterrence fails and causes crisis escalation---second strike deterrence solves better

David P. Barash 18. Professor emeritus at the University of Washington. 01-14-18. “Nuclear deterrence is a myth. And a lethal one at that.” The Guardian. https://www.theguardian.com/world/2018/jan/14/nuclear-deterrence-myth-lethal-david-barash

First, deterrence via nuclear weapons lacks credibility. A police officer armed with a backpack nuclear weapon would be unlikely to deter a robber: ‘Stop in the name of the law, or I’ll blow us all up!’ Similarly, during the Cold War, NATO generals lamented that towns in West Germany were less than two kilotons apart – which meant that defending Europe with nuclear weapons would destroy it, and so the claim that the Red Army would be deterred by nuclear means was literally incredible. The result was the elaboration of smaller, more accurate tactical weapons that would be more usable and, thus, whose employment in a crisis would be more credible. But deployed weapons that are more usable, and thus more credible as deterrents, are more liable to be used. Second, deterrence requires that each side’s arsenal remains invulnerable to attack, or at least that such an attack would be prevented insofar as a potential victim retained a ‘second-strike’ retaliatory capability, sufficient to prevent such an attack in the first place. Over time, however, nuclear missiles have become increasingly accurate, raising concerns about the vulnerability of these weapons to a ‘counterforce’ strike. In brief, nuclear states are increasingly able to target their adversary’s nuclear weapons for destruction. In the perverse argot of deterrence theory, this is called counterforce vulnerability, with ‘vulnerability’ referring to the target’s nuclear weapons, not its population. The clearest outcome of increasingly accurate nuclear weapons and the ‘counterforce vulnerability’ component of deterrence theory is to increase the likelihood of a first strike, while also increasing the danger that a potential victim, fearing such an event, might be tempted to pre-empt with its own first strike. The resulting situation – in which each side perceives a possible advantage in striking first – is dangerously unstable. Third, deterrence theory assumes optimal rationality on the part of decision-makers. It presumes that those with their fingers on the nuclear triggers are rational actors who will also remain calm and cognitively unimpaired under extremely stressful conditions. It also presumes that leaders will always retain control over their forces and that, moreover, they will always retain control over their emotions as well, making decisions based solely on a cool calculation of strategic costs and benefits. Deterrence theory maintains, in short, that each side will scare the pants off the other with the prospect of the most hideous, unimaginable consequences, and will then conduct itself with the utmost deliberate and precise rationality. Virtually everything known about human psychology suggests that this is absurd.

#### Externally, causes rapid Russian first strikes goes nuclear

**Pezard** and Rhoades **20** [Stephanie Pezard is a senior political scientist at the RAND Corporation, Ashley Rhoades is a defense analyst at the RAND Corporation and serves as the special projects coordinator for RAND's Center for Middle East Public Policy (CMEPP), “What Provokes Putin's Russia? Deterring Without Unintended Escalation”, <https://www.rand.org/pubs/perspectives/PE338.html>]

In this context, any changes or perceived changes in U.S. and NATO nuclear forces—such as the recent placement of missile defense systems in Eastern Europe and discussion of increasing nuclear force posture—serve to further jeopardize strategic stability with Russia.88 Putin has expressed a great deal of concern about U.S. nuclear force developments, which he sees as being targeted at Russia despite U.S. assertions that the focus of its nuclear deterrence is on threats from Iran and North Korea.89 Thus far, nuclear deterrence has largely rested on the strategic stability enabled by the relative parity between U.S. and Russian nuclear forces. Any shifts in this balance, coupled with the Russian belief that the United States intends to launch a nuclear attack, may spark Russian fears that it will lose its second-strike capability, increasing its incentive to strike first.90 In a classic security dilemma scenario, U.S. and NATO attempts to strengthen their defensive capabilities, particularly in the nuclear realm, may inadvertently appear to be offensive—and therefore threatening— behavior and trigger the outbreak of conventional or even nuclear war.91 Given Russia’s expressed willingness to use nuclear weapons and Putin’s tendency to interpret any U.S. nuclear force developments as offensive, the United States should be careful to avoid inadvertently provoking a nuclear response from Russia while attempting to deter this exact behavior. Risks of Russian nuclear escalation might also be prompted by major changes in the balance of conventional forces. From this perspective, the ultimate risk associated with enhancing any form of U.S. or NATO military capabilities is that Russia may feel that it has to respond with a nuclear attack if it is unable to match U.S. and NATO combined conventional military strength. Therefore, enhancing and expanding capabilities, even if they are defensive in nature, may create such a strong perception of threat for Russia that it could prompt a preemptive nuclear attack.92

#### Strategic stability solves escalation

Colby and Denmark 13 (Elbridge A. Colby, Robert M. Gates Senior Fellow at the Center for a New American Security, and Abraham M. Denmark, United States Deputy Assistant Secretary of Defense for East Asia, March 2013, “Nuclear Weapons and U.S.-China Relations: A Way Forward”, https://csis-prod.s3.amazonaws.com/s3fs-public/legacy\_files/files/publication/130307\_Colby\_USChinaNuclear\_Web.pdf)

To gain the benefits of strategic stability, the Working Group believes that nuclear relations between the United States and China should emphasize two complementary approaches: crisis stability and arms race stability. Crisis stability emphasizes the need to minimize pressure on either side to be the first to use nuclear weapons based on perceived advantage or vulnerability. It thus emphasizes the need for a strategic dynamic in which both sides see that launching their nuclear weapons first to avoid being disarmed or to try to disarm one’s opponent is unnecessary and unwise. Arms race stability focuses on the longer term and emphasizes controlling the dynamics of arms competition that can affect the strategic balance, and specifically calculations associated with first-strike stability. The Working Group believes these concepts can even be highly useful in relations between two countries that have asymmetric capabilities such as the United States and China. Such concepts do not demand that two nations have the same or similar numbers or types of forces. Rather, they are adaptable goals that can be fitted to the situation that exists between the United States and China. Based on this concept, stability can emerge between the United States and China if they each field forces that are capable of surviving a first strike and if they are able to credibly demonstrate to the other side that their current and future capabilities are unable to deny the other side a viable strategic deterrent. As a result, fear of preemption and the need to launch weapons early become irrelevant, either as irritants in crisis or as dangers in conflict. In this way, the benefits of deterrence can be retained while minimizing the chances of nuclear escalation. The premise of arms control and stability-oriented measures is that even potential adversaries can achieve the twin goals of both effective nuclear deterrence and mitigation of the possibility of conflict between them. This is because nuclear forces themselves can intensify, if not cause, competition and even conflict—but they need not. Nuclear deterrence is not simply a unilateral action that takes places in a vacuum; rather, it is a relationship shaped by perceptions. Indeed, the ways in which a country procures, postures, and operates its nuclear forces have a major interactive effect on how other countries procure, posture, and operate their forces. Potential adversaries can allay, and possibly even remove, these exacerbating factors through unilateral and cooperative measures that effectively demonstrate that each side’s strategic forces are not capable of conducting a disarming first strike. Such measures do not solve more fundamental political and strategic disputes, but they can help to lessen tensions and mistrust stemming from the essentially ancillary technical features of interstate relations. Both sides could derive value from cooperation on nuclear weapons grounded in the stability concept. The United States worries about the composition of China’s nuclear force, Chinese views on escalation and plans for nuclear use, and the future trajectory of China’s strategic posture. Meanwhile, China worries that the United States may be able or seek to be able to deny it a second-strike capability, and it worries about the scope and sophistication of future U.S. programs, as well as U.S. unwillingness to acknowledge a condition of mutual vulnerability between the two nations. A stability-grounded model could help address these anxieties—on the U.S. side by providing greater insight into China’s current and future force structure and deeper insight into China’s ways of thinking about nuclear strategy, and on the Chinese side by providing similar insight into U.S. developments and a greater degree of assurance about U.S. acknowledgment of the survivability of China’s force. Concurrently, such an approach would have the added benefit of building confidence on both sides. Finally, such a model could provide a satisfactory method through which China could see something approximating its current force size, posture, and doctrine as satisfactory and compatible with stability.

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#### Nuclear primacy fails---even limited nuclear war causes extinction

Starr, ’14 Steven Starr, the Senior Scientist for Physicians for Social Responsibility and Director of the Clinical Laboratory Science Program at the University of Missouri. Starr has published in the Bulletin of the Atomic Scientists and the Strategic Arms Reduction (STAR) website of the Moscow Institute of Physics and Technology, June 11th, 2014, “There Can be No Winners in a Nuclear War”, Truth Out, <https://truthout.org/articles/there-can-be-no-winners-in-a-nuclear-war/>, EO

Nuclear war has no winner. Beginning in 2006, several of the world’s leading climatologists (at Rutgers, UCLA, John Hopkins University, and the University of Colorado-Boulder) published a series of studies that evaluated the long-term environmental consequences of a nuclear war, including baseline scenarios fought with merely 1% of the explosive power in the US and/or Russian launch-ready nuclear arsenals. They concluded that the consequences of even a “small” nuclear war would include catastrophic disruptions of global climate and massive destruction of Earth’s protective ozone layer. These and more recent studies predict that global agriculture would be so negatively affected by such a war, a global famine would result, which would cause up to 2 billion people to starve to death. These peer-reviewed studies – which were analyzed by the best scientists in the world and found to be without error – also predict that a war fought with less than half of US or Russian strategic nuclear weapons would destroy the human race. In other words, a US-Russian nuclear war would create such extreme long-term damage to the global environment that it would leave the Earth uninhabitable for humans and most animal forms of life. A recent article in the Bulletin of the Atomic Scientists, “Self-assured destruction: The climate impacts of nuclear war,” begins by stating: “A nuclear war between Russia and the United States, even after the arsenal reductions planned under New START, could produce a nuclear winter. Hence, an attack by either side could be suicidal, resulting in self-assured destruction.” In 2009, I wrote “Catastrophic Climatic Consequences of Nuclear Conflicts” for the International Commission on Nuclear Non-proliferation and Disarmament. The article summarizes the findings of these studies. It explains that nuclear firestorms would produce millions of tons of smoke, which would rise above cloud level and form a global stratospheric smoke layer that would rapidly encircle the Earth. The smoke layer would remain for at least a decade, and it would act to destroy the protective ozone layer (vastly increasing the UV-B reaching Earth) as well as block warming sunlight, thus creating Ice Age weather conditions that would last 10 years or longer. Following a US-Russian nuclear war, temperatures in the central US and Eurasia would fall below freezing every day for one to three years; the intense cold would completely eliminate growing seasons for a decade or longer. No crops could be grown, leading to a famine that would kill most humans and large animal populations. Electromagnetic pulse from high-altitude nuclear detonations would destroy the integrated circuits in all modern electronic devices, including those in commercial nuclear power plants. Every nuclear reactor would almost instantly meltdown; every nuclear spent fuel pool (which contain many times more radioactivity than found in the reactors) would boil off, releasing vast amounts of long-lived radioactivity. The fallout would make most of the US and Europe uninhabitable. Of course, the survivors of the nuclear war would be starving to death anyway. Once nuclear weapons were introduced into a US-Russian conflict, there would be little chance that a nuclear holocaust could be avoided. Theories of “limited nuclear war” and “nuclear de-escalation” are unrealistic. In 2002 the Bush administration modified US strategic doctrine from a retaliatory role to permit preemptive nuclear attack; in 2010, the Obama administration made only incremental and miniscule changes to this doctrine, leaving it essentially unchanged. Furthermore, Counterforce doctrine – used by both the US and Russian military – emphasizes the need for preemptive strikes once nuclear war begins. Both sides would be under immense pressure to launch a preemptive nuclear first-strike once military hostilities had commenced, especially if nuclear weapons had already been used on the battlefield. Both the US and Russia each have 400 to 500 launch-ready ballistic missiles armed with a total of at least 1800 strategic nuclear warheads, which can be launched with only a few minutes warning. Both the US and Russian Presidents are accompanied 24/7 by military officers carrying a “nuclear briefcase,” which allows them to transmit the permission order to launch in a matter of seconds. Yet top political leaders and policymakers of both the US and Russia seem to be unaware that their launch-ready nuclear weapons represent a self-destruct mechanism for the human race. For example, in 2010, I was able to publicly question the chief negotiators of the New START treaty, Russian Ambassador Anatoly Antonov and (then) US Assistant Secretary of State Rose Gottemoeller, during their joint briefing at the UN (during the Non-Proliferation Treaty Review Conference). I asked them if they were familiar with the recent peer-reviewed studies that predicted the detonation of less than 1% of the explosive power contained in the operational and deployed US and Russian nuclear forces would cause catastrophic changes in the global climate, and that a nuclear war fought with their strategic nuclear weapons would kill most people on Earth. They both answered “no.” More recently, on April 20, 2014, I asked the same question and received the same answer from the US officials sent to brief representatives of the NGOS at the Non-Proliferation Treaty Preparatory Committee meeting at the UN. None of the US officials at the briefing were aware of the studies. Those present included top officials of the National Security Council. It is frightening that President Obama and his administration appear unaware that the world’s leading scientists have for years predicted that a nuclear war fought with the US and/or Russian strategic nuclear arsenal means the end of human history. Do they not know of the existential threat these arsenals pose to the human race . . . or do they choose to remain silent because this fact doesn’t fit into their official narratives? We hear only about terrorist threats that could destroy a city with an atomic bomb, while the threat of human extinction from nuclear war is never mentioned – even when the US and Russia are each running huge nuclear war games in preparation for a US-Russian war. Even more frightening is the fact that the neocons running US foreign policy believe that the US has “nuclear primacy” over Russia; that is, the US could successfully launch a nuclear sneak attack against Russian (and Chinese) nuclear forces and completely destroy them. This theory was articulated in 2006 in “The Rise of U.S. Nuclear Primacy,” which was published in Foreign Affairs by the Council on Foreign Relations. By concluding that the Russians and Chinese would be unable to retaliate, or if some small part of their forces remained, would not risk a second US attack by retaliating, the article invites nuclear war. Colonel Valery Yarynich (who was in charge of security of the Soviet/Russian nuclear command and control systems for 7 years) asked me to help him write a rebuttal, which was titled “Nuclear Primacy is a Fallacy.” Colonel Yarynich, who was on the Soviet General Staff and did war planning for the USSR, concluded that the “Primacy” article used faulty methodology and erroneous assumptions, thus invalidating its conclusions. My contribution lay in my knowledge of the recently published (in 2006) studies, which predicted even a “successful” nuclear first-strike, which destroyed 100% of the opposing side’s nuclear weapons, would cause the citizens of the side that “won” the nuclear war to perish from nuclear famine, just as would the rest of humanity.

### 2NC---AI---AT: Inevitable

#### The more effective our system, the more we’ll want to use it – that ends MAD and increases the risk of nuke war – that’s a link to any “make it better argument”

Davis March 19 [Zachary Davis is a senior fellow at the Center for Global Security Research at Lawrence Livermore National Laboratory and a research professor at the Naval Postgraduate School in Monterey, California, where he teaches courses on counterproliferation. He has broad experience in intelligence and national-security policy and has held senior positions in the executive and legislative branches of the U.S. government. His regional focus is South Asia. Davis began his career with the Congressional Research Service at the Library of Congress and has served the State Department, Congressional committees, and the National Security Council. Davis was the group leader for proliferation networks in LLNL’s Z Program and, in 2007, senior advisor at the National Counterproliferation Center, in the office of the Director of National Intelligence. He has written many government studies and reports on technical and regional-proliferation issues and currently leads a project on the national-security implications of advanced technologies, focusing on special operations forces. ARTIFICIAL INTELLIGENCE ON THE BATTLEFIELD. March 2019. https://cgsr.llnl.gov/content/assets/docs/CGSR-AI\_BattlefieldWEB.pdf] **\*\*\*ISR = Intelligence, surveillance, and Reconnaissance – in this context, it is used to describe finding an adversary’s nuclear weapons**

Al may be seen by others as eroding mutual strategic vulnerability, thereby increasing the risk of war. The combination of exquisite ISR with an effective defensive shield could make it tempting to conduct a disarming, decapitating, or blinding first strike at strategic targets, including nuclear command and control (NC3), early-warning radars, or dual-capable missiles and aircraft.37 Such a revision of deterrence logic might be highly destabilizing. Shared vulnerability and assured retaliation are central concepts of mutually-assured destruction (MAD) deterrence theory. Switching the theoretical incentive from MAD to improve the odds of successfully conducting a disarming first strike could change the risk calculus that has undergirded strategic stability for decades.38 Preventing such a revision of nuclear-deterrence logic was the essence of Vladimir Putin’s claim in March 2018 that his new weapons are “invincible against all existing and prospective missile defense and counter-air-defense systems."39 By evading perceived U.S. global strike and missile-defense capabilities, Putin’s claims about new Al-guided retaliatory forces were justified as efforts to preserve MAD.3.

#### The speed alone of AI-empowered counterforce causes nuke war---err on the side of slowing things down as much as possible

Davis March 19 [Zachary Davis is a senior fellow at the Center for Global Security Research at Lawrence Livermore National Laboratory and a research professor at the Naval Postgraduate School in Monterey, California, where he teaches courses on counterproliferation. He has broad experience in intelligence and national-security policy and has held senior positions in the executive and legislative branches of the U.S. government. His regional focus is South Asia. Davis began his career with the Congressional Research Service at the Library of Congress and has served the State Department, Congressional committees, and the National Security Council. Davis was the group leader for proliferation networks in LLNL’s Z Program and, in 2007, senior advisor at the National Counterproliferation Center, in the office of the Director of National Intelligence. He has written many government studies and reports on technical and regional-proliferation issues and currently leads a project on the national-security implications of advanced technologies, focusing on special operations forces. ARTIFICIAL INTELLIGENCE ON THE BATTLEFIELD. March 2019. https://cgsr.llnl.gov/content/assets/docs/CGSR-AI\_BattlefieldWEB.pdf] **\*\*\*ISR = Intelligence, surveillance, and Reconnaissance – in this context, it is used to describe finding an adversary’s nuclear weapons**

Speedy decision making and operational execution may serve the goals of effective crisis management poorly. On October 19, 1962, only three days into the Cuban Missile Crisis, General Curtis LeMay counselled President Kennedy, “I just don’t see any other solution except direct military action right now.”50 Ten days later, the crisis was resolved diplomatically. If one of the advantages of Al is rapid decision making, that same speed could be a disadvantage if it needlessly accelerates the escalation of conflict from crisis, to war, even to potential nuclear confrontation.51 The battlefield advantages of Al-driven ISR and autonomous systems could shrink the time available for diplomats to avoid or manage crises. As currently conceived, Al-driven battlefield systems would not include real-time reporting and analysis of national and international diplomacy to avoid, control, contain, or end a conflict—violating Clausewitz’s principle of war as “the continuation of politics by other means.” In many cases, initial logic may dictate striking first, as General LeMay advised. Accelerated decision making could have pushed the Cuban Missile Crisis toward logical, but undesirable, outcomes. In practice, slowing things down can be the key to victory, especially when the options include nuclear weapons.

#### Slower innovation prevents nefarious AI---increasing the pace of innovation increases the risks

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.

#### Chinese AI is better regulated and safer from the US

Kai-Fu Lee and Paul Triolo 17, Kai-Fu Lee, Ph.D., is a Co-Founder, Chairman, President, Chief Executive Officer, and Managing Partner of Sinovation Ventures, Paul Triolo is a China Digital Economy Fellow at New America and the geo-technology practice head at the Eurasia Group, “China’s Artificial Intelligence Revolution: Understanding Beijing’s Structural Advantages”, <https://www.eurasiagroup.net/files/upload/China_Embraces_AI.pdf> //AP

Beijing’s AI policy priorities are clear. The “Next Generation Artificial Intelligence Development Plan,” announced by China’s State Council in July 2017, called for China to catch up on AI technology and applications by 2020, and to become a global AI innovation hub by 2030. Chinese President Xi Jinping hammered the point home in his 19th Party Congress speech in October, when he mentioned the development of advanced manufacturing and the promotion of further integration of the Internet, big data and artificial intelligence with the real-world economy. Beijing has placed huge bets on AI for a host of political and economic reasons, from improving governance capacity to improving policy development and surveillance. The plan calls for China to lead the way in developing a regulatory environment to both encourage AI development and to mitigate the potential downsides of AI. A few months after the national plan’s announcement in July, the Ministry of Science and Technology (MOST) designated Baidu to lead the autonomous vehicle platform, Tencent for medical, Alibaba for Smart Cities, and iFlyTek for speech interfaces. These plans should be taken seriously, as the Chinese government has shown a strong track record in delivering results. For example, Beijing announced in 2010 that China would become the world’s leader in adopting high-speed rail (HSR). Today it has 60% of the world’s HSR market. In 2014, the Chinese government announced the “Mass Entrepreneurship and Innovation Plan.” Today there are business 8000 incubators in China, compared to 1400 in 2014. These plans have teeth, both due to the deadlines and metrics set out at the national level, as well as the local companies that are likely to take these directions as top priorities. We can expect a similar trajectory for China’s AI policies. Historically, the Chinese government has been open-minded towards technology development. When a new technology comes out, the government will give it the benefit of doubt and let it grow, rather than stifle it with policy or endless debates. Also, the environment in China is more conducive to fast launch and iteration. There is a general belief that it is better to launch something and then get it approved later. This allows Chinese businesses to generate real data at scale, which in turn allows technology to improve over a shorter period of time, particularly once AI is introduced into the equation. For example, while in the US, truckers’ unions are petitioning the Department of Transportation to delay autonomous truck testing, in China, the Xiong’an New Area, a planned smart city development southwest of Beijing, is being designed from the ground up with full autonomy in mind. Various highway authorities are willing to develop road augmentation, special lanes, or move warehouses near highway exits, all to facilitate faster deployment of autonomous trucks. We also see major initiatives in cities, following the central government’s call to action. Shanghai, Nanjing, Wuhan, and Tianjin are but a few of the cities coming out with their own AI initiatives. As with past policies, much of the resources will be applied at the provincial and city government levels. The types of resources may include subsidies for top talent (especially overseas talent); guidance for top VC funds, with the government playing the role of limited partner (LP) but offering some of its upside to the general partners (GPs) of the funds; special programs for top AI companies and start-ups (free rent, subsidy for local hiring, housing and private school for top talents); and technical awards for companies and individuals. Finally, the US, EU, and China will also compete to be out in front on developing a regulatory regime around AI technologies and applications. The National Plan’s explicit recognition of the need for regulatory, legal, and ethical principles for AI development and use represents an uncommonly foresighted approach. Of course, the government’s approach to AI regulation, ethics, and economic adjustment will reflect Beijing’s broader model of governance and ideology. Given its preference for a state-centric approach to international issues, for example, it is possible China will launch an initiative via the UN to establish first an automation/AI-related “code of conduct,” or basic regulatory approach, followed by a special committee on the topic and eventually an oversight body operating within a UN framework. Such an initiative would put China at the forefront of developing a global approach to these issues. Beijing has attempted a similar approach on cybersecurity issues, which it argues have a global impact and require a global regulatory response

### 2NC---AT: Emerging Tech

#### No emerging tech impacts – gradualism and hype.

Sechser 19 – Todd S. Sechser, Public Policy Professor at the University of Virginia. Neil Narang, Political Science Professor at the University of California, Santa Barbara. Caitlin Talmadge, Security Studies Professor at Georgetown University. [Emerging technologies and strategic stability in peacetime, crisis, and war, Journal of Strategic Studies, 42(6), Taylor and Francis]

Yet the history of technological revolutions counsels against alarmism. Extrapolating from current technological trends is problematic, both because technologies often do not live up to their promise, and because technologies often have countervailing or conditional effects that can temper their negative consequences. Thus, the fear that emerging technologies will necessarily cause sudden and spectacular changes to international politics should be treated with caution. There are at least two reasons to be circumspect.

First, very few technologies fundamentally reshape the dynamics of international conflict. Historically, most technological innovations have amounted to incremental advancements, and some have disappeared into irrelevance despite widespread hype about their promise. For example, the introduction of chemical weapons was widely expected to immediately change the nature of warfare and deterrence after the British army first used poison gas on the battlefield during World War I. Yet chemical weapons quickly turned out to be less practical, easier to counter, and less effective than conventional high-explosives in inflicting damage and disrupting enemy operations.6 Other technologies have become important only after advancements in other areas allowed them to reach their full potential: until armies developed tactics for effectively employing firearms, for instance, these weapons had little effect on the balance of power. And even when technologies do have significant strategic consequences, they often take decades to emerge, as the invention of airplanes and tanks illustrates. In short, it is easy to exaggerate the strategic effects of nascent technologies.7

Second, even if today’s emerging technologies are poised to drive important changes in the international system, they are likely to have variegated and even contradictory effects. Technologies may be destabilising under some conditions, but stabilising in others. Furthermore, other factors are likely to mediate the effects of new technologies on the international system, including geography, the distribution of material power, military strategy, domestic and organisational politics, and social and cultural variables, to name only a few.8 Consequently, the strategic effects of new technologies often defy simple classification. Indeed, more than 70 years after nuclear weapons emerged as a new technology, their consequences for stability continue to be debated.9

### 2NC---AT: Cyber

#### No cyber risk---attribution, restraint, and capabilities.

Lewis ’20 [James Andrew; 8/17/20; senior vice president and director of the Strategic Technologies Program at the Center for Strategic and International Studies; "Dismissing Cyber Catastrophe," https://www.csis.org/analysis/dismissing-cyber-catastrophe]

More importantly, there are powerful strategic constraints on those who have the ability to launch catastrophe attacks. We have more than two decades of experience with the use of cyber techniques and operations for coercive and criminal purposes and have a clear understanding of motives, capabilities, and intentions. We can be guided by the methods of the Strategic Bombing Survey, which used interviews and observation (rather than hypotheses) to determine effect. These methods apply equally to cyberattacks. The conclusions we can draw from this are:

Nonstate actors and most states lack the capability to launch attacks that cause physical damage at any level, much less a catastrophe. There have been regular predictions every year for over a decade that nonstate actors will acquire these high-end cyber capabilities in two or three years in what has become a cycle of repetition. The monetary return is negligible, which dissuades the skilled cybercriminals (mostly Russian speaking) who might have the necessary skills. One mystery is why these groups have not been used as mercenaries, and this may reflect either a degree of control by the Russian state (if it has forbidden mercenary acts) or a degree of caution by criminals.

There is enough uncertainty among potential attackers about the United States’ ability to attribute that they are unwilling to risk massive retaliation in response to a catastrophic attack. (They are perfectly willing to take the risk of attribution for espionage and coercive cyber actions.)

No one has ever died from a cyberattack, and only a handful of these attacks have produced physical damage. A cyberattack is not a nuclear weapon, and it is intellectually lazy to equate them to nuclear weapons. Using a tactical nuclear weapon against an urban center would produce several hundred thousand casualties, while a strategic nuclear exchange would cause tens of millions of casualties and immense physical destruction. These are catastrophes that some hack cannot duplicate. The shadow of nuclear war distorts discussion of cyber warfare.

State use of cyber operations is consistent with their broad national strategies and interests. Their primary emphasis is on espionage and political coercion. The United States has opponents and is in conflict with them, but they have no interest in launching a catastrophic cyberattack since it would certainly produce an equally catastrophic retaliation. Their goal is to stay below the “use-of-force” threshold and undertake damaging cyber actions against the United States, not start a war.

This has implications for the discussion of inadvertent escalation, something that has also never occurred. The concern over escalation deserves a longer discussion, as there are both technological and strategic constraints that shape and limit risk in cyber operations, and the absence of inadvertent escalation suggests a high degree of control for cyber capabilities by advanced states. Attackers, particularly among the United States’ major opponents for whom cyber is just one of the tools for confrontation, seek to avoid actions that could trigger escalation.

The United States has two opponents (China and Russia) who are capable of damaging cyberattacks. Russia has demonstrated its attack skills on the Ukrainian power grid, but neither Russia nor China would be well served by a similar attack on the United States. Iran is improving and may reach the point where it could use cyberattacks to cause major damage, but it would only do so when it has decided to engage in a major armed conflict with the United States. Iran might attack targets outside the United States and its allies with less risk and continues to experiment with cyberattacks against Israeli critical infrastructure. North Korea has not yet developed this kind of capability.

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

#### No resource wars

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

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

#### They don’t escalate

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

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

# 1NR

## CP---Common Law

#### Mixes Burdens---any CP might result in the aff---states has federal follow-on, international has US model. Any action could make the plan more likely.

Jamie Wood 13, Avatel EVP, “The Butterfly Effect – What a Fascinating Theory!”, 6-10, https://avatel.wordpress.com/2013/06/10/the-butterfly-effect-what-a-fascinating-theory/

Every action or decision has some kind of effect on something or someone, if only in an indirect way. How we approach these decisions or actions we take can have a huge impact, not just on those directly involved, but on others we could hardly fathom would be affected. You never know what little action may be the tipping point for another action and or reaction. butterfly effect When you hear the words “The Butterfly Effect”, most of you will probably think of the movie. That was about the chaos theory, meaning one series of events leads to another and the effect of changing the course of those events. Actually the term “The Butterfly Effect”, was a phenomenon proposed in a doctoral thesis written in 1963 by Edward Lorenz. It states that a butterfly, by flapping its wings in one place and time is able to create a major weather event in another place and time, eventually having a far-reaching ripple effect on subsequent events. The butterfly effect suggests that cause and effect are applicable in the universe even if the pattern is indecipherable and the precise cause of our predicaments, rooted far away in time and space, are ultimately unfathomable. More than just an esoteric science, the chaos theory works off the concept that the relation between any two things is rarely linear in nature, that any reaction is usually the result of an accumulation of causative factors small and large, intentional and accidental.

#### 4. It’s key to education---institutional design is at the root of antitrust law debates

Daniel A. Crane 21, Frederick Paul Furth, Sr. Professor of Law, University of Michigan, “Antitrust Antitextualism,” 96 Notre Dame L. Rev. 1205, https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4952&context=ndlr

2. Importance of Institutions

If statutory texts have shown relatively little sustained power to reform antitrust, what has been effective? The answer, in short, is institutions.258 Although statutory amendments to the substance of antitrust law have not achieved the full reforms their texts and legislative histories would suggest on a lasting basis, significant and durable shifts in antitrust enforcement have come about as a result as institutional reforms and institutional factors. Section 5 of the FTC Act may have added nothing to the Sherman Act substantively, but the creation of the Federal Trade Commission has had lasting implications for federal antitrust enforcement.259 The courts may not have interpreted the private antitrust remedy nearly as broadly as section 4 of the Clayton Act reads, but the delegation of antitrust enforcement authority to “private attorneys general” has had very important long-term effects for the substantive development of antitrust law.260 The Celler-Kefauver amendments could not achieve sustained increases in antimerger enforcement levels, but the Hart-Scott-Rodino Act’s creation of a premerger notification regime radically shifted the locus and texture of merger law and policy from adjudication before generalist judges to administrative negotiations with agency technocrats.261 For better or for worse, changes in institutional design have proven more consequential to antitrust enforcement than statutory recalibrations of the substantive standards.

This suggests that a Congress serious about changing the course of antitrust enforcement should pay at least as much attention to questions of institutional design and capacity as to the wording of substantive liability rules and standards. Over time, the courts may interpret the antitrust statutes away from their plain wording and legislative history, but courts have less interpretive power to rework institutional design. In some cases, as with respect to Hart-Scott, the consequence of the institutional design has been significantly to reduce the courts’ role and transfer primary responsibility to other actors. If Congress is concerned that future judicial interpretation may diminish the vitality of a statute, one potential solution is to create an institutional framework for enforcement that does not depend heavily on judicial interpretation.

#### It’s identically solvent to the plan---all antitrust policy’s interpreted and enforced through a common-law-like legislative delegation to the judiciary.

--yes, this article says that is a bad interpretation of the Sherman Act, but it is nevertheless the dominant one and what would be used for the plan

Daniel A. Crane 21, Frederick Paul Furth, Sr. Professor of Law, University of Michigan, “Antitrust Antitextualism,” 96 Notre Dame L. Rev. 1205, https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4952&context=ndlrScholars and judges widely agree that the U.S. antitrust statutes are open-textured, vague, indeterminate, and textually unilluminating.1 [FOOTNOTE 1 BEGINS] 1 ROBERT H. BORK, THE ANTITRUST PARADOX: A POLICY AT WAR WITH ITSELF 372–75, 409 (1978) (describing antitrust statutes as “open-textured”); WILLIAM LETWIN, LAW AND ECONOMIC POLICY IN AMERICA: THE EVOLUTION OF THE SHERMAN ANTITRUST ACT 4 (Random House 1965) (1954) (“From the beginning many men have criticized the [Sherman] Act as vague, its meaning as elusive, its commands as ambiguous.”); Roger D. Blair & John E. Lopatka, Albrecht Overruled—At Last, 66 ANTITRUST L.J. 537, 552 (1998) (critiquing the Sherman Act’s “indefinite language” and “elusive meaning”); Douglas H. Ginsburg, An Introduction to Bork (1966), COMPETITION POL’Y INT’L, Spring 2006, at 225, 225 (“The open textured nature of the [Sherman] Act—not unlike a general principle of common law— vests the judiciary with considerable responsibility . . . to choose among competing values.”); William H. Page, Interest Groups, Antitrust, and State Regulation: Parker v. Brown in the Economic Theory of Legislation, 1987 DUKE L.J. 618, 659 (“[T]he Sherman Act is so open textured and the legislative history so vague, that any standard the Court adopts is ultimately a judicial creation.”). [FOOTNOTE 1 ENDS] They further agree that little use can be made of the statutes’ legislative histories.2 [FOOTNOTE 2 BEGINS] 2 Nat’l Soc’y of Pro. Eng’rs v. United States, 435 U.S. 679, 688 (1978) (“Congress . . . did not intend the text of the Sherman Act to delineate the full meaning of the statute or its application in concrete situations.”); THE POLITICAL ECONOMY OF THE SHERMAN ACT: THE FIRST ONE HUNDRED YEARS 20–160 (E. Thomas Sullivan ed., 1991); George E. Garvey, The Sherman Act and the Vicious Will: Developing Standards for Criminal Intent in Sherman Act Prosecutions, 29 CATH. U. L. REV. 389, 390, 417 (1980) (noting that the Sherman Act’s legislative history demonstrates that the Sherman Act “was deliberately intended to be indefinite with specificity to be provided by the judiciary”); Michael S. Jacobs, An Essay on the Normative Foundations of Antitrust Economics, 74 N.C. L. REV. 219, 232 (1995) (describing prevailing views that the Sherman Act’s legislative history is “confused” (quoting From Von’s to Schwinn to the Chicago School: Interview with Judge Richard Posner, Seventh Circuit Court of Appeals, ANTITRUST, Spring 1992, at 4, 4)). [FOOTNOTE 2 ENDS] It follows that the antitrust statutes are best understood as a legislative delegation to the courts to create an evolutionary and dynamic common law of competition.3 [FOOTNOTE 3 BEGINS] 3 1 PHILLIP E. AREEDA & HERBERT HOVENKAMP, 1 ANTITRUST LAW: AN ANALYSIS OF ANTITRUST PRINCIPLES AND THEIR APPLICATION 62 (3d ed. 2006) (stating that the Sherman Act “invest[ed] the federal courts with a jurisdiction to create and develop an ‘antitrust law’ in the manner of the common law courts”); William F. Baxter, Separation of Powers, Prosecutorial Discretion, and the “Common Law” Nature of Antitrust Law, 60 TEX. L. REV. 661, 663 (1982) (“Congress adopted what is in essence enabling legislation that has permitted a common-law refinement of antitrust law through an evolution guided by only the most general statutory directions.”); Frank H. Easterbrook, Statutes’ Domains, 50 U. CHI. L. REV. 533, 544 (1983) (“The statute books are full of laws, of which the Sherman Act is a good example, that effectively authorize courts to create new lines of common law.”); Frank H. Easterbrook, Workable Antitrust Policy, 84 MICH. L. REV. 1696, 1705 (1986) (“The Sherman Act set up a common law system in antitrust.”); Thomas W. Merrill, The Common Law Powers of Federal Courts, 52 U. CHI. L. REV. 1, 44–45 (1985) (describing antitrust statutes as delegating to courts power to develop common law of antitrust). [FOOTNOTE 3 ENDS] As the Supreme Court explained in its landmark Leegin decision on resale price maintenance, “From the beginning the Court has treated the Sherman Act as a common-law statute. . . . Just as the common law adapts to modern understanding and greater experience, so too does the Sherman Act’s prohibition on ‘restraint[s] of trade’ evolve to meet the dynamics of present economic conditions.” 4 In other words, the statutory texts disclose little of importance; the action is all in dynamic judicial interpretation.

#### It’s optically identical

Jonathan B. Baker 19, Research Professor of Law, American University Washington College of Law, “Accommodating Competition: Harmonizing National Economic Commitments,” 60 Wm. & Mary L. Rev. 1149, March 2019, WestLaw

Were the courts to seek to interpret the Constitution to assure competition, moreover, that would be unlikely to make much practical difference to the way the competition commitment is enforced. The resulting constitutional jurisprudence would probably look like the judicial elaboration of the antitrust laws. If so, judicial \*1173 enforcement of a constitutional mandate for competitive markets would turn out to be no more protective of the competition commitment than is the interpretation and enforcement of the antitrust statutes. The national economic commitment to assuring competitive markets must be protected, and antitrust enforcement needs to be strengthened, but we should look to the political branches and judicial interpretation of the antitrust statutes as the vehicle for doing so, not to the Constitution.

#### Warming causes extinction---outweighs on magnitude

McDonald 19 [Samuel; January 1; Writer and geography PhD student at University of Oxford studying the intersection of grassroots movements and energy transition; “Deathly Salvation,” https://www.the-trouble.com/content/2019/1/4/deathly-salvation]

A devastating fact of climate collapse is that there may be a silver lining to the mushroom cloud. First, it should be noted that a nuclear exchange does not inevitably result in apocalyptic loss of life. Nuclear winter—the idea that firestorms would make the earth uninhabitable—is based on shaky science. There’s no reliable model that can determine how many megatons would decimate agriculture or make humans extinct. Nations have already detonated 2,476 nuclear devices. An exchange that shuts down the global economy but stops short of human extinction may be the only blade realistically likely to cut the carbon knot we’re trapped within. It would decimate existing infrastructures, providing an opportunity to build new energy infrastructure and intervene in the current investments and subsidies keeping fossil fuels alive. In the near term, emissions would almost certainly rise as militaries are some of the world’s largest emitters. Given what we know of human history, though, conflict may be the only way to build the mass social cohesion necessary for undertaking the kind of huge, collective action needed for global sequestration and energy transition. Like the 20th century’s world wars, a nuclear exchange could serve as an economic leveler. It could provide justification for nationalizing energy industries with the interest of shuttering fossil fuel plants and transitioning to renewables and, uh, nuclear energy. It could shock us into reimagining a less ~~suicidal~~ civilization, one that dethrones the death-cult zealots who are currently in power. And it may toss particulates into the atmosphere sufficient to block out some of the solar heat helping to drive global warming. Or it may have the opposite effects. Who knows? What we do know is that humans can survive and recover from war, probably even a nuclear one. Humans cannot recover from runaway climate change. Nuclear war is not an inevitable extinction event; six degrees of warming is.

#### Makes the Earth uninhabitable and explodes every hotspot---defense assumes innacurate models

Specktor 19 [Brandon; June 4; Senior Writer at Live Science, citing Breakthrough National Centre for Climate Restoration; "Human Civilization Will Crumble by 2050 If We Don't Stop Climate Change Now, New Paper Claims," https://www.livescience.com/65633-climate-change-dooms-humans-by-2050.html]

It seems every week there's a scary new report about how man-made climate change is going to cause the collapse of the world's ice sheets, result in the extinction of up to 1 million animal species and — if that wasn't bad enough — make our beer very, very expensive. This week, a new policy paper from an Australian think tank claims that those other reports are slightly off; the risks of climate change are actually much, much worse than anyone can imagine. According to the paper, climate change poses a "near- to mid-term existential threat to human civilization," and there's a good chance society could collapse as soon as 2050 if serious mitigation actions aren't taken in the next decade. Published by the Breakthrough National Centre for Climate Restoration in Melbourne (an independent think tank focused on climate policy) and authored by a climate researcher and a former fossil fuel executive, the paper's central thesis is that climate scientists are too restrained in their predictions of how climate change will affect the planet in the near future. [Top 9 Ways the World Could End] The current climate crisis, they say, is larger and more complex than any humans have ever dealt with before. General climate models — like the one that the United Nations' Panel on Climate Change (IPCC) used in 2018 to predict that a global temperature increase of 3.6 degrees Fahrenheit (2 degrees Celsius) could put hundreds of millions of people at risk — fail to account for the sheer complexity of Earth's many interlinked geological processes; as such, they fail to adequately predict the scale of the potential consequences. The truth, the authors wrote, is probably far worse than any models can fathom. How the world ends What might an accurate worst-case picture of the planet's climate-addled future actually look like, then? The authors provide one particularly grim scenario that begins with world governments "politely ignoring" the advice of scientists and the will of the public to decarbonize the economy (finding alternative energy sources), resulting in a global temperature increase 5.4 F (3 C) by the year 2050. At this point, the world's ice sheets vanish; brutal droughts kill many of the trees in the Amazon rainforest (removing one of the world's largest carbon offsets); and the planet plunges into a feedback loop of ever-hotter, ever-deadlier conditions. "Thirty-five percent of the global land area, and 55 percent of the global population, are subject to more than 20 days a year of lethal heat conditions, beyond the threshold of human survivability," the authors hypothesized. Meanwhile, droughts, floods and wildfires regularly ravage the land. Nearly one-third of the world's land surface turns to desert. Entire ecosystems collapse, beginning with the planet's coral reefs, the rainforest and the Arctic ice sheets. The world's tropics are hit hardest by these new climate extremes, destroying the region's agriculture and turning more than 1 billion people into refugees. This mass movement of refugees — coupled with shrinking coastlines and severe drops in food and water availability — begin to stress the fabric of the world's largest nations, including the United States. Armed conflicts over resources, perhaps culminating in nuclear war, are likely. The result, according to the new paper, is "outright chaos" and perhaps "the end of human global civilization as we know it."

#### The perm is ‘statutory gap filling’---it does NOT expand the scope of federal common law

Abbe R. Gluck 11, Associate Professor of Law, Columbia Law School, “Intersystemic Statutory Interpretation: Methodology as "Law" and the Erie Doctrine,” 120 Yale L.J. 1898, Lexis

Consider how well the Court's typical arguments justifying federal common-lawmaking apply to statutory interpretation methodology. There is a uniquely federal interest involved (the meaning of federal statutes); it is grounded in a federal source (federal statutes); 45 [FOOTNOTE 45 BEGINS] See Bradley et al., supra note 18, at 879 ("There is widespread agreement that federal common law must be grounded in a federal law source."); see also Field, supra note 18, at 887 (arguing for a broad understanding of federal common-lawmaking authority but still acknowledging that the "limitation … is that the court must point to a federal enactment, constitutional or statutory, that it interprets as authorizing the federal common law rule"). [FOOTNOTE 45 ENDS] and there is a clear need for federal-law uniformity. As with other types of approved federal common-lawmaking, this type also would be restrained: it would be limited to filling interstitial gaps in a statutory scheme. 46 [FOOTNOTE 46 BEGINS] See Tex. Indus. v. Radcliff Materials, Inc., 451 U.S. 630, 640 (1981) ("The Court has recognized the need and authority in some limited areas to formulate what has come to be known as "federal common law.' These instances … fall into essentially two categories: those in which a federal rule of decision is "necessary to protect uniquely federal interests,' and those in which Congress has given the courts the power to develop substantive law." (citations omitted)); Bradley et al., supra note 18, at 921 ("This sort of statutory gap-filling, guided by congressional intent, is probably the most common (and uncontroversial) type of federal common law."). [FOOTNOTE 46 ENDS] And, similar to arguments made for [\*1915] common-law authority in other areas, the source of federal judicial authority to create these interpretive principles derives from the power - given to the federal courts by the jurisdictional statutes and Article III - to adjudicate statutory cases. 47 In fact, this same kind of inherent authority is used to justify the Court's methodological work in the constitutional law context.

#### Uncertainty is inevitable, BUT common law is predictable and sufficiently certain

David McGowan 1, Associate Professor of Law, University of Minnesota Law School, “Innovation, Uncertainty, and Stability in Antitrust Law,” 16 Berkeley Tech. L.J. 729, Lexis

3. Antitrust and Common-Law Adjudication

Debates over the origins and original meaning of the Sherman Act are a notorious quagmire; debates over the congressional purposes behind the Cellar-Kefauver Amendments are a little clearer, 65 but the grammatical change in the original section 7 language left the statute as open-ended as it had been before. 66 That left it to the courts to discern which mergers threatened to limit competition substantially. The highlights of legislative history we have seen in the last two sections illustrate a problem for courts interpreting the antitrust laws. The statutes emerged from political struggles involving conflicting economic interests, but the statutory language does not resolve the conflicts. This lack of direction in the statutory language has both by congressional design and by default given considerable power and responsibility to courts to choose among a range of interests. The upshot is that neither the statutory language nor the legislative history provides courts with a clear rule of decision for evaluating innovation claims or weighing innovation as against other considerations.

[\*753] Judges have long concluded that the Sherman Act gives them common-law authority to interpret the statute in a dynamic manner, taking changes in economic practices and understanding into account. Chief Justice Hughes's famous dictum that "as a charter of freedom, the [Sherman] act has a generality and adaptability comparable to that found to be desirable in constitutional provisions" is a strong, but representative statement. 67 In the modern era, the Court has said that "the general presumption that legislative changes should be left to Congress has less force with respect to the Sherman Act in light of the accepted view that Congress "expected the courts to give shape to the statute's broad mandate by drawing on common-law tradition,'" and that "the term "restraint of trade,' as used in 1, also "invokes the common law itself, and not merely the static content that the common law had assigned to the term in 1890.'" 68

Antitrust scholars have tended to agree with this assessment. Judge Posner has written that "the body of antitrust doctrine is largely the product of judicial interpretation of the vague provisions of the antitrust laws and thus can be changed by the courts within the very broad limits set by the language and what we know of the intent behind it." 69 Judge Easterbrook gave the Sherman Act as an example of a law that "effectively authorizes courts to create new lines of common law" 70 and has elsewhere said that the statute "does not contain a program; it is a blank check." 71 Professor Baxter analogized antitrust courts to Congress; 72 and Professor Hovenkamp has suggested that we regard the Sherman Act as ""enabling' legislation - an invitation to the federal courts to learn how businesses and markets work and formulate a set of rules that will make them work in socially efficient ways." 73 This position is reasonable, 74 particularly because the statute adopted common-law terminology and its [\*754] leading proponent insisted that the bill merely enacted into federal law the existing common law of each state.

Most commentators who note the common-law nature of Sherman Act interpretation emphasize the flexibility of the common-law approach, as does the Court. 75 From the judicial perspective, this emphasis is useful to explain to readers why opinions in a field resting nominally on statutes spend so little time on the statutory language. Where the statutory command is to engage in common-law analysis, that analysis is itself a proper form of statutory interpretation.

But the common-law method is not about flexibility alone. A reasonable degree of stability and a high degree of reasoned evolution are at least as important as flexibility, though any serious participant in common-law adjudication will acknowledge that perfect certainty is neither achievable nor required. 76 Lawyers cannot advise clients, and clients cannot obey the law, if the "dynamic potential" of common-law antitrust decisionmaking is not balanced by constraints that render the decisions reasonably predictable.

Reasonable predictability requires that each decision rest on reasons that identify the purposes the law seeks to advance, orders them to resolve conflicts, and classifies the behavior at issue relative to those purposes in an analytically rigorous manner that can be understood and replicated by attorneys advising clients. The clarity with which purposes are identified and ranked and the rigor of the analysis of behavior relative to those purposes are what allow lawyers operating in the real world to advise clients with a degree of confidence that, while not reaching certainty, allows business to get done.

#### Statute-independent common law changes are actually clearer than the plan

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A. Background

The in pari delicto defense -- from the Latin maxim "in pari delicto potior est conditio defendentis" 445 -- arose at English common law as an expression of a moral judgment that a party should not be permitted to profit from his own misconduct. One cannot understand in pari delicto without relating it to the defenses of illegality and unclean hands. In wholly executory contract situations, where a party sues to enforce an illegal contract, illegality is a complete defense -- the courts will not enforce the illegal bargain. 446 Where the illegal contract has been executed and where one party sues for rescission or for damages, that party may recover if he is not in pari delicto; if he is in pari delicto, his suit is barred. 447 In other words, in pari delicto is the name given to the illegality defense to actions for rescission or damages in executed contract situations.

In pari delicto is distinct from the equitable doctrine of "unclean hands." The doctrine of unclean hands -- a defense in equity only -- looks not only to plaintiff's involvement in the transaction comprising plaintiff's claim, but also to misconduct by plaintiff generally relating to plaintiff's allegations in suit. If the misconduct by plaintiff is sufficiently relating to plaintiff's allegations in suit. If the misconduct by plaintiff is sufficiently related to the relief that plaintiff seeks, plaintiff will be denied equitable relief. 448 Unclean hands merely requires [\*1360] a nexus between plaintiff's misconduct and the relief that plaintiff seeks; it does not go so far as in pari delicto and require that plaintiff have equally participated with defendant in the very illegality which is the subject of plaintiff's suit.

The in pari delicto defense was recognized in the United States from the earliest days of the Republic. 449 It was applied in the antitrust context beginning in 1900 in Bishop v. American Preservers Co. 450 Over the years, however, the courts began to stray from the common law ambit of the defense. Many courts were confused by the distinction at common law between in pari delicto and unclean hands. 451 Another troubling application (or misapplication) of the in pari delicto defense arose in cases where the courts did not fully analyze the respective fault of the parties regarding the illegality or the coercive circumstances involved in plaintiff's participation in the specific challenged conduct. 452

B. The Perma Life Case

The Supreme Court was faced with a confusing disarray of decisions misconstruing and misapplying the in pari delicto defense when it granted certiorari to review the Seventh Circuit's decision in Perma Life. Given the common law limitations on that doctrine and the facts of that case, 453 it is small wonder that the Supreme Court unanimously reversed. What is baffling is that the Court spoke with so many voices, thus dissipating a golden opportunity to give proper guidance to the lower courts.

It is difficult to ferret out a true majority holding from the five opinions in Perma Life. 454 Despite Justice Black's clear language rejecting in pari [\*1361] delicto as an antitrust defense, the fact that a plaintiff equally and voluntarily participated in the challenged misconduct remained an antitrust defense under Perma Life. Five of the Justices were explicit on this score, 455 and the remaining four Justices did not close the door to such a defense. 456 In other related areas, the full Court was in agreement. All of the Justices agreed that the lower courts had incorrectly applied the common law standards for an in pari delicto defense; 457 and that a defense did not properly lie where the plaintiff was as responsible as the defendant for the challenged illegality or where the plaintiff had been coerced (literally or under concepts of economic coercion, unequal bargaining power, or business necessity) into participating in the illegality. 458

C. The Legacy of Perma Life

What is the legacy of Perma Life? In part, the problems generated by the Perma Life opinions have been semantic. Courts have struggled with a label for the "equal fault" defense in view of Justice Black's absolute repudiation of in pari delicto. 459 In addition, at least one court has correctly rejected the defense as a matter of law in a situation where economic coercion was practiced; 460 it failed, however, to explain that the result was not a matter of [\*1362] the total inapplicability of in pari delicto, but simply of the nonexistence of equal fault in cases where plaintiff has been subject to economic coercion. 461

The problems go deeper than semantics, however. Courts in the Ninth Circuit (followed by the Eighth Circuit) permit suit against co-conspirators where the plaintiff, a free and equal participant, was not a party to the initial creation of the conspiracy. 462 Courts have continued to confuse in pari delicto and unclean hands and to suggest that in pari delicto (under that or any other label) is no longer a defense in antitrust cases. 463 Finally, courts in several circuits have expended considerable effort speculating on the deterrent effect of applying or rejecting in pari delicto in various categories of securities cases. 464

D. Reconciling Antitrust and In Pari Delicto

An effort to reconcile the competing policies of the antitrust laws and the in pari delicto doctrine is long overdue. The rejection of in pari delicto as a defense subverts the very goals of the antitrust laws. Justice Black's formulation, if applied literally, would require a court to grant a plaintiff treble damages where both parties are equal participants in an unlawful scheme without even compelling plaintiff to cease the very illegality of which he is complaining. If one assumes, for example, that the provisions in a franchise agreement beneficial to the franchisee were unlawful, the franchisee could obtain treble damages and an injunction against the restraints upon his freedom of action while continuing those restraints affecting the franchisor. Moreover, Justice Black also encouraged illegal conduct by plaintiff, by offering a "heads-I-win, tails-you-lose" protection if plaintiff violated the antitrust laws -- if the conspiracy is successful, plaintiff profits from the illegality; if it is unsuccessful, it sues for treble damages. The policies of the antitrust laws and the in pari delicto doctrine are thus not entirely inconsistent.

[\*1363] Moreover, to the extent that the policies of the antitrust laws do conflict somewhat with those of the in pari delicto doctrine, the two sets of policies can be accommodated. Courts have not found it difficult to accommodate competing policies in other antitrust contexts. For example, in Walker Process Equipment, Inc. v. Food Machinery & Chemical Corp., 465 the Supreme Court reconciled the patent and antitrust laws by declaring that misrepresentations in patent applications could give rise to a section 2 violation of the Sherman Act only if the patent was "procured by intentional fraud" and if all of the other elements of a section 2 violation were shown. 466 Limiting antitrust recovery to instances of intentional fraud was required, according to the Court, because exposing a broader classification of misstatements to potential antitrust liability "might well chill the disclosure of inventions through the obtaining of a patent because of fear of the vexations or punitive consequences of treble-damage suits." 467 But if intentional fraud resulted in obtaining monopoly power (or a dangerous probability of monopoly power) in a property defined relevant market, the full panoply of antitrust sanctions might be invoked against the recreant patentee. Similarly, in the patent misuse area, if a patent holder is guilty of misuse, he cannot recover damages from an infringer. If, however, the patent holder purges his misuse, he may enforce his patent against infringers in the future. 468 In that manner, antitrust policy is fostered by penalizing the patent misuse; and the policy of the patent laws is furthered by allowing an inventor to continue to reap the rewards resulting from the disclosure of his invention after he purges the misuse.

The key to situations where two competing policies collide is not to engage in absolutes and entirely sacrifice one policy in favor of another. It is, rather, to reconcile the demands of both policies to the maximum extent possible -- in the case of antitrust and in pari delicto, to promote free and open competition while preventing a wrongdoer from benefiting from his own misconduct. That can be accomplished by paying strict attention to the common law scope of the in pari delicto doctrine and by holding that the in pari delicto defense can bar treble-damage actions in instances of equal fault but should not preclude suits for injunctive relief against the defendant's continued wrongdoing where the plaintiff has voluntarily ceased to participate in the challenged arrangement. 469 It is one thing to bar a plaintiff's damage recovery [\*1364] because the law does not reward wrongdoers for their own voluntary wrong-doings. It is entirely another to deny the plaintiff a right to bring the illegal scheme to an end. A rule limiting the in pari delicto defense to suits for damages would effectuate the purposes of the antitrust laws while preserving the fundamental notions of fairness that underlie the in pari delicto defense. The court, by conditioning rejection of the defense to injunctive claims on a voluntary cessation by plaintiff of his own part in the challenged conduct, 470 and by enjoining continued wrongdoing by defendant, would in one fell swoop bring the violations of both parties to a halt, thus advancing the cause of antitrust that the negative philosophy of Perma Life does not accomplish.

CONCLUSION

Most of the changes that I have advocated can be accomplished by the courts without the enactment of new legislative revision were kept to a minimum, lest the simplicity of the Sherman law be replaced by superseding amendments in the modern pattern of a complex tax code. We now have an excellent body of antitrust doctrines that, over all, have worked extremely well for almost a century. There has been no diminution in the nation's solid support of the salutary objectives of antitrust or in sound and effective methods of enforcement. It would be tragic if we were to weaken the rules pertaining to the hard core antitrust offenses by amendments that are not faithful to our antitrust traditions. What I propose is of modest dimension. It amounts to little more than a correction of some serious aberrations and would not alter the fundamental purposes and scope of our existing jurisprudence. There are in the wind many other reform proposals, many of which merit the most careful consideration. There unhappily are some that are inspired by special interest purposes and that are antithetical to sound antitrust policy. In my view, all serious proposals should be publicly debated. Out of such a debate should emerge a constructive program of antitrust reform.

#### DOESN’T SOLVE---even if the perm retains a claim of statute-independent common law---that claim won’t set precedent

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A judge’s failure to delineate the scope of the holding within an opinion might not be a disservice to the judicial process. Even punctilious judges arguably should not be allowed the final word on the extent of their authority to resolve legal issues, and even a judge’s claim to have produced a holding on a particular issue should perhaps be open to challenge when the issue seems distant from the central concerns of the case. The failure of a judicial opinion to supply reliable guidance distinguishing its holdings from its dicta, moreover, poses little difficulty to the extent that legal actors agree upon the definitions of holding and dicta. With shared understandings, future courts could be expected to follow a case’s holdings and consider its dicta only to the extent that such discussions prove helpful. Although judges and scholars share intuitions that frequently lead them to the same conclusions in particular case settings, our analysis will reveal the absence of a shared conceptual foundation for analyzing even modestly complex cases.4 This deficiency might reflect the tendency in recent decades of scholars interested in precedent to focus significant attention on the nature of stare decisis. A considerable literature studies the emergence, scope, and limits of stare decisis,5 the doctrine through which courts use opinions not merely to resolve cases, but also to make law in the form of at least presumptively binding precedents.6 [FOOTNOTE 6 BEGINS] 6 See, e.g., Thomas Merrill, Judicial Opinions as Binding Law and as Explanations for Judgments, 15 CARDOZO L. REV. 43, 65 (1993) (“Although horizontal stare decisis creates a strong presumption that prior judicial articulations of the law are correct and should generally be followed by the rendering court, the rule is far from absolute.”); Abner Mikva, The Shifting Sands of Legal Topography, 96 HARV. L. REV. 534 (1982) (reviewing GUIDO CALABRESI, A COMMON LAW FOR THE AGE OF STATUTES (1982)) (positing that “such common law doctrines as stare decisis would presumably constrain courts applying statutes to the same extent that they constrain courts making common law decisions”); Rafael Gely, Of Sinking and Escalating: A (Somewhat) New Look at Stare Decisis, 60 U. PITT. L. REV. 89, 109 (2003) (observing that “common law precedents enjoy a presumption of correctness stronger than applied to constitutional cases, but not as constraining as that enjoyed by statutory precedents”). In his famous Commentaries on American Law, James Kent provided a similar early account of stare decisis. See 1 JAMES KENT, COMMENTARIES ON AMERICAN LAW 475 (O.,W. Holmes, Jr. ed., 14th ed. Boston, Little Brown, & Co. 1896) (explaining that “[i]f a decision has been made upon solemn argument and mature deliberation, the presumption is in favor it its correctness; and the community have a right to regard it as a just declaration or exposition of the law, and to regulate their actions and contracts by it”). [FOOTNOTE 6 ENDS] Stare decisis plays a central role in our common law system, whether in horizontal form, for example within the Supreme Court and across federal circuit court panels, or in vertical form, for example from the Supreme Court to lower federal courts and from circuit courts to district courts.7 This scholarly attention is thus warranted. As a practical matter, however, judicial analyses of precedent rarely require that courts test the contours of stare decisis doctrine directly. When stare decisis applies, a court rarely needs to consider the relatively narrow exceptions to stare decisis. Vertical stare decisis is generally considered absolute,8 and in the federal appellate system, en banc rehearing is required before a circuit court can overturn the precedent of a panel or an earlier en banc court. Even the Supreme Court overturns its precedents only rarely, and it debates the scope of stare decisis even more rarely.9 In contrast, evaluating a claimed precedent to determine whether an identified proposition is holding or dicta occupies a great deal of judicial attention. Indeed, before a court can decide whether to apply the doctrine of stare decisis to a given case, it must first determine just what that case purports to establish. Because holdings in prior cases are at least presumptively binding, while dicta is not, this task requires an understanding of these terms.10 While the literature on stare decisis is broad, despite the growing need for a clear distinction to accommodate increasingly complex opinions, in recent decades the literature on the distinction between holding and dicta has been comparatively tiny.11 An earlier generation of scholars, in contrast, devoted considerable attention to the holding-dicta distinction.12 While no satisfactory definition has yet to emerge, legal scholars have largely turned their attention elsewhere. The questions whether to apply precedent, and how to construe a particular precedent in a given case, are intertwined. But they are not the same inquiry. Even an opinion without precedential value contains a holding. If anything, the more relevant inquiry in most cases is the one that has been given scant attention among the current generation of legal scholars. Courts themselves have not filled the theoretical void, and so the American judicial system lacks clearly defined rules on an important aspect of the process through which judges resolve cases and make law. Through a loose set of practices that vary considerably from jurisdiction to jurisdiction, and, perhaps more problematically, from court to court and case to case, judges define such terms as needed to assist in the task of resolving particular cases entirely on their own. Despite the absence of any single governing source or universal agreement on how to define dicta, the legal system does not threaten to devolve into chaos or general incoherence. Rather, disagreements as to whether a claimed proposition is part of a court’s holding, or is instead merely dicta, surface in discrete disagreements over particular cases without unraveling the fabric of the law. There is no denying, however, the importance of understanding—both as a matter of theory and at the level of practice—how to approach such a central task as sorting holding and dicta. This query goes to the heart of the business of judging, which itself goes to the essence of the Anglo-American system of interpreting and making positive law. Even if there is broad agreement on a range of issues related to decoding dicta and holdings, it should not be surprising that in the cases in which these issues matter most, the conceptual uncertainties that result from a lack of rigor in categorizing holding and dicta give rise to the greatest practical difficulties. One difficulty in developing theoretically satisfying, and operational, understandings of the terms holding and dicta is that the most commonplace—and frequently cited—definitions of these terms are problematic in profound ways. Appreciating both why these definitions emerged and what is problematic about them is essential to our project. Consider, as perhaps the most prominent illustration, the definition of “Obiter dictum” in Black’s Law Dictionary: “[a] judicial comment made during the course of delivering a judicial opinion, but one that is unnecessary to the decision in the case and therefore not precedential.”13 We will argue that the definition is indefensible,14 and at least inconsistent with the general understanding that alternative holdings in a case all count as holdings.15 In fact, we will demonstrate that as a core element in the definition of holding, necessity, is itself not necessary,16 and might not even be sufficient to ensure holding status to a given proposition.17 The intuition that underlies the definition, however, is easy to appreciate, because the definition works well for simple cases. In a case in which there is just one issue, and just one logical argument that can take a court from the facts to the judgment, discussions that do not lie along that path are unnecessary to the decision and are therefore dicta.

#### The CP proscribes behavior based on common law, NOT by expanding the CORE antitrust LAWS.

Robert R. Gasaway & Ashley C. Parrish 13, Partner, Kirkland & Ellis LLP; Partner, King & Spalding LLP, “IN PRAISE OF ERIE--AND ITS EVENTUAL DEMISE,” 10 J.L. Econ. & Pol'y 225, Lexis

Interpreting the Federal Rules of Decision Act in Swift, Justice Story relied on the statute's plain meaning, emphasizing that its reference to the "laws of the several states" in the plural was meant to refer to the "positive statutes of the state, and the construction thereof adopted by local tribunals." 46 According to Swift, the Rules of Decision Act did not apply to "questions of a more general nature, . . . especially to questions of general commercial law." 47 Significantly, Justice Brandeis's Erie decision offers no response to Swift's textual analysis. And, as noted above, Justice Friendly abandons any defense of Erie on statutory grounds.

Part of the reason Justice Brandeis failed to engage in meaningful textual analysis of the Rules of Decision Act lies hidden in the Erie opinion itself. In a portion of the opinion criticizing Swift, Justice Brandeis cites John Chipman Gray's classic, The Nature and Sources of Law. 48 But Gray's book provides a fascinating kernel of support for Swift's statutory interpretation as against Erie's. Gray recognized that the "meaning of 'Law,' when preceded by the indefinite, is to be distinguished from that which it bears when preceded by the definite, article." As Gray explained, "A law ordinarily means a statute passed by the legislature of a State." In contrast, "'The Law' is the whole system of rules applied by the courts." 49 This same distinction was recognized in a slightly different form by the Supreme Court in Sprietsma v. Mercury Marine. 50 There, the Court interpreted the express preemption provision in the Federal Boat Safety Act of [\*235] 1971, which applied to "a [state or local] law or regulation." 51 The Court held that the provision did not encompass common law claims because "the article 'a' before 'law or regulation' implies a discreteness--which is embodied in statutes and regulations--that is not present in the common law." 52

These principles are also relevant to interpreting the Constitution's Supremacy Clause, which refers, in the plural, to "the Laws of the United States." 53 By referring to "laws" (plural), the Supremacy Clause refers to the group of positive Congressional enactments, not to the singular and integrated body of general common law. As scholars have recognized, before Erie, the common law applied by federal courts sitting in diversity under the Swift regime did not preempt state law because a federal judicial decision was not a "federal law"; it was "merely the federal judge's interpretation of the principles constituting the distinct field of common law." 54 In other words, before Erie, the general common law was subordinate to state statutory law, 55 a result grounded ultimately in the plural usage ("the Laws of the United States") found in the Supremacy Clause.

Justice Brandeis's Erie decision overlooks this interpretive evidence drawn from Swift, Gray, and the Constitution. But even more significantly, Justice Brandeis's opinion is forced by the logic of its argument to recast--slightly but tellingly--the language of the Rules of Decision Act. The Rules of Decision Act states as follows:

The laws of the several States, except where the Constitution, treaties, or statute of the United States otherwise require or provide, shall be regarded as rules of decision in trials at common law, in the courts of the United States, in cases where they apply. 56

[\*236] As recast by Justice Brandeis, however, this statutory text becomes the following:

Except in matters governed by the Federal Constitution or by Acts of Congress, the law to be applied in any case is the law of the State. And whether the law of the State shall be declared by its Legislature in a statute or by its highest court in a decision is not a matter of federal concern. 57

Almost through an absence of mind (or perhaps a sleight of hand), Justice Brandeis's formulation importantly alters the meaning of the statutory text it paraphrases. First, the Brandeis formulation transmutes the word "laws" (plural) of the statute into "law" (singular) for purposes of the opinion. But as Justice Brandeis ought to have recognized, whereas the plural statutory language--"laws of the several states"--is most naturally read to refer to the collective group of each state's positive laws, it is awkward and unnatural to read the statutory term "laws" as referring to and encompassing a unitary body of "common law." 58 To be sure, the general common law was typically received into state law via a statute or constitutional provision. But such positive enactments, while they might provide rules of decision for state courts, could not be read constitutionally or by their terms to apply to cases in federal court. Put in terms of the Rules of Decision Act, federal court cases would not have been "cases where" such state incorporation statutes would properly "apply." It is difficult to see how, especially after Swift, Gray, and the Supremacy Clause, Justice Brandeis could have overlooked this important interpretive evidence.

#### Courts are T, but only insofar as they’re interpreting statutory commands.

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Part III focuses on the last three words of the EPC, emphasizing the meaning of the word "laws" that was firmly established as of 1868. Lawyers understood the word "laws" (plural) to exclude the decisions of courts, except insofar as courts construe positive laws. The deliberate choice of the words "of the laws," instead of the narrower language "of its laws," envisioned a pivotal role for laws made by Congress.

#### The CP’s distinct---it does NOT affect the ‘laws’---instead, it has judges create new liability under common law without reference to statute.

Alexander Volokh 17, Assistant Professor, Emory Law School, “Judicial Non-Delegation, the Inherent-Powers Corollary, and Federal Common Law,” 66 Emory L.J. 1391, Lexis

On the other hand, Oldham writes, the statute would violate the non-delegation doctrine "even if the Sherman Act means what modern interpreters assert." 384 He grants that a standard like promoting consumer welfare would qualify as an intelligible principle under the delegation standards that apply to the executive branch, but argues (as I do) that judicial delegations should be policed more tightly. 385 Perhaps that's true; maybe there would be a violation of the non-delegation doctrine if Congress had truly written a statute providing that "courts shall ban any economic transactions or business practices that do not promote consumer welfare." And perhaps some judges really do think about antitrust that way. For instance, Judge Posner has written that "the modern rationale for antitrust law … is that cartelizing and other anticompetitive practices reduce welfare"; this judgment is supported by "simple cost-benefit analysis" and "provides an uncontroversial basis for modern antitrust law." 386 Judge Easterbrook, too, argues that antitrust law should promote efficiency, 387 though he counsels that judges should be appropriately humble as to how much they can understand about practices that appear to be anticompetitive. 388

But there's another possibility - one that the Supreme Court itself has repeatedly endorsed: Congress meant to refer to the prior restraint-of-trade caselaw; that caselaw is determinate enough to guide us; and we continue to develop that caselaw. But because the statute bans a result, not particular practices, antitrust rules can legitimately change with new understanding.

[\*1456] This is crucial for determining what, if anything, has been violated if judges have it wrong. Suppose the Court is wrong that the Sherman Act is about economic efficiency and consumer welfare; 389 perhaps we should give more credence to other principles present in both the legislative history and the common law, like "fairness and economic independence," 390 protecting competitors (even less efficient ones) from being forced from the business, 391 and preventing undue concentrations of political influence. 392 Perhaps modern-day doctrine can't really be justified as a series of steps since 1890 developing the original common-law standard. 393

But if so, that's the courts' fault, not Congress's. It's a problem of judges acting ultra vires, not of Congress delegating away its legislative power. Congress gave the courts a coherent common-law standard; at that point, the non-delegation doctrine was satisfied. Any later misapplication of that standard by others implicates different norms.

#### AND, the ‘core antitrust laws’ are statutory

Kendall Kuntz 21, J.D. Candidate at The University of Maryland Francis King Carey School of Law, “Can the Courts and New Antitrust Laws Break Up Big Tech?,” 2/23/21, https://www.law.umaryland.edu/Programs-and-Impact/Business-Law/JBTLOnline/Break-Up-Big-Tech/

There are three core antitrust laws in effect today: the Sherman Act, the Clayton Act, and the Federal Trade Commission Act. These three antitrust laws attempt to protect market competition for the benefit of consumers. The Sherman Act outlaws monopolies and contracts that unreasonably restrain trade. The Clayton Act prohibits mergers and acquisitions that substantially lessen competition or create a monopoly. Lastly, the Federal Trade Commission Act bans “unfair methods of competition” and “unfair or deceptive acts or practices.” Antitrust laws are not established to punish success, but are focused on preventing anticompetitive effects, exclusionary practices, reduced consumer choice, and hindered innovation.

#### **SCOTUS legitimacy is resilient**

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First, to what extent is the Court’s support stable over time? Support for the Court should stable in the aggregate and at the individual level because it is based primarily upon individual- level fundamental commitments to democratic values (Mondak and Smithey 1997; Tanenhaus and Murphy 1981). Because these democratic values are themselves unchanging and rooted in childhood socialization into the political process, exposure to displeasing actions by an institution is not enough to change one’s fundamental commitment to the institution. As Mondak and Smithey (1997) put it: short term dissatisfactions with the Court’s decisions “do not eradicate a lifetime of political socialization” (1124). The public’s short attention span provides another, more psychological, reason for temporal stability. Mondak and Smithey (1997) write that “The window of opportunity for a decision to affect institutional support stays open only so long as the ruling remains salient in other words, not long at all for most cases.” (1122). After a controversial case is decided, media coverage and public awareness of a decision decline quickly (Franklin and Kosaki 1995). As a result few cases have the staying power to affect support for the Court because the public forgets about them, thus denying the displeasing decision the ability to affect one’s support for the Court.3 3As Mondak and Smithey (1997) note, this attention mechanism helps to reconcile experimental approaches—which are often able to demonstrate a change in support for the Court in response to a 8However, as Christenson and Glick (2015) demonstrate, support for the Court moves in both directions—positive and negative—after the public learns about important judicial decisions. This can lead to aggregate stability, particularly when the American people are divided over what a “good” outcome in a particular case is. Indeed, Gibson and Nelson (2015) have suggested that, because the American people are divided fairly equally on many issues, even a strong relationship between performance satisfaction and diffuse support is not a grave threat to the Court’s legitimacy because the number of individuals who are pleased with the decision and the number of individuals who are disappointed in the decision are approximately equal in number, thereby canceling each other out in the aggregate. The exception to this conventional wisdom comes from a pair of older studies. First, Caldeira (1986) shows significant variation in confidence in the U.S. Supreme Court. However, as Gibson, Caldeira and Spence (2003a) demonstrate, confidence and legitimacy are distinct theoretical and empirical concepts. Second, given that legitimacy is typically operationalized as “resistance to fundamental changes in the structure of the institution” reaction to the most well-known such attempt–F.D.R.’s court-packing plan—provides a particularly salient example. Caldeira (1987), examining support for the plan over 18 cross-sectional Gallup polls over a 4-month period, finds that support for the plan, and, by extension, the Court’s legitimacy, was affected by both the coverage of the mass media and historical political events. However, because the data for these studies are dated, do not use measures of legitimacy now recognized to be reliable and valid, and are not panel studies, we predict H1: Support for the Court should be stable over time. Second, to what extent are individual-level changes in diffuse support over time related to changes in specific support? Of course, the conventional wisdom acknowledges some relationship between diffuse support and specific support, but legitimacy theory also implies that the Court’s decision—and observational data that show stability. The experimental stimulus is enough to cause a change in support, but that change is fleeting, dissipating almost immediately. 9 support should be relatively immune to large swings in legitimacy that result in dissatisfaction with a single opinion, especially when the Court’s support was high prior to the ruling (Easton 1965). Indeed, if the Court’s support is not robust to a disagreeable decision, to what extent is a “reservoir of support” useful for the institution in the first place? Gibson, Pereira and Ziegler (2017) provide some evidence to doubt that displeasing decisions are harmful to the Court’s support. They demonstrate that the sort of ideological updating mechanism required by theories that predict changes in support for the court in tandem with disfavorable decisions is based upon a set of assumptions that, in practice, few Americans are sophisticated enough to meet. However, regardless of whether individuals correctly update their perceptions, other recent evidence suggests that support for the Court could actually be highly variable. In response to the Court’s decision on the Affordable Care Act, for example, Christenson and Glick (2015) report quite a bit of movement in response to a single decision with those disagreeing with the decision more prone to decrease their support for the institution. Indeed, if the linkage between performance satisfaction and diffuse support is as strong as the Christenson and Glick evidence suggests—with even single decisions having substantively important and statistically significant effects on support for the Court—then support for the Court may be highly variable, having little consistency over time. H2: Individual-level support for the Court should fluctuate with changes in institutional support. Third, what is the persistence of these effects? Existing theoretical and empirical evidence suggests that most individual-level change in the Court’s support is temporary. Grosskopf and Mondak (1998) write that deleterious effects of displeasing decisions on support for the Court “clearly must attenuate fairly quickly” (652). Similarly, Mondak and Smithey (1997) posit a theory of values-based regeneration: A person’s confidence in the Supreme Court can be shaken by controversial rulings, but the eventual reassertion of democratic values means that the individual’s confidence in 10 the Court may be restored. The decisions that spark antipathy toward the Court—and the intensity of that ill will—vary for different people and groups in society. In the aggregate, consequently, return to the value-based default judgment we have described constitutes a continuous process, because some current opponents of the Court always will be at the point where democratic attachments are regaining primacy. Therefore, just as a river cleanses itself over time, we propose that democratic values facilitate regeneration of institutional support... [T]he Court would enter precarious turf only if it were to rule against the tide of public opinion at an extremely frequent rate something a strategic Court should be expected to avoid as a matter of course (1131). In other words, the deleterious effect of dissatisfaction with a single decision on individual-level support for the court is short-lived; after a shock, diffuse support gradually increases, eventually returning to its equilibrium level, as democratic values regenerate support for the Court. This claim has been validated empirically using representative, national samples. Durr, Martin and Wolbrecht (2000) show that short-term disruptions in an individual’s support for the Court have effects that last only for a short period. Their evidence suggests that, in the face in temporary shocks to the public’s divergence from the U.S. Supreme Court, support for the institution will return to its equilibrium level in about two years. However, in the face of a sustained shift in the Court’s distance from the public, support for the Court.