## 1AC – Expansion

### Cartels Adv

#### The Seventh Circuit’s *Motorola* decision used an unclear and amorphous interpretation of comity to limit the scope of the Sherman Act extraterritorially – it created uncertainty that SCOTUS chose not to act on

Rogers ‘16 [Paul; 2016; Professor of Law and Former Dean, SMU Dedman School of Law; Of Counsel, Locke Lord, Dallas, Texas; Competition Law Chronicle; “A Current Look at Foreign Cartels and the United States Foreign Trade Antitrust Improvements Act,” vol. 2, https://scholar.smu.edu/cgi/viewcontent.cgi?article=1791&context=law\_faculty]

The United States‘ Foreign Trade Antitrust Improvement Act (FTAIA), enacted in 1982, is designed to set the framework for determining if and when U.S. antitrust laws have jurisdiction over anticompetitive conduct involving commerce foreign to the United States.1 While excluding U.S. import commerce from its reach, it seeks to both clarify and limit the extraterritorial application of U.S. antitrust laws, perhaps in partial deference to foreign concerns about the reach of those laws to competitive conduct abroad. It is far, however, from an example of clarity in drafting.2 The U.S. Court of Appeals for the Ninth Circuit has described it as a ―web of words‖3 while the Third Circuit noted that it was ―inelegantly phrased.‖4

The U.S. Supreme Court has considered the applicability of the FTAIA only in its 2004 F. Hoffman-LaRoche Ltd. v. Empagran S.A. decision.5 The case involved a world-wide vitamin price fixing scheme which, it was alleged, caused higher vitamin prices in the U.S. as well as other countries such as Ecuador. The Court ruled that U.S. purchasers could bring a Sherman Act claim under the FTAIA but that buyers in other countries could not since their harm was foreign to the United States. In interpreting the statute, the Court held that the act sets forth a general rule placing all non-import activity involving foreign commerce outside of the reach of the Sherman Act. But, the Court noted, the act ―brings such conduct back within the Sherman Act‘s reach if the restraint at issue has a ―direct, substantial, and reasonably foreseeable‖ anticompetitive impact on U.S. commerce.6

Litigation involving the FTAIA has spiked in the last decade or so as the U.S. Department of Justice (DOJ) has increasingly prosecuted foreign-based cartels, spurring many coattail civil lawsuits in addition. In a number of investigations, the DOJ has targeted foreign suppliers of component parts that were incorporated by other companies into finished products assembled overseas but later imported for sale to U.S. customers. Leading examples include TFT-LCD panels for finished products such as televisions, notebook computers, and cell phones and various parts assemblies used to make automobiles.

Often at issue is whether the foreign component cartel had the required ―direct, substantial, and reasonably foreseeable effect‖ on US commerce.7 The DOJ‘s position in those cases is typically that U.S. consumers were harmed because inflated cartel prices for the components paid for abroad were incorporated into higher prices for the finished products that were sold in the United States.8 It is concerned, however, that interpretations of the FTAIA that preclude the Sherman Act from reaching foreign component part cartels unduly limit its ability to protect U.S. consumers from competitive harm.9

Although lower courts have been mindful of the Supreme Court‘s admonition that Congress intended that the FTAIA ―clarify, perhaps to limit, but not to expand in any significant way, the Sherman Act‘s scope as applied to foreign commerce,‖10 they have applied the statute inconsistently. For example, the Ninth Circuit has held that ―direct‖ under the statute means ―as an immediate consequence‖ with no ―intervening developments.‖11 In contrast, the Second and Seventh Circuits have rejected the Ninth Circuit‘s test, instead defining direct as having a ―reasonable proximate cause nexus.‖12

The nexus test has proven difficult to apply and one group of commentators has argued that in practice it often devolves ―into subjective metaphysical analysis.‖13 But with respect to component part cartels, there is always the argument that effects on U.S. Commerce are not direct where a price fixed component is incorporated overseas into a finished product that is eventually imported into the United States. Thus, under either test, a U.S. plaintiff suing a foreign component part cartel cannot be assured that it can meet FTAIA requirements.

The FTAIA‘s seemingly intractability is perhaps best illustrated by the recent Motorola litigation before the Seventh Circuit. It involved claims based on foreign sales of price-fixed LCD panels incorporated into cellphones that were then imported into the United States. In earlier litigation the DOJ had alleged that the overcharges on those panels entering the U.S. exceeded $500 million.14

In Motorola I the court first held that the targeted conduct did not have a direct effect on U.S. commerce, but subsequently vacated the opinion.15 Then in Motorola II the same panel reversed itself on the direct effect test, holding that if prices of the components were fixed, the effect on U.S. commerce would meet the test for purposes of the FTAIA.16 But it focused additionally on the second domestic effects question under the statute – whether, assuming a direct effect on U.S. commerce, those effects give rise ―to an antitrust cause of action under the Sherman Act.‖17 In doing so, it held that the FTAIA precluded plaintiff ‘s claims because the domestic effect of a conspiracy to fix component part prices did not ―give rise‖ to a Sherman Act claim. The court reasoned that although the domestic effect of the conspiracy was increased cell phone prices in the U.S., that is not what harmed the plaintiff, which was a wholly owned foreign subsidiary of the American parent company.18 It had purchased the price fixed components directly from the conspirators abroad. According to the court, its harm was suffered abroad when it purchased the price-fixed panels abroad, but that harm was not dependent on the domestic effect of increased cell phone prices.19

In support of its holding, the Motorola II court referenced the Supreme Court‘s concern expressed in Empagran about the risk of excessive extraterritorial application of U.S. law interfering ―with a foreign nation‘s ability independently to regulate its own affairs.‖20 Of course, that concern for international comity is a prime motivation for the FTAIA itself.21 The proof is in the pudding, however. That is, it is the American courts which are left with the task of interpreting and applying an admittedly poorly drafted and confusing statute. As such, it seems that they are the ultimate purveyors of comity.

Part of the judicial function of course is to provide guidance and predictability. But with the circuit split after Motorola II, there is currently little of either for cases involving component part price-fixing abroad. Motorola II certainly restricts the reach of U.S. antitrust laws to those conspiracies and adds additional hurdles for the DOJ and private plaintiffs seeking relief for domestic harms. In addition to the direct and substantial effects requirement, plaintiffs must be prepared to meet a narrow, restrictive ―domestic effects‖ test to satisfy the FTAIA.22

But before one asserts that Motorola II has effectively swept away all U.S. antitrust claims against foreign component part price-fixers, it is important to remember the Supreme Court‘s admonition in Empagran that it matters who the plaintiff is.23 For example, if Motorola had made its purchase decisions and executed purchase orders in the U.S. rather than abroad through a foreign subsidiary, the result might have been different.24 Further, the DOJ, while is concerned about the effect of cases like Motorola II on its ability to criminally prosecute foreign based component part cartels, has typically asserted jurisdiction through the FTAIA‘s import commerce exception.25

Nonetheless Motorola II has limited the reach of Sherman Act claims to foreign component part cartels. But that case may have created a circuit split and it is far from clear how other circuits might handle the same type of claim. On June 15, 2015, the Supreme Court denied certiorari in both Motorola II and the Ninth Circuit‘s Hsiung case, so we are not going to get a definitive answer anytime soon.

Motorola II may have shifted the focus to the domestic effects analysis and away from the direct effects requirement, which could perhaps soften the supposed circuit spit since the FTAIA requires both. As a result, it may be that in declining to hear the case, the Supreme Court did not see a circuit split.26

In any event, judicial application of the FTAIA seems to have produced more questions than answers. While ideally the law should create certainty, the combination of an unartfully drafted statute, differing judicial interpretations of that statute, and the somewhat amorphous concept of comity all combine to produce a great deal of uncertainty about the application of the FTAIA to foreign component part cartels.

#### International cartels wreck US economic growth – the aff ensures growth and innovation across industries

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Anticompetitive activity of cartels and the globalization of commerce have exponentially accelerated the gap between buyers and sellers.374 Collectively, increasing poverty, the decline in median income, and the collusion of companies to sell products at a certain price put buyers at the mercy of these cartels.375 Sometimes, because the products are inelastic, consumers have no choice but to accept the inflated purchase price.376 As global supply chains continue to expand, business transactions become a source of potential victims by perpetrators of consumer fraud.377 This raises the need for stricter rules to protect the consumers who are more likely in a worse financial position than that of companies taking advantage of these consumers. Expanding the reach of the FTAIA to include transactions made outside of the United States but nonetheless have an impact to U.S. commerce, as held by the Ninth Circuit, will reduce this prevalent issue.378 This Part discusses the effects of this proposal to the protection of U.S. consumers and the international business community.

In today’s global economy, it is difficult to distinguish and separate foreign from domestic effects.379 Global supply chains have made it easier for products to move rapidly and with ease. The United States, holding twenty-one percent of the worldwide Gross Domestic Product (GDP), is most susceptible to cartel targeting.380 With twenty-nine percent market share, it is the largest consumer in the world.381 Any impact of collusion in the international market is intertwined with a harm to customers in the United States.382 Measures must be taken to ensure that markets remain open and competitive; no company should able to dominate and restrict the supply of products sold. With a rigid rule in place, formation of domestic and international cartels would decline, further strengthening competition.383 After all, the protection of consumers through the preservation of deterrence is one of the main focuses of antitrust laws.384

Courts, as well as scholars, have commented that cartel deterrence should be the primary concern over international comity issues in analyzing the FTAIA.385 In United States v. Nippon Paper Indus. Co., 386 the First Circuit concluded that principles of comity should not “shield” a defendant from any intentional wrongdoings, especially if a substantial effect occurred in U.S. markets.387 Otherwise, because cartel members are more likely to engage in anticompetitive conduct, a decision that is based more heavily on the international comity principle would make company transactions, domestic and abroad, confusing and ultimately increase the burden on consumers.388

Cartels, more often than not, operate in secrecy. Members can coordinate and collude to fix prices outside of U.S. jurisdiction, making it much more difficult for the U.S. government to detect and prosecute them.389 To achieve deterrence, a rule that will dissuade companies from engaging in anticompetitive conduct from the very beginning will allow antitrust enforcement to be more manageable.390 A cartel will most likely weigh the potential damages engaging in anticompetitive activities with the potential benefits of those anticompetitive activities.391 A study conducted in the United Kingdom showed that labor productivity declined when industries are characterized by collusion or when competition is low.392 The study showed, however, that once a strict antitrust law was enforced, the gap declined, if not disappeared.393

The presence of competition drives productivity by incentivizing companies to be more efficient.394 Studies have revealed that competition boosts product innovation and creativity, all while firms strive to reduce their costs, by encouraging them to produce higher-quality and more diverse goods and services at more competitive prices.395 Consumers will gain more access to markets they had not previously been exposed to as a result of commercial competition.396

Cartels limit the presence of competition in the economy.397 Once producers work together to protect their own interests, to the detriment of consumers, competition is eliminated.398 Cartel members either agree on a fixed price at which to sell certain products or restrict the quantity of output of the product released into the market.399 By deliberately restricting the output released into the market, without a natural shift in the consumers’ demand, the supply decreases, thereby increasing the price of the product.400 When most of the producers in an industry are part of a cartel, consumers will have no means to find a substitute, and they will have no choice but to accept the inflated price.401 For example, when AU Optronics and other defendants colluded to artificially set the price of the LCD panels, Motorola and other plaintiffs had no choice but to subsequently increase the price of their own products that used these LCD panels.402 Without the cartelpriced LCD panels, Motorola’s foreign subsidiaries would have been able to buy them at the market price and charge U.S. consumers less than they ultimately did.403

Extending the reach of the FTAIA to foreign conduct with an impact on U.S. commerce makes economic sense.404 Judge Higginbotham’s dissent in Den Norske was correct: Emphasizing the role of deterrence protects market efficiency.405 He argued that a broad interpretation of the FTAIA would aid the DOJ’s efforts in curtailing international cartels.406 A cartel’s overall profitability is favorably impacted by anticompetitive conduct, and this may lead cartel members to either further restrict the output or increase the price of the product.407 A decrease in competition could potentially move market share away from these efficient producers.408 Thus, a consistent application of the Ninth Circuit ruling across all U.S. jurisdictions will limit both this unacceptable behavior and the foreign companies’ incentive to form cartels. Foreign companies will be deterred from price-fixing knowing that they could be liable for anticompetitive conspiracies, even for transactions that occurred outside of the United States.409 Studies have already shown that antitrust enforcement increases productivity growth.410 In fact, a study has concluded that the price of products tends to drop approximately twenty to forty percent after cartels are broken up.411 The price-fixing issue is not only prevalent in the manufacturing industry, but also in the industries at issue in Hui Hsiung and Motorola. 412 Studies show that increased competition also benefits the agricultural, telecommunications, transport, and professional services industries.413 Moreover, even though competition usually starts at a domestic level, a ruling against cartel formation will positively affect the competitiveness of the domestic products as they compete in the international community.414 Companies typically acquire their production inputs from local markets and industries.415 If these industries lack competition, product prices in these markets may not be priced competitively, which affects the finished products’ competitiveness with foreign rivals.416

#### That leads to nuclear war

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The conclusions reached in this thesis demonstrate how economic considerations within states can figure prominently into the calculus for future conflicts. The findings also suggest that security issues with economic or financial underpinnings will transcend classical determinants of war and conflict, and change the manner by which rival states engage in hostile acts toward one another. The research shows that security concerns emanating from economic uncertainty and the inherent vulnerabilities within global financial markets will present new challenges for national security, and provide developing states new asymmetric options for balancing against stronger states.¶ The security areas, identified in the proceeding chapters, are likely to mature into global security threats in the immediate future. As the case study on South Korea suggest, the overlapping security issues associated with economic decline and reduced military spending by the United States will affect allied confidence in America’s security guarantees. The study shows that this outcome could cause regional instability or realignments of strategic partnerships in the Asia-pacific region with ramifications for U.S. national security. Rival states and non-state groups may also become emboldened to challenge America’s status in the unipolar international system.¶ The potential risks associated with stolen or loose WMD, resulting from poor security, can also pose a threat to U.S. national security. The case study on Pakistan, Syria and North Korea show how financial constraints affect weapons security making weapons vulnerable to theft, and how financial factors can influence WMD proliferation by contributing to the motivating factors behind a trusted insider’s decision to sell weapons technology. The inherent vulnerabilities within the global financial markets will provide terrorists’ organizations and other non-state groups, who object to the current international system or distribution of power, with opportunities to disrupt global finance and perhaps weaken America’s status. A more ominous threat originates from states intent on increasing diversification of foreign currency holdings, establishing alternatives to the dollar for international trade, or engaging financial warfare against the United States.

#### Integrated and global supply chains solve every hotspot for conflict – material integration prevents war and encourages resolution – untangling risks the future of global stability.

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Here is my prediction: Taiwan won’t cause World War III. Nor will Kashmir, nor the Senkaku Islands, nor the nonexistent Iranian nuclear bomb. We aren’t very good at predicting wars. The wars that have broken out in the recent past—the U.S. invasion of Afghanistan and Iraq after 9/11, Russia invading Ukraine, the proxy war under way in Syria—weren’t predicted by anyone.

Furthermore, applying ancient wisdom such as the “Thucydides trap” only gets us so far. In 2015, respected Harvard professor Graham Allison published a study covering five hundred years of geopolitical power transitions and found that war broke out between the “ruling” power and its “rising” challenger in twelve out of sixteen cases. Based on these historical odds, war between the United States and China is likely but not inevitable. The most important strategy to avoid sleepwalking into World War III, Allison’s brilliant paper urged, is a “long pause for reflection.” Let’s take that pause.

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This isn’t 1914. In our haste to make analogies to a century ago, we have neglected the differences. European nations traded heavily across each other prior to World War I, but they did so as vertically integrated mercantile empires drawing on raw materials from their own vast colonies. They traded in finished goods without outsourcing production to each other. We did not have today’s internationally distributed manufacturing networks in 1914. The nineteenth and twentieth centuries brought trade interdependence; in the twenty-first century, we have complex supply chain dispersal as well—including among rival superpowers.

Even more than trade, it is investment that determines the stability of relations. Under a Cold War geopolitical paradigm, rivals wouldn’t invest in each other either; the United States and the Soviet Union certainly didn’t. But today’s robust flows of global investment among friends and enemies—“frenemies”—highlight how we have shifted from a Westphalian world to a supply-chain world. This financial and investment integration comes in the form of the trillions of dollars of assets invested in each other’s currencies and equities, as well as the tangible, productive capital—factories, real estate, banks, agriculture—they have bought and built inside other’s territory to efficiently and profitably access their markets.

If the United States and China were to go to war, the most immediate casualty would be Walmart, America’s largest retailer, 70 percent of whose merchandise is imported from China. Walmart has also been buying e-commerce companies such as Yihaodian.com to boost sales in China. The world’s most valuable company, Apple (also American), would also see its stock plummet, with so much of the market sentiment around its potential linked to growth in China. Two other American technology giants, Google and Facebook, would have to give up their cherished dreams of equal access behind China’s “Great Firewall,” and Hollywood studios, already accused of self-censorship to gain investment such as Dalian Wanda’s recent purchase of Legendary Entertainment for $3.5 billion, would find themselves banned from the world’s fastest-growing film market.

Approximately 60 percent of the Fortune 500’s revenues come from overseas sales, and the recently ratified Trans-Pacific Partnership (TPP) agreement is an American-led effort to nudge Asia’s share of America’s exports up even higher—with the potential for China itself to eventually join the trade area. As of March 2016, China imports American shale oil supplies from Texas. Direct confrontation is thus not in anyone’s interest so long as China needs peace for growth, America needs China for its hardware and everyone relies on shipping through the South China Sea.

Supply chains thus diminish the incentives for conflict. Leaders think twice, and step back from the brink. The growing depth of global cross-border trade and investment make geopolitics much more complex than in previous eras. When Presidents Obama and Xi held a 2013 summit at Sunnylands in California and spoke of aspiring toward “a new kind of great power relationship,” that was a reflection of the current reality—not a future scenario.

The common-sense truth is that while leaders talk about “red lines” for public consumption, and navies come dangerously close to trading direct fire, global market integration churns forward, knowing that there are two kinds of mutually assured destruction at play: military and economic. Military maneuvers don’t tell us enough about what drives leverage among great powers nor what they are willing to fight over. The tangled complexities of today’s system force leaders to think beyond borders and make functional calculations about the cost-benefit utility of their strategies—knowing full well that supply-chain warfare involves not just an enemy “over there” but also one’s own deep interests “over there.”

Waiting for World War III thus recalls Samuel Beckett’s Waiting for Godot, in which Vladimir and Estragon resolve to hang themselves if Godot does not arrive—so they simply sit endlessly. Their would-be savior, of course, never comes, but the protagonists never actually commit suicide either.

It is well documented that the number and frequency of interstate wars has fallen to nearly zero. Equally important, but far less discussed, is our ability to ring-fence conflicts, containing them at the local or regional level rather than allowing them to spillover too widely or escalate too sharply. The one genuine international conflict of the past several years, between Russia and Ukraine, is an example of this. Russia has not invaded the Baltics, marched into Poland, shut off gas to Europe in the winter or otherwise cleaved the European Union. Russia lacks the capacity to do so, and knows the repercussions of overreach.

The Arab world also continues to seize daily headlines. Syria is undeniably a regional proxy war, meaning that chaos there will continue. But it is not likely that Sunni powers such as Turkey and Saudi Arabia will directly escalate against Russia and Iran, whose forces are backing Bashar al-Assad’s Alawite regime. Saudi Arabia and Iran are also jockeying in Iraq, marking yet another chapter in Iraq’s destruction that began with the 1980s Iran-Iraq War, the disastrous invasion of Kuwait in 1990, the U.S. invasion in 2003 and brutal insurgency ever since. But Iraq, too, will not become the flash point that triggers war among great powers. While all of these conflicts are tragic, none of them, civil or international, are of world-historical significance.

A far more important driver of the long-term geopolitical positioning among key powers is not their role in any of these minor wars, but how they play the great supply-chain tug-of-war that is a far more pervasive reality than international warfare. Tug-of-war is an apt metaphor for our times. The world’s oldest team sport, its rituals are recorded in ancient stone etchings from Egypt to Greece to China to Guinea. Often conducted in resplendent royal ceremonies, tug-of-war was used by the soldiers of great armies to build strength in preparation for combat. In the eighth century, the Tang dynasty emperor Xuanzong was known to pit over five hundred warriors on each side of a rope over 150 meters long.

The rope in today’s geopolitical tug-of-war is connectivity. States want to control the transportation, energy and communications infrastructures and markets that enable them to acquire resources, access markets and move up the value chain. We don’t fight over the borders that divide us, but rather pull and yank the supply chains that connect us. While very few societies are at war, all societies are caught in this global tug-of-war, competing over the flows of money, goods, resources, technology, knowledge and talent transpiring between them.

Wars of connectivity are won by economic master planning rather than military doctrine. Think about it: twenty-first-century China is not a superpower because of the size of its military arsenal, but because it has become the central hub for the world’s manufacturing and electronics supply chains, built a sizeable trade surplus and enormous currency reserves, and penetrated most of its neighbors through robust infrastructure networks and become their main foreign investor and export destination. Do you have any clue how many nuclear weapons China has? Exactly: It doesn’t matter. But you probably know a fair bit by now about how China builds special economic zones, buys and steals foreign technology, and capitalizes companies with billions of dollars to ramp up quickly and capture global markets that range from solar panels to mobile handsets.

Britain’s elite Royal Military Academy Sandhurst publishes a manual of strategies for success in tug-of-war, pointing out that a good team “synchronizes its movements to the point that their pull feels like it comes from a single, unified being.” Does America act like this? Do Washington politicians, the Fed, Wall Street bankers, Texas oil companies, Silicon Valley tech companies and the other players on America’s team act like a single, unified being? Or does China do it better? Tug-of-war is won slowly and carefully. Smart teams dig in their heels to hold ground and tire out opponents while collectively taking small steps to ultimately gain control.

Tug-of-war is still war without end, a marathon without a finish line. Winston Churchill once advised that it is always better to “jaw-jaw” than to “war-war,” meaning diplomacy is preferable to conflict. Today’s world is a hybrid of the two: It is an endless tug-tug.

The future of global stability hinges on whether great powers think and act in terms of sovereignty or supply chains—if they learn the benefits of fighting tug-of-war instead of the real thing. It is no doubt unwise to argue that World War III is a passé risk. However, as the French scholar Raymond Aron argued, nuclear deterrence and the benefits of hindsight are crucial in warding against the uncontrolled escalations of the twentieth century or even harrowing episodes such as the Cuban missile crisis. Furthermore, China’s neo-mercantilism today is quite different from the zero-sum European colonial mercantilism of centuries ago: It is the pursuit of catch-up modernization rather than global hegemony. China seeks foreign raw materials and technology, not foreign territory. The smoother the supply chains, the more satisfied China will be.

A hyperconnected, multipolar world is uncharted and dangerous territory, but the paradox of tug-of-war may be that the longer it goes on, the more everyone wins. If we play our cards right, North Korea will become a supply-chain condominium of China and South Korea and other investors variously exploiting its tremendous mineral and agricultural resources while modernizing its nascent manufacturing capacity. India and Pakistan will revive the historic Grand Trunk Road of trade linkages stretching from Afghanistan to Bangladesh, and complete the natural gas pipeline from Iran via Pakistan to India. China and Taiwan will deepen their supply chain linkages and accept the outstanding differences in political systems. And China and Japan will settle their historical grievances through generational change in leadership, and accept with maturity the obvious hierarchy of Asia’s future.

Today’s world is full of tension, strife and hostility: nuclear standoffs, terrorist insurgencies, collapsing states and tragic civil conflicts. It is healthy to remind ourselves that many of our ongoing flash points could potentially escalate through unpredictable chain reactions into global conflagration. But it is even more important to pay attention to what we are doing that prevents the unintended slide into disaster—and do more of it. The future of global stability hinges on whether we continue global supply-chain integration and content ourselves with waging tug-of-war rather than the real thing. The world’s oldest team sport has an admirable track record: almost nobody has ever died playing it.

#### And globalized CRM supply chains are hyper-vulnerable to anticompetitive conduct that shocks global battery markets – the entire market is at risk

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The worldwide electrification of the transport and other industry sectors, the development of a new generation of batteries for electricity storage as well as the digitalization of the industries, including the spread of robotics and artificial intelligence systems in the industry (‘industry 4.0’) will further boost the worldwide demand for CRMs such as lithium, cobalt and others. As a result, it might create new and unprecedented challenges, including bottlenecks and supply shortages, for the global supply chains of the CRMs on each stage ranging from mining to processing, refining and manufacturing.

The production of CRMs is geopolitically - compared with the concentration of conventional oil and gas resources - more challenging and problematic as currently 50% of CRMs are located in fragile states or politically unstable regions. Moreover, security of supply risks are not just constrained to primary natural resources and CRMs but also to the import of semimanufactured and refined goods as well as finished products. Manipulated prices, restricted supplies and attempts at cartelization of CRM markets with wide-ranging negative economic consequences are not restricted just to producing and exporting countries. Powerful states and private companies have also been responsible for non-transparent pricing mechanisms for many precious CRMs. Global supply chains have become ever more complex due to the blurring of boundaries between physical and financial markets and weakly governed market platforms. These market imperfections lead to the manipulation of prices and threaten the stability of the future security of supply of CRMs.

Given China’s status as the world’s largest battery producer, and as the leading nation in the electrification of the national transport sector, it may increase the dependencies of the European and U.S. carmakers on China. The dependence on CRMs such as lithium, cobalt, graphite, rare earth and others will equally rise. Those geopolitical impacts have already been highlighted in 2010–2011, when China in the midst of escalating diplomatic conflict with Japan stopped all exports of Rare Earth Elements (REEs) to the world’s biggest importer and blackmailed Tokyo diplomatically by instrumentalising its status as the world’s largest producer and exporter of REEs. It has sent a troubling message to the world that the new rising Asian economic and military power might not respect international law, the existing global rules of the WTO and that Beijing may not politically be willing to accept the regional and global responsibilities that grow with its emerging superpower status. Over the last months, China has further strengthened its efforts to control the entire global supply chain of lithium, from owning international mines to the production of lithium up to manufacturing of batteries and EVs.

#### Advanced batteries are key tolasers – they’re key to missile defense and prevent a NoKo first strike

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Advances made in automotive battery technology by Tesla and others are now being borrowed to help the Pentagon get high-power laser weapons that can kill everything from enemy drones to missiles.

The work on laser weapons underway includes an Air Force Research Laboratory contract awarded to Lockheed Martin last week to develop high-power fiber lasers that will be tested on a tactical fighter jet by 2021. The fighter jet demonstration project is part of the Air Force lab’s so-called SHiELD or Self-protect High Energy Laser Demonstrator program.

“You can power the laser like you can power the car off a battery system,” said Rob Afzal, senior fellow of laser weapon systems at Lockheed, the nation’s largest defense company. “We would use the same type of battery technology ... and the reason is you need to be able to deliver a lot of energy in a short period of time.”

Indeed, efficient lithium-ion battery technology commonly found in electric cars is now getting leveraged to drive power generation and storage solutions for military laser applications. It allows lasers to achieve significant bursts of energy very quickly for incinerating enemy targets, just as a Tesla Model S driver could accelerate from 0 to 60 miles per hour in a matter of a few seconds.

“As the batteries get smaller, cheaper, have more power density, more reliable, we’re just going to just have better power systems for the laser,” said Afzal. “The battery technology is ahead of the laser weapon technology.”

Some experts credit Tesla for helping bring a revolution in electric cars and lithium-ion battery technology, while also driving down battery costs and expanding the power storage market beyond cars. Even so, the Tesla brand competes with other lithium-ion battery suppliers, and research firm Technavio last year predicted the Chinese would surpass the U.S. in research and development spending on laser systems by 2022.

“It’s funny how a lot of things that happened in the auto industry can filter over into new capabilities on most other technologies, and lasers is one of them,” said Air Force lab’s SHiELD’s program manager Richard Bagnell.

Dan Goure, a former Pentagon official and now senior vice president of Virginia think-tank Lexington Institute, said the Lockheed contract to develop a laser for a fighter jet shows how far the research has come in terms of making laser weapons smaller.

In a release, Lockheed said this month its team will be “focused on developing a compact, high efficiency laser within challenging size, weight and power constraints.” It also said the laser system would be “pod mounted on the tactical fighter jet.”

‘Elon Musk in camouflage’

Yet the challenge comes from the fact that directed-energy weapons — lasers — tend to draw significantly more power than an automotive battery would require. The airborne laser weapons are designed to store power to fire off dozens of shots but can also include a power recharge system much like a hybrid electric car.

“You may literally not have to be generating power per se on the airplane [for laser weapons],” said Goure. “You can have battery storage, kind of like Elon Musk in camouflage. ”

It’s unclear if Musk’s Tesla or its suppliers are providing battery storage systems to the defense contractors for laser weapons. Tesla declined comment for this story.

For its part, Lockheed says it doesn’t use its own specialized battery technology for the lasers but one that’s being developed for automobiles, aircraft and other applications.

‘Riding the wave’

“We’re riding the wave,” said Afzal. “The battery advances are remarkable. We’re going to utilize that.”

Regardless, the military has been researching lethal lasers since the 1960s but in the past decade development has intensified with the focus on technologies that have more power, accuracy and reliability.

“One of the things we find in a lot of our systems — land, sea and air — is that we run out of shots particularly on the defense,” said Goure. “You just run out of bullets or missiles. And if you have laser, it avoids having to reload.”

For the Navy, a drone-killing laser weapon system was deployed a few years ago aboard the amphibious transport ship USS Ponce in the Persian Gulf, although the laser was removed from the ship last summer. In 2018, the Navy is expected to test a 150-kilowatt electric laser weapon. The high-energy laser weapon is being developed by Northrop Grumman to protect ships from drones, boats and enemy missiles.

The Army recently took delivery of a 60-kilowatt laser system from Lockheed that will be put on combat vehicles. Also, in August Lockheed did tests for the Army on a 30-kilowatt Advanced Test High Energy Asset (ATHENA) laser weapon system that shot down five drones. ATHENA is so powerful it can burn a hole in truck from a mile away.

Experts point out that a decade ago, the solid-state laser technology was bigger than many of the combat vehicles. “What’s happened is a new type of electrically-driven laser technology has evolved in the last 10 years where we can build very high power lasers that are very electrically efficient,” said Afzal. “The more efficient the laser you have, the less power you need to drive it.”

Killing missiles

At the same time, automotive industry innovation means laser weapons today are lighter and more portable than legacy chemical iodine lasers that were once tested aboard Boeing’s 747-400 jets for the Air Force.

Chemical lasers can pack a big punch in terms of firepower and shoot down ballistic missiles but are considered impractical and rely on large chemical tanks that can be hazardous in accidents.

Back in 2002, Boeing began testing chemical laser weapons on 747s in a program known as the YAL-1 Airborne Laser Testbed. The flying laser system was designed to shoot down enemy missiles but had mixed success, and the Pentagon pulled the plug on the $5 billion program in 2011. “One of the problems with the chemical laser is that first of all they’re too big and too heavy — and you have to carry the chemicals with you,” said Afzal. “With an electric laser, your platform which is driving, sailing, flying around, usually has a power system that can recharge your battery back. But in a chemical laser, once the chemicals are gone you have to go back to the depot.”

More recently, the U.S. Missile Defense Agency has indicated it wants to take another look at airborne laser weapons to kill enemy missiles but rather than use chemical lasers it plans to focus on electric solid-state laser technology.

In June, the agency put out a request for information with defense contractors for a drone equipped with a high-energy laser weapon system would be compact and designed to intercept missiles in the boost phase. That means the technology could one day possibly be used to bring down ballistic missiles fired by North Korea that are a threat to the U.S. or its allies.

#### NoKo first strike causes extinction

Dempsey ‘18 [Michael; 2/21/18; National intelligence fellow at the Council on Foreign Relations, a fellowship sponsored by the U.S. government. He is the former acting director of national intelligence; War on the Rocks; “What If Kim Jong Un Decides to Bloody America’s Nose First?" https://warontherocks.com/2018/02/kim-decides-bloody-americas-nose-first/]

For the past several decades, North Korea has weathered periodic spikes in U.S. diplomatic and economic pressure while continuing to make steady progress with its weapons programs. North Korean leaders correctly calculated for years that U.S. policymakers would find the cost of an actual conflict on the Peninsula too high for serious consideration, and that China would be a safety valve if economic sanctions became too painful.

From Kim’s vantage point, however, there are reasons to question whether those assumptions are still valid. Over the past year, the public rhetoric from U.S. leaders threatening his regime has reached an unprecedented level, with some statements indicating that the United States is “locked and loaded” for a conflict, and others even hinting at the idea of a nuclear strike against North Korea. At the same time, the United States has quietly increased its military footprint in the region, including more regular B-1 bomber flights over the Korean Peninsula and — for the first time in a decade — the deployment late last year of three U.S. aircraft carriers off the Peninsula. This stepped-up military activity has undoubtedly not been lost on Kim or his generals and has likely sparked internal discussion about potential U.S. offensive military operations.

On the economic front, meanwhile, China has become intensely frustrated by both Kim’s behavior and constant U.S. demands to get tougher on the North, and has gradually imposed increasingly punishing sanctions, agreeing to limit oil supplies and stop importing steel and various food products. This is particularly worrisome to Kim because China accounts for about 90 percent of North Korea’s foreign trade. Taken in combination these actions might convince Kim that the established playbook has fundamentally changed, and that he is now in real danger.

So, how might this realization alter North Korea’s actions? It’s plausible that, contrary to the logic that maximum pressure will force concessions, the North’s new constraints could persuade Kim that he needs to demonstrate his own resolve and preemptively remind the United States and its allies just how costly an attempt at forced denuclearization or regime change would be. Indeed, Pyongyang’s track record suggests a willingness to raise the stakes during periods of tension and to take lethal action — from the seizure of the USS Pueblo in 1968 to the artillery bombardment of Yeonpyeong Island in 2010 — when it believes it necessary.

If Kim reaches this conclusion, there are a few options that his regime could consider which U.S. policymakers should prepare now to counter. First, there is the strong possibility of additional missile testing, potentially involving more sophisticated delivery systems and warheads — a standard tactic Kim has employed in recent months to demonstrate his resolve and showcase the North’s newfound technical prowess. I believe the regime is also likely to engage in proportional actions: Recall that when North Korea objected to the release of a Sony film in 2014 that portrayed an assassination attempt on Kim, it responded with a cyberattack on that specific studio. Today, Pyongyang could calculate that it needs to similarly target business interests in South Korea and the U.S. to force an easing of economic sanctions. This would likely be done through a series of cyberattacks against vulnerable commercial targets in both the United States and South Korea, especially banks and key economic infrastructure, but could also involve physical sabotage operations.

Second, if Kim believes that military pressure against the North is reaching an unacceptable level, he could try to intimidate Seoul and undermine its cooperation with Washington. This option could involve using North Korean special forces to trigger a series of isolated explosions in major cities in the South (North Korean special forces have operated in the South in the past) or even another incident similar to the sinking of a South Korean corvette in 2010 (the Cheonan), which the North has repeatedly denied despite overwhelming evidence to the contrary. Along these lines, Kim could also enlist a “sympathizer group” rather than his own special forces to attack a U.S. or South Korean military installation, calculating this would send the intended message while maintaining some degree of deniability.

And third, if confronted with the threat of a major U.S. military buildup on the Peninsula later this year, Kim may well decide in desperation that his best option is to preemptively target (including with mines) the ports and airfields that the U.S. military would rely on to transport troops into South Korea. If he pursues this option, Kim would almost certainly expect a strong U.S. retaliation, but might calculate that delaying America’s ability to deploy significant ground forces onto the Peninsula is his only remaining option to buy time and is therefore his best military play. Kim has undoubtedly learned the lesson of Desert Storm, and is unlikely to allow the U.S. military to mass hundreds of thousands of troops in the South for an offensive at the time and place of its choosing.

Understanding North Korea’s internal decision-making process and the various influences on Kim’s calculations is perhaps the hardest intelligence challenge on the planet. As is well documented, North Korea is among the most isolated countries in the world, with a young leader with almost no international expertise and only a few years of actual leadership experience. Therefore, it’s quite plausible that Kim himself has yet to decide on a course of action for the current standoff with Washington, and that his decisions will be shaped almost entirely by his superficial perception of U.S. intentions and the perceived threat. Sadly, my experience working on this issue while in government also causes me to believe that Kim is surrounded by advisers who, based on the last quarter-century of U.S.-North Korea relations, may be overconfident that the United States will shy away from conflict in the face of aggressive actions by North Korea. These advisers are unlikely to tell Kim anything he doesn’t want to hear for fear of their own personal safety. In other words, it’s a situation ripe for miscalculation by both sides.

Given the stakes — a potential conflict involving nuclear weapons — a miscalculation leading to a broader conflict simply cannot be allowed to occur. So in the coming months U.S. policymakers will want to exercise prudence in and carefully weigh their public statements, think deeply about how Kim and other critical actors might misperceive and overreact to U.S. actions and rhetoric, work in the closest possible consultation with key regional allies (especially South Korea), and prepare U.S. military, intelligence, and diplomatic responses to the full range of potential North Korean preemptive actions and counter-actions. It would be nice if the current showdown with North Korea could be resolved through diplomacy and follow a logical, predictable script of American design, but the two countries’ painful shared history suggests that we shouldn’t bank on that occurring.

#### The aff protects international supply chains and allows for rapid economic growth – US antitrust policy is key to ensure private plaintiffs can seek treble damages – any alternative penalty is insufficient because the benefits of price-fixing outweigh the risks

Leonardo ‘16 [Lizl Leonardo; 2016; J.D. Candidate, DePaul University College of Law, 2018; B.S., 2011, De La Salle University-Manila, Philippines; DePaul Law Review; “A Proposal to the Seventh and Ninth Circuit Split: Expand the Reach of the U.S. Antitrust Laws to Extraterritorial Conduct that Impacts U.S. Commerce.” vol. 66, https://via.library.depaul.edu/cgi/viewcontent.cgi?article=4008&context=law-review]

The Seventh Circuit ruling also addressed policy arguments that are pertinent in today’s global economy. It held that foreign subsidiaries could bring suit to seek remedies under the laws of the country where they operated, and in light of this, the United States must not overextend its reach. Rather, it should allow foreign countries to govern conduct that occurs exclusively within their borders.343 However, the court failed to consider that allowing a private company to pursue claims under U.S. antitrust law would detect and deter the formation of cartels.344 Treble damages are available under U.S. antitrust law.345 The adversaries of this proposition argue that this would presume the inadequacy of the antitrust laws of foreign countries.346 They argue that foreign countries, with the help of the United States, set up their own antitrust laws and continue to improve these laws throughout the years; thus, these foreign laws must prevail in dealing with foreign anticompetitive conduct.347 While it is true that the United States has taken on a role to help foreign countries develop their own antitrust laws, the Seventh Circuit’s ruling presumes that fines and criminal prosecutions, both here and abroad, are sufficient to deter global cartels.348

The truth is, collective laws across the nations are still inadequate to protect U.S. companies and consumers, primarily because many nations still do not have laws against international price-fixing cartels.349 In fact, only a limited number of countries allow private companies to bring private antitrust claims for damages.350 On the other hand, existing antitrust laws in many other countries are insufficient because the penalties are significantly lower than those in the United States; therefore, this discrepancy fails to deter foreign companies from forming international price-fixing cartels.351 The financial gains from a conspiracy far outweigh the maximum criminal and civil fines imposed by other countries’ antitrust laws.352

The presence of price-fixing conspiracies for products such as LCDs, automotive parts, vitamins, and DRAM illustrate these ineffective antitrust laws.353 Companies engaged in these conspiracies know how the system works and will repeatedly participate in cartels without more rigid rules in place, such as that of the Ninth Circuit’s.354 The Seventh Circuit’s logic seems misplaced when focused on the availability (or the lack thereof) of the laws in foreign countries where the conduct occurred. The antitrust laws of the United States have nothing to do with the adequacy or inadequacy of other countries’ antitrust laws. Rather, they have everything to do with the fact that U.S. consumers were injured.

In Empagran, the U.S. Supreme Court held that extraterritorial application of U.S. antitrust law should be limited to balance the “legitimate sovereign interests of other nations.”355 One of the fears is that foreign plaintiffs with no relation to domestic commerce would flock to the United States to recover damages, which would be too costly given the already scarce judicial resources.356 The Seventh Circuit emphasized the principle of international comity and brought up the same concern in its Motorola opinion.357 However, the enactment of the FTAIA, particularly the “gives rise to” requirement, already accounts for this concern.358 This second requirement of the FTAIA ensures that all causes of action that have domestic effects to the United States are the proximate causes to those effects.359 Congress, therefore, made sure that unnecessary suits are not filed in U.S. jurisdictions, while not overstepping into another country’s interests.360 In Motorola, it is undisputed that the defendants’ conduct had domestic effects, as the inflated prices paid by the foreign purchases were ultimately passed on to U.S consumers.361 Motorola purchased over $5 billion worth of panels, over fifty percent of which eventually entered U.S. commerce.362 What seems to be a small increase in the price of the panels nonetheless would have a substantial effect on the market.363 Furthermore, the defendants were business executives engaged in global supply chains.364 If they did not already, they should have known that the artificially inflated price of these LCD panels targeted to reach the United States (as alleged by Motorola) would have an impact on the U.S. market.365

Moreover, it does not appear that these cases have raised serious comity concerns; despite the DOJ’s prosecution of the foreign companies and their employees, no foreign government has stepped forward expressing deep concerns about the overreaching enforcement of antitrust law.366 This is not to say that courts must forget about the importance of international comity when analyzing antitrust cases. International comity ensures that the United States does not overstep into foreign countries’ authority when extending the reach of U.S. antitrust laws.367 In fact, the United States has proactively assisted foreign countries in their efforts to capture more anticompetitive conduct.368 However, despite the need to “tread softly” in this arena, the United States must put down its foot and continue to litigate claims of anticompetitive conduct by foreign companies, so long as the foreign anticompetitive conduct satisfies the requirements of the FTAIA.369

Limiting the extent of the FTAIA, as the defendants contended and the Seventh Circuit ruled, would significantly destabilize the enforcement of antitrust law—“a central safeguard for the Nation’s free market structures,” which “is ‘as important to the preservation of economic freedom and our free-enterprise system as the Bill of Rights is to the protection of our fundamental personal freedoms.’”370 The Seventh Circuit, in ruling that a “component” is not “direct” enough to provide sufficient basis for liability under the statute, precluded any claim that involved components of finished goods imported into the United States from being brought under the Sherman Act.371 In effect, the court has made a per se rule that claims based on foreign conduct regarding a component of finished goods that eventually reach the United States have no place in the United States’ jurisdiction.372 This sweeping decision has negative ramifications in the detection of cartels, the protection of U.S. consumers, and the development of the international business community.373

The Ninth Circuit’s logic and reasoning should prevail in subsequent cases. It allows for a more rigid, yet necessary, rule in the rapid growth of the economy. By the Ninth Circuit’s logic, foreign cartels that harm U.S. commerce will be reached by U.S. antitrust laws. Treble damages will disincentivize these foreign companies from pursuing anticompetitive conduct; products will not be overpriced as a result of cartels’ price-fixing; transactions among domestic and/or foreign producers will be much smoother because both parties are at ease. U.S. Supreme Court involvement, interpreting how the FTAIA applies to non-import trade, would provide answers to questions that federal courts have been struggling to answer for many years, and it would reverberate the United States’ firm position against conspiracies that adversely impact U.S. consumers and the U.S. economy.

#### \*The aff solves by clarifying the language of the Sherman Act and giving courts guidance on interpreting the FTAIA’s language

Ryu ‘16 [Jae Hyung; Fall 2016; J.D. Candidate (2017), Washington University School of Law, St. Louis, Missouri; Wake Forest Journal of Business and Intellectual Property Law; “Deterring Foreign Component Cartels in the Age of Globalized Supply Chains,” vol. 17, no. 1, https://heinonline.org/hol-cgi-bin/get\_pdf.cgi?handle=hein.journals/wakfinp17&section=6]

Resolving these conflicting ideas will be a difficult task because import commerce encompasses a complex web of transactions and implicates multiple aspects of economic policy-making.166 Therefore, Congress, which has not made major amendments to the Sherman Act or the FTAIA since their enactments,167 should clarify the statutes' scopes. As the above mentioned trade data suggest, the world economy is much more interconnected, and other countries have already begun to flex their antitrust muscles outside their borders in the context of price-fixed components.168 Moreover, because many corporations are multinational and thus subject to the corresponding jurisdictions' competitions laws, competition laws are starting to converge, mostly to resemble those of the United States.169 Congress, through its committees, research commissions, and hearings that will elicit expert testimonies, is in the best position to examine in detail which form of antitrust law would best serve the needs of American consumers and businesses.

In doing so, Congress should consider combining the Sherman Act and the FTAIA to clarify the interaction between the two statutes. 1 7 0 Because the FTAIA modifies the Sherman Act, instead of having a distinct section, the FTAIA's language can simply be added to the Sherman Act to make the Sherman Act more self-contained and easily understandable. In revising the statutes, Congress should define the contours of import commerce to provide courts with clearer guidance. Furthermore, considering that one of the major concerns involving a broad reading of the FTAIA is international comity, 172 it is more appropriate for Congress to consider complex foreign relation concerns than for the judiciary. Congress could update U.S. antitrust law in the face of increasing cross-border antitrust collaborations and other countries' practices of expanding extraterritorial applications of antitrust law. 17 3

#### Plan: The United States federal government should increase its prohibitions on anticompetitive business practices by expanding the extraterritorial scope of its antitrust laws.

### Harmonization Adv

#### Strengthening cartel responses mitigates the risks of regulatory harmonization – that offsets the costs of globalization and shields consumers

Leonardo ’16 [Lizl Leonardo, J.D. Candidate, DePaul University College of Law, 2018; B.S., 2011, De La Salle University-Manila, Philippines. "A Proposal t oposal to the Se o the Seventh and Ninth Cir enth and Ninth Circuit Split: Expand the cuit Split: Expand the Reach of the U.S. Antitrust Laws to Extraterritorial Conduct that Impacts U.S. Commerce." https://via.library.depaul.edu/cgi/viewcontent.cgi?article=4008&context=law-review]

A U.S. Supreme Court ruling in favor of the Seventh Circuit will also prevent companies from potentially leaving the United States to avoid compliance with antitrust laws.417 Domestic companies with foreign subsidiaries that seek to increase their market share by colluding to fix the prices of products will be deterred from engaging in illegal conduct, but they will also be incentivized to keep their businesses in the country.418 Mere knowledge that companies can be liable in the United States for engaging in illegal, extraterritorial conduct that indirectly affects U.S. consumers could in itself discourage the companies from pursuing such conduct.419 Likewise, without the benefit of being exculpated from any extraterritorial conduct, companies will rather stay in the United States than incur expensive costs of moving overseas. This is a win-win situation; prices of products remain controlled by the natural forces of supply and demand, and small and local companies are able to compete with the bigger and international companies. On the contrary, a ruling that limits the extraterritorial reach of the FTAIA to non-import commerce, similar to what the Seventh Circuit held, will encourage companies to move their operations overseas and strategically only deal with the United States in instances they are certain will not subject them to either the Sherman Act or FTAIA.420

Arguably, ruling in favor of the Ninth Circuit could hurt companies that trade with the United States indirectly. These companies have legitimate reasons for incorporating as “foreign subsidiaries,” and subjecting them to U.S. jurisdiction would in effect deplete some of these purposes.421 Although domestic legal remedies are available in some foreign countries, as mentioned above, they are unlikely to deter price-fixing by international cartels.422

Moreover, having a more consistent approach in cases like this will strengthen and harmonize the partnership across nations. Needless to say, the cooperation between these countries can play a significant role in attaining this objective. Bilateral agreements between the countries have proven that, though challenging, implementing this stricter rule is not impossible.423 International trade rules, such as the General Agreement on Tariffs and Trade (GATT), World Trade Organization (WTO), Organization for Economic Cooperation and Development (OECD), and agreements between countries, imply the general acceptance of this proposal.424 The rapid growth in globalization has forced governments to institute and enforce policies that both protect domestic products from multinational firms and encourage the domestic firms to compete internationally, in furtherance of international trade.425

One of the partnerships the European Union (EU) and the U.S. governments are currently working on is called the Transatlantic Trade and Investment Partnership (T-TIP).426 Its aim is to further develop the strong relationship nations have and leverage that relationship to boost economic growth and international competitiveness.427 The agreement purports to provide greater transparency around trade and investment regulation while ensuring the quality of the products.428 As part of the agreement, the governments seek to eliminate all tariffs, other duties, and charges on trade in various products between the United States and the European Union.429

The proponents of T-TIP point out that the elimination of tariffs and quotas will, among other things, entail lower costs of import to each of the regions, put products from one area “on equal footing” with the products from another, create more jobs, lower the unemployment rate, increase competitiveness, and improve the overall growth of members of the agreement.430 Although the agreement seems ambitious at this time, it intends to link two of the world’s larg est economies to generate a third of the world’s GDP.431 Critics argue, however, that the deregulation of several national laws—possibly resulting in lower consumer standards, as well as compromised laws covering intellectual property, food safety, privacy and data collection, and democratic legitimacy—are all steps in the wrong direction.432

Having an established rule that foreign companies’ non-import trade conduct can be subjected to U.S. antitrust laws, as long as the conduct had an “immediate consequence” on U.S. commerce, could mitigate the risks associated with the opening of U.S. and EU markets. Foreign companies that will be encouraged to invest in the United States as a result of T-TIP will have an understanding of the laws and the possible repercussions of any business transaction in which they take part. These companies do not need to determine if and how any of their strategic decisions can be subjected to either the Seventh or Ninth Circuit rulings before securing deals or signing agreements. The certainty will provide companies with notice and understanding of how the law affects their decisions, thereby making their investments less risky. In return, investments could become safer, eventually having a favorable impact on the continued development of the world economy.

V. CONCLUSION

International commerce has expanded over time. Accordingly, the U.S. courts’ interpretation of antitrust laws must keep up with this rapid growth. It is time to apply a consistent rule that will solve the convoluted body of law and conflicting application of that body of law by the courts. U.S. courts must be able to reach foreign companies’ extraterritorial conduct that have wrongfully affected the U.S. economy. Though international comity may have been a concern in years past, deterrence should bear a greater weight in determining whether a foreign company is subject to the United States’ jurisdiction. After all, antitrust laws are geared towards protecting consumers. Ex panding the reach of the FTAIA to include transactions that occurred outside of the United States, but still have direct and significant effects in the United States, will allow for a more rigid yet necessary rule in the age of increasing international commerce. Consistency across all federal courts will provide foreign companies greater transparency with regard to the laws that govern both their import and non-import trade transactions; formation of cartels will be minimized; price-fixing of products will be easily detected and stopped; innovation and creativity will be encouraged; competition will increase; and prices of goods will likely decrease. Consequently, the United States and the global economy will be favorably impacted.

#### Now is key – regulatory harmonization is around the corner

Moens & Scott 9/9/21 [Barbara Moens, Reporter @POLITICOEurope covering trade and Belgian politics. Mark Scott, Chief Technology Correspondent at POLITICO. "Transatlantic trade deal rises from the grave to fight China." https://www.politico.eu/article/ttip-rises-from-the-grave-to-fight-china/]

Activists may have thought the politically explosive Transatlantic Trade and Investment Partnership (TTIP) negotiations between Europe and America were dead and buried.

But one of the most important elements of those talks, which collapsed in 2016, is back from the grave: regulatory alignment between Washington and Brussels.

The first meeting of the Trade and Tech Council (TTC) in Pittsburgh on September 29 is intended to build a diplomatic platform for the European Union and the United States to work together on industrial and tech standards to counter China's rise in sectors ranging from microchips and robots to artificial intelligence and the alleged antitrust abuses of Google and Amazon.

The attempt to build a common U.S.-EU front could hardly come at a more sensitive moment politically, as the American retreat from Afghanistan has blown a hole in European faith in the administration of U.S. President Joe Biden. Many in Brussels feel let down by Washington's retreat from that country, while many in the U.S. capital believe EU countries did not pull their weight during the 20-year war.

“You can not discuss the Trade and Tech Council, and transatlantic trade relations overall, without Afghanistan in the back of your mind,” said one EU trade diplomat who spoke on the condition of anonymity because the ongoing talks are private. “The trust is gone, and that has to be rebuilt one step at a time.”

The two sides may not find themselves perfectly aligned against the common Chinese foe, however.

Brussels had originally hoped to pressure the Americans into following Brussels’ regulatory line on tech and trade, building on more than a decade of digital policymaking that spanned competition enforcement to global privacy rules. But now, the big fear among European officials is that the EU could well come off second best in this process and cede power to the U.S. after Washington flexed its muscles in early-stage talks around the upcoming trade and tech summit to focus on priorities for Biden's administration.

TTIP through the back door?

The TTIP negotiations are mostly remembered for protests about hormone-treated beef and chemically-rinsed poultry but the major benefits of TTIP lay precisely in bringing together conflicting EU-U.S. regulations. At the time, Brussels described this part of TTIP as a "regulatory cooperation body" and said that it could look at sectors such as data and cybersecurity.

Washington and Brussels now want to target those regulatory benefits again. “That sounds extremely boring and technical, but there’s a lot of money in having different standards. So this has the support from business from both sides,” former EU trade chief Cecilia Malmström told POLITICO earlier this year. Ten working groups — on everything from global trade standards to how to deal with online platforms — are expected to hammer out how such joint transatlantic policymaking could work in practice.

This time around, it’s not just car seatbelts or pharmaceuticals. The discussions focus on critical emerging technologies like artificial intelligence, semiconductors and data governance.

#### Unchecked globalization causes right-wing populism – that causes slow growth, polarization, and war

Flaherty & Rogowski 21 [Thomas M. Flaherty is a PhD candidate and NSF Graduate Fellow at the University of California, San Diego. He can be reached at t1flaher@ucsd.edu. Ronald Rogowski is Distinguished Professor of Political Science at the University of California, Los Angeles, and Weatherhead Scholar at Harvard University (2019–2021). "Rising Inequality As a Threat to the Liberal International Order." https://www.cambridge.org/core/journals/international-organization/article/rising-inequality-as-a-threat-to-the-liberal-international-order/4CDE05DEB3AB076CE338E1AA4A9C8087]

The openness to trade in goods, services, and factors of production the LIO has so effectively advanced over decades has concentrated real income growth in a very thin layer of workers. While this rise in top-heavy inequality doubtless has other causes, chief among them skill-biased technological innovation, trade openness has contributed mightily, particularly since the “China shock” of 2001;96 and certainly the populist movements that reject the LIO cast openness to trade and migration as the chief villain.

The ways in which rising inequality has threatened the LIO expose lacunae in international political economy's intellectual apparatus—“blind spots” that require remediation. Most importantly, our basic economics are, if not wrong, at least outdated. The field's adherence to classical trade models blinds us to the distributional effects revealed by top-heavy inequality: far more people lost from globalization, and fewer gained, than traditional theories (factor proportions and specific factors) suggested. While economists rapidly updated their trade models to account for the emerging reality of extreme inequality, political science largely stayed the course—and ran the danger, now realized, of misapprehending the domestic politics of globalization.

The trade literature offers three explanations for top-heavy inequality. The “enriched” Heckscher-Ohlin model of Haskel and colleagues shows how only a thin layer of extraordinarily talented individuals within the larger set of high-skill workers unambiguously benefits from a rise in the relative price of a skill-intensive product; the wages of both the less talented high-skill and the low-skill workers stagnate or fall.97 New new trade theory shows how a similarly narrow subset of very large and productive firms, and their employees, absorb the bulk of trade's gains at the expense of all other firms. Finally, economic geography suggests that trade concentrates economic growth in a few large metropolitan regions while inflicting stagnation and decline elsewhere. Each offers a pessimistic view of the politics of globalization in which variously defined superstars gain a far larger share than the society at large.

We validate these theories of top-heavy inequality with data on local election outcomes from as many as twenty-eight countries over twenty-six years. We find that public support for right-populist parties rises dramatically with exposure to imports and immigration, but only in those countries with high top-heavy inequality. The fact that the huge gains from trade and technology have flowed to such a small elite, while earnings in other categories have stagnated, may go far to explain why the antiglobalization movements blame not only crucial elements of the LIO, but increasingly a small and nefarious global elite, for what one politician luridly portrayed as the “carnage” among many regions and sectors of the advanced economies.

That these movements, with rare exceptions, seek relief in restrictions on trade and migration from populist movements of the Right, rather than in redistribution or training, probably owes much to the failure of the political Left to redistribute sufficiently.98 That so much of these parties’ electoral support, both in Europe and in the US, comes from manual workers and former supporters of the political Left lends credence to this conjecture.

The ill effects of rising inequality, however, extend well beyond the rising tide of antiglobalization movements and politicians. They extend to slower economic growth (bound to exacerbate existing resentments), increased political polarization, and even a heightened risk of international conflict.

#### Polarization causes extinction

Lugar and Hamilton 20 [Former Indiana Sen. Richard Lugar (1977–2013) and former Indiana Rep. Lee Hamilton (1965–1999) are distinguished professors of practice at the Hamilton Lugar School of Global & International Studies at Indiana University, A national security imperative: Bipartisan cooperation, https://thehill.com/blogs/congress-blog/foreign-policy/410146-a-national-security-imperative-bipartisan-cooperation]

Today, while a single existential threat may be gone, the challenges we face now are just as grave and complicated. China and Russia are revisionist powers, looking to overtake the U.S. and set the rules of the road. North Korea has developed a nuclear weapon and missiles to deliver it. Iran may soon decide it needs to restart its nuclear program and continues to sponsor terror throughout the region. The Middle East is a hodgepodge of civil wars and proxy fights between regional and world powers. The European alliance is fraying and democratic freedoms in formerly “safe” democracies are being rolled back. Countries like Venezuela are on the verge of collapse, and allies like Turkey and Hungary are sliding toward dictatorship.

Yet the bipartisan approach to national security has evaporated, boiled away by the same raging political fires that have consumed so many of our domestic issues. The world needs America to present a united front, where our political factions understand we’re better off working together than undercutting each other.

Historically, bipartisan cooperation has improved national security. Returning to that cooperative spirit would make America safer. Sen. Lugar, for instance, worked with his Democratic colleague Sen. Sam Nunn (Ga.) to secure and dismantle the recently-collapsed Soviet Union’s weapons of mass destruction, thereby leaving far fewer of these powerful weapons available to despots and terrorists. Similarly, Rep. Hamilton served with Republican Thomas Keane as Vice Chair and Chair, respectively of the 9/11 Commission, whose findings have helped prevent any other mass terrorist events in the U.S. since that horrible September morning 17 years ago.

#### U.S. populism prevents effective liberal internationalism -- that makes the entire system more prone to erupt and escalates every major hotspot.

Lavin 17 [Frank Lavin is the Chairman of Export Now. He served in the White House, National Security Council, State Department, and Commerce Department during the Reagan, Bush (41) and Bush (43) Administrations. Things Fall Apart: Populism and Foreign Policy. Georgetown Journal of International Affairs. October 20, 2017. https://www.georgetownjournalofinternationalaffairs.org/online-edition/2017/10/20/things-fall-apart-populism-and-foreign-policy]

Trump does indeed have guiding principles, but they are process principles and not the substantive principles that we are used to seeing in a president. What shapes his foreign policy is that which shaped his singular triumph in public life: his campaign. Indeed, Trump abjured several of the policies that have guided Republican campaigns of the modern era: entitlement reform, trade agreements, and international leadership. A long-time supporter of both Bill and Hillary Clinton, President Trump’s political success was drawn not from conservatism nor an intellectual architecture—though he has some conservative impulses—but from political populism. His worldview in many ways is an extension of that belief.

What is Populism?

This populism has four characteristics. First, it is grievance-based. It focuses on problems rather than solutions. This has the extraordinary advantage of giving the message potency because negative statements can motivate more effectively than positive ones, but it makes it difficult to form a governing coalition, since constituencies that have a problem with a particular policy might have even greater differences among its alternatives. Indeed, as a candidate, Trump avoided articulating a positive vision regarding even central pillars of his campaign such as health care. Notably, Trump’s main foreign policy pronouncements in the campaign were grievance-based: terrorism, trade and immigration. Equally noteworthy, they were all essentially domestic issues with a foreign genesis. The traditional foreign policy questions were largely absent from his discussions: What is America’s role in the world? What is the value of an alliance? To what extent should we promote democracy and human rights, or should the U.S. focus on national interest calculations?

Second, the populist must establish emotional connectivity with the audience. Trump tends to evaluate people largely based on how they connect with him. The rally format suits him well; he loves the audience and the audience loves him. There are no questions and answers, nor any discussion, nor does there have to be new information, but there is plenty of emotional connectivity. Importantly, this emotional connectivity has little to do with economic class, a point that can befuddle Trump’s domestic political opponents, who underestimate his working-class appeal on the basis that he personally has little in common with them or that his policies supposedly would not help them. To a populist, the first point is broadly irrelevant and the second point is highly debatable. Might many a construction worker welcome a construction boom, and many a restaurant worker welcome an expansion of the business, if it meant job security and a larger paycheck, even if it would create disproportionate returns to the construction company and restaurant owner? For many working men and women, a growth in inequality is not inherently troubling. Thomas Piketty might be right, but it might not matter to most Americans if returns to capital outpace returns to labor. In addition, when establishment elites mock Trump, from his grammar to his boorishness, a portion of non-elites see this as condescension.

Third, populism is exculpatory: Every problem the United States faces was caused by others and the target audience is blameless. So if a company wanted to relocate some activity to Mexico, it must have been to exploit wage differences. No discussion as to whether wage increases at the U.S. facility have outpaced productivity increases. No discussion as to whether union rules impede flexibility and productivity. No discussion of the fact that Mexico might be a better production platform because it has more free trade agreements. Management is to blame, with Mexico in connivance. This is frequently expressed in themes of anti-establishment or alienation, which can have a corrosive effect when anchored in grievances.

Fourth, policy choices are cost-free and without trade-offs. Cost-benefit analysis, transition costs, the challenges in administering a government agency, underperforming programs, secondary effects and unintended consequences – these are all incidental

to the victory of the policy choice itself. As such, populists might as well berate NATO leadership into burden-sharing, ignoring the downside to publicly hectoring leaders of sovereign nations. They, too, might as well call for a physical wall on the U.S. border with Mexico since it will be, by self-declaration, cost free.

To be fair, others in public life exhibit some of these elements. President Obama’s healthcare plan was historically grandiose in scope, cost and complexity, yet it was ballyhooed to save money. Similarly, Obama’s eight-year effort to reduce U.S. commitments to NATO was to have no costs in terms of force projection, alliance cohesion, or deterrence. And, Obama was the only President in the modern era to have run against trade as a candidate, an approach Trump followed. What Went Wrong? How could the bipartisan consensus on U.S. international leadership fade so quickly, particularly at a moment when the combination of market economics and alliances of democracies had resulted in perhaps the most prosperous and most liberal moment in human history? There are four contributors to the rise of populism: societal transformation, grievance economics, international leadership, and elite limitations. First, societal transformation – meaning both globalization and automation— has two profound socio-political effects. It produces an extraordinary degree of prosperity; and it carries with it a distribution effect. The bell curve of income distribution does not shift as much as it elongates. Few people are worse off, but many people are not better off. There is not necessarily the creation of a large number of winners and losers, but there is certainly the perception people getting left behind. Trump understands the message: The globalization club is having a party, and you are not invited. Silicon Valley is drinking champagne and your role is to pick the grapes. These trends also feed into the narrative of alienation because it decreases people’s control over their lives even as their overall prosperity increases. Globalization and automation have created economic anxiety in electorates around the world, and not just among steelworkers and coal miners. Realtors, bank tellers, school teachers, and cab drivers are all seeing competitive pressure and the prospect of job elimination. To many Americans, comparative advantage and creative destruction create a more prosperous society, but accompanying it is job insecurity. David Ricardo and Joseph Schumpeter might be right, but so what? Second, over several decades we have seen a shift from growth economics to grievance economics. This represents a break with the recovery policies that guided the leading economies through the 1950s and 1960s (and that economic rationalists such as Macron tilt toward today). In the current view, the primary purpose of economic policy is not to foment prosperity, but to redress grievances. Indeed, regardless of absolute improvements in well-being, reducing economic inequality is deemed to be a basis for policy. The premise of growth economics is that a system is fundamentally fair, so the main challenge is how fast we can go. The premise of grievance economics is that the system is fundamentally unfair, so going faster merely exacerbates the unfairness. This cult of inequality incentivizes interest-group politics and rent-seeking, leading to slower growth. If you focus on growth policies, you get growth. If you focus on grievance policies, you get grievances. A third cause is the shift in the U.S. international posture. We have seen a growing fatigue in the United States over the cost of international leadership. The U.S. entered the post-Cold War era with the institutions and the cohesion of the Cold War era largely intact, even though the end of the Soviet Union removed what political scientists term a “negative integrator.” Now we are deep into the post-post-Cold War era, with faded cohesion and institutions. For the first time since Harding and Coolidge we have two presidents in a row who have no international military or policy pedigree. Beyond the direct costs of international leadership in defense budgets and personnel, Americans seem more sensitive to the indirect costs of public opinion and anti-Americanism. Relationships can be expensive. Friendships can be complicated. If there is no immediate threat, and if no one likes us anyhow, then what is the point of foreign policy?

To sum up this point, imagine international Presidential leadership as a decision between whether to be a minute early or a minute late. Do you deter or do you react? Being a minute early requires leadership, because it carries with it the possibility of error and the cost of action without a consensus. “Left of Boom,” the British call it. Being a minute late and waiting until the problem has metastasized has the considerable benefit of allowing public consensus to build, and it is the less politically expensive approach. President Obama’s instinct is that foreign policy is better managed by being a minute late, such as responding after-the-fact to the Chinese build-out in the South China Sea, not confronting Russia on its intervention in U.S. elections, and perhaps in the cases of Aleppo or ISIS, Obama was more than a minute late. President Bush’s instinct was to be a minute early, foolishly so to his critics. Presidents have spent some 75 years since Pearl Harbor trying to be a minute early, with all the costs and mistakes that entailed, yet now we have two presidents in a row who believe we are better off being a minute late.

Finally, the appeal of populism has been driven by their perception of the limitations of the U.S. leadership class: insular, rigid, and sometimes simply mediocre. Additionally, over-engineered solutions and the appearance of being self-serving, if not corrupt, help the appeal of populism. Sometimes it comes from the declining marginal effectiveness of government programs as society becomes more affluent and complicated. Indeed, the Obama administration seemed to regularly play into the hands of populists, sometimes passively so, as with the refusal to challenge even the more exotic of the sanctuary city movement. Sometimes, it was by design as with the painstaking construction not to label Islamic terrorism as such. If responsible leaders appear to be playing favorites or not accurately describing a phenomenon, they abandon the issue to their opponents — a phenomenon Trump witnessed through his hesitation in characterizing the Charlottesville protests. If populists rely too heavily on emotional connectivity, which establishment politicians have any emotional connectivity? Does there exist an aspirant for President, other than Donald Trump, who can have a friendly discussion with a Walmart cashier? How many of the possible 2020 presidential candidates have worked in the “real” economy, working for an institution that needed to turn a profit? Sam Rayburn’s wish to Lyndon Johnson, after LBJ had related how bright was his brain trust, was that he wished one of them had run for county sheriff. Can we today wish that one of the 2020 presidential candidates will have run a diner, which would have required them to hire teenagers, train high school dropouts, deal with single parents, lay-off workers from failed projects and negotiate wages, all while paying taxes and dealing with various government agencies? Maybe this is why a restaurant worker might respect an owner, or even a New York real estate developer, but not a career politician. If the elites cannot maintain that connectivity, they give an opening to populists. Attaining political maturity contemporaneous with the Bush 43 invasion of Iraq, Obama was wary of American over-reach and committed to a foreign policy pullback. He embedded that withdrawal in a denial of American exceptionalism, a pillar of U.S foreign policy since Pearl Harbor. If you stop believing in yourself, it is difficult to ask others to believe in you. The rejection of America’s special role in the world helped set the stage for “Make America Great Again.” Was Barack Obama the ultimate Donald Trump enabler? There other contributing factors beyond the above four. The rise of identity politics probably played into Trump’s hands, as did the digital communications revolution. News clutter rewards pugnacity and sensationalism and allows for cocoons and even tribalism. It is also worth noting that Trump is a man of unusual presentation strengths, and he can effectively project personality. Simply put, Trump was an exemplary grievance candidate in a grievance year. Trump articulated a vision; Hillary Clinton did not. We are in a communications era. For Secretary Clinton, communications is a means to an end. For Trump it is an end. She believes in her in-box; He, in his out-box. Hillary campaigned as the functionary; Donald as the visionary. Is internationalism doomed? America is now in the middle of a twelve and possibly sixteen year reign of two presidents who challenge the Cold War view that America is better off with a leading international presence, with being a minute early. It is too expensive, argued President Obama, and it leads us into unwinnable conflicts, draining our reputation and our purse. It is too expensive, echoes President Trump, and foreigners abuse and cheat us. Obama argues for minimalism because the United States is a problem for the world, and Trump argues for minimalism because the world is a problem for the United States. Even as President, Trump is easy to underestimate. Appealingly so. Many critics derive amusement, even a sense of superiority, from his foibles. His factual errors and even spelling mistakes provide an opportunity for mockery, but the lazy epiphany of error-spotting is a poor substitute for a substantive rebuttal. And a significant portion of the criticism is either ad hominem or an over-reach, either of which helps Trump. Those who are serious about policy should look at the direction in which he is taking the country, rather than fixate on these errors. To be even-handed, if President Trump’s distinctive success in the public space was his astonishing 2016 victory, in 2008 the distinctive success of Senator Obama was his astonishing election. Obama wisely chose not to run on his government record but marshaled his formidable stage skills and personal charisma to direct criticism toward Hillary Clinton and John McCain. So if Trump’s foreign policy approach stems from his success as “Ranter-in-Chief,” does Obama’s approach stem from his success as “Charmer-in-Chief?” Radically different styles, but with policy similarities.

The deterioration in U.S. foreign policy will likely continue for the near term. On any given day, the Obama/Trump approach may make sense. We should be a minute late. It makes sense to skimp, to cut defense expenditures, to reduce international good-will and connectivity, to save money all around. Relationships can be expensive and even harmful – this is the seduction of the minimalist school. But there is a countervailing argument.

The main argument against this minimalist approach will be events themselves. The minimalist approach might work in a static environment, but that stasis in itself incentivizes a destabilizer. At some point, history presents the bill. Only then will we be reminded, perhaps cruelly, that although on any given day it might be less expensive to be a minute late, as a matter of national policy we need to be a minute early. If we are not willing to pay the price to be left of boom, then we must pay the price for the boom itself. Worse than the expense and bother of having friends would be the expense and bother of not having friends.

#### Trade that doesn’t account for distributional effects drives populism – perceived unfairness outweighs alt causes

Rodrik 17 [Dani Rodrik, John F. Kennedy School of Government, Harvard University. "Populism and the Economics of Globalization." The National Bureau of Economic Research Working Paper No. 23559. July 2017. http://www.nber.org/papers/w23559.pdf]

Globalization had a big upside. It greatly expanded opportunities for exporters, multinational companies, investors, and international banks, as well the managerial and professional classes who could take advantage of larger markets. It helped some poor countries – China in particular – rapidly transform farmers into workers in manufacturing operations for export markets, thereby spurring growth and reducing poverty. But the decline in global inequality was accompanied by an increase in domestic inequality and cleavages. Globalization drove multiple, partially overlapping wedges in society: between capital and labor, skilled and unskilled workers, employers and employees, globally mobile professionals and local producers, industries/regions with comparative advantage and those without, cities and the countryside, cosmopolitans versus communitarians, elites and ordinary people. It left many countries ravaged by financial crises and their aftermath of austerity.

Globalization was hardly the only shock which gutted established social contracts. By all accounts, automation and new digital technologies played a quantitatively greater role in de-industrialization and in spatial and income inequalities. But globalization became tainted with a stigma of unfairness that technology evaded. People thought they were losing ground not because they had taken an unkind draw from the lottery of market competition, but because the rules were unfair and others – financiers, large corporations, foreigners – were taking advantage of a rigged playing field.

Many of these consequences were predictable and are not a surprise. The same can be said about the political backlash as well. A number of empirical papers have linked the rise of populist movements – Trump and the right-wing Republicans in the U.S., Brexit in Britain, far-right groups in Europe – to forces associated with globalization, such as the China trade shock, rising import penetration levels, de-industrialization, and immigration.

Analyzing electoral results across U.S. congressional districts, Autor et al. (2016) have shown that the China trade shock aggravated political polarization: districts affected by the shock moved further to the right or the left, depending which way they were leaning in the first place. Elected Republicans became more conservative, while elected Democrats became more liberal. For Britain, Becker et al. (2016) find that austerity and immigration impacts both played a role in increasing the Brexit vote, in addition to demographic variables and industrial composition. Also analyzing Brexit, Colantone and Stanig (2016) find a much more direct role for globalization. Using an Autor et al. (2013)- type China trade shock variable, they show regions with larger import penetration from China had a higher Leave vote share. They also corroborate this finding with individuallevel data from the British Election Survey that shows individuals in regions more affected by the import shock were more likely to vote for Leave, conditional on education and other characteristics.

A second paper by Colantone and Stanig (2017) undertakes a similar analysis for fifteen European countries over the 1988-2007 period. It finds that the China trade shock played a statistically (and quantitatively) significant role across regions and at the individual level. A larger import shock is associated with support for nationalist parties and a shift towards radical right-wing parties. Finally Guiso et al. (2017) look at European survey data on individual voting behavior and find an important role for economic insecurity – including exposure to competition from imports and immigrants – in driving populist parties’ growth. The same variables also affect voter turnout: individuals who experience greater economic insecurity are also less likely to show up at the polls. As Guiso et al. (2017) indicate, the latter result suggests that studies that focus on vote shares alone underestimate the importance of these economic drivers, including globalization shocks.

A question that has attracted little interest to date is why the backlash has taken the particular form it has in different countries. Most (but not all) populist movements in the current wave are of the right-wing variety. These emphasize a cultural cleavage, the national, ethnic, religious, or cultural identity of the “people” against outside groups who allegedly pose a threat to the popular will. In the U.S., Donald Trump has demonized at various times the Mexicans, Chinese and Muslims. In Europe, right-wing populists portray Muslim immigrants, minority groups (gypsies or Jews), and the faceless bureaucrats of Brussels as the “other.” An alternative variety of populism revolves around a largely economic cleavage, the wealthy groups who control the economy and define its rules versus the lower income groups without access to power. The original American populism of the late 19th century was of this variety, focusing its opposition on the railroad barons and the Northeastern financial elite. Bernie Sanders’ presidential campaign in 2016 took a similar form. In Europe, there are a few left-wing populist movements, of which Greece’s Syriza and Spain’s Podemos are the best known. In Latin America, by contrast, populism has long taken mostly a left-wing form. In Figure 5 I provide some systematic evidence on the dynamics of support for populist parties around the world since the 1960s. The figure shows the aggregate vote shares of populist parties in countries with at least one populist party. I distinguish between leftwing and right-wing populists and between Europe and Latin America. (The U.S. presidential election of 2016 is not included.) The appendix discusses data sources and parties/countries covered. What jumps out of Figure 5 is the sharp contrast between the patterns of populism in Europe and Latin America. In Europe, the rise of populism is very recent and swift – from below 5 percent of the vote in the late 1980s to more than 20 percent by 2011-2015. Moreover, this increase is driven exclusively by right-wing parties. The left-wing populist vote share remains throughout well below 5 percent of the aggregate electorate in the countries included. By contrast, left-wing populism has always been strong in Latin America, with vote totals between 15-30 percent. It also has experienced a recent, if less marked, rise. Right-wing populism has remained at very low levels in Latin America. What explains the predominance of right-wing populism in Europe today, compared to the predominance of its left-wing variant in Latin America? To shed some light on this question, it helps to think of the rise of populism as the product of both demand- and supply-side factors at work. On the demand side, the distributional and other economic fault lines created or deepened by globalization generate potential public support for movements that position themselves outside the political mainstream and oppose established rules of the game. But the economic anxiety, discontent, loss of legitimacy, fairness concerns that are generated as a by-product of globalization rarely come with obvious solutions or policy perspectives. They tend to be inchoate and need to be channeled in a particular programmatic direction through narratives that provide meaning and explanation to the groups in question. That is where the supply-side of politics comes in. Populist movements supply the narratives required for political mobilization around common concerns. They present a story that is meant to resonate with their base, the demand side: here is what is happening, this is why, and these are the people who are doing it to you. In Mukand and Rodrik (2017) we provide a model where political conflict can revolve around different axes. There are three different groups in society: the elite, the majority, and the minority. The elite are separated from the rest of society by their wealth. The minority is separated by particular identity markers (ethnicity, religion, immigrant status). Hence there are two cleavages: an ethno-national/cultural cleavage and an income/social class cleavage. These cleavages can be orthogonal or overlapping, producing different patterns of alliances and political outcomes. With some simplification, we can say that populist politicians mobilize support by exploiting one or the other of these two cleavages. The “enemies of the people” are different in each case. Populist who emphasize the identity cleavage target foreigners or minorities, and this produces right-wing populism. Those who emphasize the income cleavage target the wealthy and large corporations, producing left-wing populism. It is reasonable to suppose that the relative ease with which one or the other of these cleavages can be targeted depends on their salience in the everyday experience of voters. In particular, it may be easier to mobilize along the ethno-national/cultural cleavage when society is experiencing an influx of immigrants and refugees with dissimilar cultural and religious identities. Then economic anxiety can be channeled into opposition to these groups. Immigrants and refugees can be presented as competing for jobs, making demands on public services, and reducing public resources available for natives. Indeed, a major source of support for far-right parties in Europe has been the fear that immigration will erode welfare state benefits, a fear that is heightened in countries experiencing austerity and recession (see for example Hatton 2016). Cavaille and Ferwerda (2017) find that support for right-wing populist parties is very responsive to perceived competition with immigrants for in-kind benefits, in their case public housing.

An important implication of this reasoning is that even when the underlying shock is fundamentally economic the political manifestations can be cultural and nativist. What may look like a racist or xenophobic backlash may have its roots in economic anxieties and dislocations.20 The supply-side of politics – the narrative on offer -- matters a great deal. This is a point that is often overlooked in current diagnoses. For example, it is not easy to know whether Trump’s victory represents an economic or cultural phenomenon without disentangling the demand and supply sides – the underlying grievances, on the one hand, and his narrative, on the other.

What about Latin America? The reason that populism took a divergent path in Latin America may be related to the fact that the salient shocks associated with globalization took different forms there. Latin Americans who were affected negatively by globalization experienced it not as immigration or rule by Brussels/Frankfurt, but as rapid trade opening, financial crises, IMF programs, and entry by foreign corporations in sensitive domestic sectors such as mining or public utilities. The anger to be mobilized was against these forces and the domestic groups that supported them. This lent itself to left-wing (economic) populism rather than right-wing (cultural) populism.21 The European exceptions to right-wing populism provide further support to this argument. The two European countries that grew substantial left-wing populist movements – Greece and Spain – bear a certain similarity to Latin America. They were major recipients of capital inflows under the European model of financial globalization, the euro. Once the sudden stop took place, their economies went into a tailspin and unemployment skyrocketed. The shock was then intensified by the presence of a common currency and austerity policies imposed from the outside – a troika made up of the IMF, the European Central Bank, and the European Commission. Although all countries in Europe were affected by the euro crisis, Greece and Spain were among the most adversely hit. Greece has yet to recover, and unemployment remains very high in both countries. All this is reminiscent of Latin American boom-and-bust cycles, going back at least to the 1970s. So it is not surprising that the financial crisis and its aftermath in Spain and Greece provided fertile ground for left-wing populists, for similar reasons. The relative weakness of cultural/religious cleavages to be exploited may also play a part in favoring left-wing over right-wing populist movements. In Latin America, the bulk of immigration has been from other Latin American countries or from culturally similar European countries. Within Europe, Spain and Greece once again provide instructive counter-examples. Compare the immigration experience of Spain with that of France, for example (Table 2). Even though Spain has a somewhat larger migrant stock in relation to its population, the majority of Spain’s immigrants come from either Latin America or from advanced European countries.22 In France, by contrast, the largest share (more than 40 percent) of migrants are from Moslem countries (Algeria, Morocco, Tunisia, Turkey) and an additional 10 percent come from Sub-Saharan Africa. A rightwing populist party (i.e., the National Front) has much more fertile ground in France than in Spain. The U.S. presents a mixed case, combining characteristics of both of these paths. Unlike Europe which had opened up to trade and reached a political settlement supporting it long ago – extensive safety nets in exchange for trade openness – the U.S. experienced increased exposure to imports comparatively recently. And it did so without systematic compensation. So imports (especially from China) and trade agreements (with Mexico, Asian countries) were politically salient issues, around which large number of voters could be mobilized. The financial crisis and the differing fates of large banks versus lowincome homeowners – one bailed out, the other not – engendered anger at the financial elites. At the same time, immigration from Mexico, the threat of radical Muslim terrorism, and lingering racial divides were ripe for political manipulation. In other words, the U.S. presented ample ground for both types of cleavage. Correspondingly, the 2016 presidential elections were contested by major populist movements on both the left and the right, led by Bernie Sanders and Donald Turmp, respectively.

8. Concluding remarks

One conclusion from the preceding discussion is that the simple economics of globalization is not particularly auspicious with respect its political sustainability. This is especially true of the advanced phases of globalization – what I have called elsewhere “hyperglobalization” (Rodrik 2011) – in which the ratio of political/distributive costs to net economic gains is particularly unfavorable. Historically, the unification of national markets has required an unequivocal political project led by a strong central executive. Nothing comparable exists globally, and the European experience provides ample reason to be skeptical that something like that can be achieved even regionally. In a world divided politically, markets face strong centrifugal forces as well.

The global economic arrangements of the immediate post-war era were built around John Maynard Keynes’ insight that sustaining a world economy reasonably hospitable to international trade and investment would require carving up space for domestic macroeconomic management. For Keynes, this meant capital controls in particular, which he viewed not as a temporary expedient but as a permanent feature of the international economic order. The same principle was followed in other domains as well. The GATT regime entailed a thin model of trade integration, not reaching beyond direct border barriers or manufactured imports in advanced economies. It left plenty of room for countries to design their own regulations and industrial policies – and indeed protect “sensitive” sectors (such as agriculture or garments).

The resulting system -- variably called the Bretton Woods compromise or embedded liberalism23 – was a great success. It fostered a large increase in global trade and investment and saw rapid economic development in both the advanced and developing economies. Perhaps it was too successful for its own good. By the late 1980s, policy makers and economists thought they could make it work even better by pushing for deeper economic integration. Trade agreements became more ambitious and reached beyond the border into domestic regulations. The removal of restrictions on capital mobility became the norm rather than the exception. In the process, the “embedding “ or “compromise” that had made the earlier regime such a success was overlooked.

The rise of populism forces a necessary reality check. Today the big challenge facing policy makers is to rebalance globalization so to maintain a reasonably open world economy while curbing its excesses.

## 2ac

### 2ac---Cartels overview

#### Debate’s focus shouldn’t solely be the production of ethical subjectivities. Rather, taking stances on global issues is necessary to develop accountability to global violence.

Chandler 9 David Chandler, 2009. Professor of international relations, University of Westminster. “Questioning Global Political Activism,” in What is Radical Politics Today? ed. Jonathan Pugh. 81-4.

But the most dangerous trends in the discipline today are those frameworks which have taken up Critical Theory and argue that focusing on the world as it exists is conservative problem-solving while the task for critical theorists is to focus on emancipatory alternative forms of living or of thinking about the world. Critical thought then becomes a process of wishful thinking rather than one of engagement, with its advocates arguing that we need to focus on clarifying our own [END PAGE 81] ethical frameworks and biases and positionality, before thinking about or teaching on world affairs. This becomes 'me-search' rather than research. We have moved a long way from Hedley Bull's (1995) perspective that, for academic research to be truly radical, we had to put our values to the side to follow where the question or inquiry might lead. The inward-looking and narcissistic trends in academia, where we are more concerned with our reflectivity- the awareness of our own ethics and values - than with engaging with the world, was brought home to me when I asked my IR students which theoretical frameworks they agreed with most. They mostly replied Critical Theory and Constructivism. This is despite the fact that the students thought that states operated on the basis of power and self-interest in a world of anarchy. Their theoretical preferences were based more on what their choices said about them as ethical individuals, than about how theory might be used to understand and engage with the world. Conclusion I have attempted to argue that there is a lot at stake in the radical understanding of engagement in global politics. Politics has become a religious activity, an activity which is no longer socially mediated; it is less and less an activity based on social engagement and the testing of ideas in public debate or in the academy. Doing politics today, whether in radical activism, government policy-making or in academia, seems to bring people into a one-to-one relationship with global issues in the same way religious people have a one-to-one relationship with their God. Politics is increasingly like religion because when we look for meaning we find it inside ourselves rather than in the external consequences of our 'political' acts. What matters is the conviction or the act in itself: its connection to the global sphere is one that we increasingly tend to provide idealistically. Another way of expressing this limited sense of our subjectivity is in the popularity of globalisation theory - the idea that instrumentality is no longer possible today because the world is such a complex and interconnected place and therefore there is no way of knowing the consequences of our actions. The more we engage in the new politics where there is an unmediated relationship between us as individuals and global issues, the less we engage instrumentally with the outside world, and the less we engage with our peers and colleagues at the level of political or intellectual debate and organisation. [END PAGE 82] You may be thinking that I have gone some way to describing or identifying what the problems might be but I have not mentioned anything about a solution. I won't dodge the issue. One thing that is clear is that the solution is not purely an intellectual or academic one; the demand for global ethics is generated by our social reality and social experiences. Marx spent some time considering a similar crisis of political subjectivity in 1840s Germany and in his writings - The German Ideology, Introduction to the Critique of Hegel's Philosophy of Right, Theses on Feuerbach, and elsewhere - he raged against the idealism of contemporary thought and argued that the criticism of religion needed to be replaced by the criticism of politics - by political activism and social change based on the emerging proletariat (see Marx, 1975, for example). Nearly two centuries later it is more difficult to see an emerging political subject which can fulfil the task of 'changing the world' rather than merely 'reinterpreting it' through philosophy. I have two suggestions. Firstly, that there is a pressing need for an intellectual struggle against the idealism of global ethics. The point needs to be emphasised that our freedom to engage in politics, to choose our identities and political campaigns, as well as governments' freedom to choose their ethical campaigns and wars of choice, reflects a lack of socialties and social engagement. There is no global political struggle between 'Empire' and its 'Radical Discontents'; the Foucauldian temptation to see power and resistance everywhere is a product of wishful or lazy thinking dominated by the social categories of the past. The stakes are not in the global stratosphere but much closer to home. Politics appears to have gone global because there is a breakdown of genuine community and the construction of fantasy communities and fantasy connections in global space. Unless we bring politics back down to earth from heaven, our critical, social and intellectual lives will continue to be diminished ones. Secondly, on the basis that the political freedom of our social atomisation leads us into increasingly idealised approaches to the world we live in, we should take more seriously Hedley Bull's (1995) injunction to pursue the question, or in Alain Badiou's (2004: 237-8) words subordinate ourselves to the 'discipline of the real'. Subordination to the world outside us is a powerful factor that can bind those interested in critical research, whereas the turn away from the world and the focus on our personal values can ultimately only be divisive. To facilitate external engagement and external judgement, I suggest we experiment with ways to build up social bonds with our peers that can limit our freedoms and develop our sense of responsibility and accountability to others.

### 2AC---Antiblackness K

#### VTL is subjective---life is a prerequisite

Lisa Schwartz 2, Chair at the Centre for Health Economics and Policy Analysis, 2002, “Medical Ethic: A Case Based Approach,” Chapter 6, www.fleshandbones.com/readingroom/pdf/399.pdf

The second assertion made by supporters of the quality of life as a criterion for decisionmaking is closely related to the first, but with an added dimension. This assertion suggests that the determination of the value of the quality of a given life is a subjective determination to be made by the person experiencing that life. The important addition here is that the decision is a personal one that, ideally, ought not to be made externally by another person but internally by the individual involved. Katherine Lewis made this decision for herself based on a comparison between two stages of her life. So did James Brady. Without this element, decisions based on quality of life criteria lack salient information and the patients concerned cannot give informed consent. Patients must be given the opportunity to decide for themselves whether they think their lives are worth living or not. To ignore or overlook patients’ judgement in this matter is to violate their autonomy and their freedom to decide for themselves on the basis of relevant information about their future, and comparative consideration of their past. As the deontological position puts it so well, to do so is to violate the imperative that we must treat persons as rational and as ends in themselves.

#### Extinction comes first

Plummer 15 (Theron, Philosophy @St. Andrews http://blog.practicalethics.ox.ac.uk/2015/05/moral-agreement-on-saving-the-world/)

There appears to be lot of disagreement in moral philosophy. Whether these many apparent disagreements are deep and irresolvable, I believe there is at least one thing it is reasonable to agree on right now, whatever general moral view we adopt: that it is very important to reduce the risk that all intelligent beings on this planet are eliminated by an enormous catastrophe, such as a nuclear war. How we might in fact try to reduce such existential risks is discussed elsewhere. My claim here is only that we – whether we’re consequentialists, deontologists, or virtue ethicists – should all agree that we should try to save the world. According to consequentialism, we should maximize the good, where this is taken to be the goodness, from an impartial perspective, of outcomes. Clearly one thing that makes an outcome good is that the people in it are doing well. There is little disagreement here. If the happiness or well-being of possible future people is just as important as that of people who already exist, and if they would have good lives, it is not hard to see how reducing existential risk is easily the most important thing in the whole world. This is for the familiar reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. There are so many possible future people that reducing existential risk is arguably the most important thing in the world, even if the well-being of these possible people were given only 0.001% as much weight as that of existing people. Even on a wholly person-affecting view – according to which there’s nothing (apart from effects on existing people) to be said in favor of creating happy people – the case for reducing existential risk is very strong. As noted in this seminal paper, this case is strengthened by the fact that there’s a good chance that many existing people will, with the aid of life-extension technology, live very long and very high quality lives. You might think what I have just argued applies to consequentialists only. There is a tendency to assume that, if an argument appeals to consequentialist considerations (the goodness of outcomes), it is irrelevant to non-consequentialists. But that is a huge mistake. Non-consequentialism is the view that there’s more that determines rightness than the goodness of consequences or outcomes; it is not the view that the latter don’t matter. Even John Rawls wrote, “All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.” Minimally plausible versions of deontology and virtue ethics must be concerned in part with promoting the good, from an impartial point of view. They’d thus imply very strong reasons to reduce existential risk, at least when this doesn’t significantly involve doing harm to others or damaging one’s character. What’s even more surprising, perhaps, is that even if our own good (or that of those near and dear to us) has much greater weight than goodness from the impartial “point of view of the universe,” indeed even if the latter is entirely morally irrelevant, we may nonetheless have very strong reasons to reduce existential risk. Even egoism, the view that each agent should maximize her own good, might imply strong reasons to reduce existential risk. It will depend, among other things, on what one’s own good consists in. If well-being consisted in pleasure only, it is somewhat harder to argue that egoism would imply strong reasons to reduce existential risk – perhaps we could argue that one would maximize her expected hedonic well-being by funding life extension technology or by having herself cryogenically frozen at the time of her bodily death as well as giving money to reduce existential risk (so that there is a world for her to live in!). I am not sure, however, how strong the reasons to do this would be. But views which imply that, if I don’t care about other people, I have no or very little reason to help them are not even minimally plausible views (in addition to hedonistic egoism, I here have in mind views that imply that one has no reason to perform an act unless one actually desires to do that act). To be minimally plausible, egoism will need to be paired with a more sophisticated account of well-being. To see this, it is enough to consider, as Plato did, the possibility of a ring of invisibility – suppose that, while wearing it, Ayn could derive some pleasure by helping the poor, but instead could derive just a bit more by severely harming them. Hedonistic egoism would absurdly imply she should do the latter. To avoid this implication, egoists would need to build something like the meaningfulness of a life into well-being, in some robust way, where this would to a significant extent be a function of other-regarding concerns (see chapter 12 of this classic intro to ethics). But once these elements are included, we can (roughly, as above) argue that this sort of egoism will imply strong reasons to reduce existential risk. Add to all of this Samuel Scheffler’s recent intriguing arguments (quick podcast version available here) that most of what makes our lives go well would be undermined if there were no future generations of intelligent persons. On his view, my life would contain vastly less well-being if (say) a year after my death the world came to an end. So obviously if Scheffler were right I’d have very strong reason to reduce existential risk. We should also take into account moral uncertainty. What is it reasonable for one to do, when one is uncertain not (only) about the empirical facts, but also about the moral facts? I’ve just argued that there’s agreement among minimally plausible ethical views that we have strong reason to reduce existential risk – not only consequentialists, but also deontologists, virtue ethicists, and sophisticated egoists should agree. But even those (hedonistic egoists) who disagree should have a significant level of confidence that they are mistaken, and that one of the above views is correct. Even if they were 90% sure that their view is the correct one (and 10% sure that one of these other ones is correct), they would have pretty strong reason, from the standpoint of moral uncertainty, to reduce existential risk. Perhaps most disturbingly still, even if we are only 1% sure that the well-being of possible future people matters, it is at least arguable that, from the standpoint of moral uncertainty, reducing existential risk is the most important thing in the world. Again, this is largely for the reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. (For more on this and other related issues, see this excellent dissertation). Of course, it is uncertain whether these untold trillions would, in general, have good lives. It’s possible they’ll be miserable. It is enough for my claim that there is moral agreement in the relevant sense if, at least given certain empirical claims about what future lives would most likely be like, all minimally plausible moral views would converge on the conclusion that we should try to save the world. While there are some non-crazy views that place significantly greater moral weight on avoiding suffering than on promoting happiness, for reasons others have offered (and for independent reasons I won’t get into here unless requested to), they nonetheless seem to be fairly implausible views. And even if things did not go well for our ancestors, I am optimistic that they will overall go fantastically well for our descendants, if we allow them to. I suspect that most of us alive today – at least those of us not suffering from extreme illness or poverty – have lives that are well worth living, and that things will continue to improve. Derek Parfit, whose work has emphasized future generations as well as agreement in ethics, described our situation clearly and accurately: “We live during the hinge of history. Given the scientific and technological discoveries of the last two centuries, the world has never changed as fast. We shall soon have even greater powers to transform, not only our surroundings, but ourselves and our successors. If we act wisely in the next few centuries, humanity will survive its most dangerous and decisive period. Our descendants could, if necessary, go elsewhere, spreading through this galaxy…. Our descendants might, I believe, make the further future very good. But that good future may also depend in part on us. If our selfish recklessness ends human history, we would be acting very wrongly.” (From chapter 36 of On What Matters)

#### The aff is a prerequisite to the alt

Teachout ’20 - Associate Law Professor at Fordham Law School [Zephyr, *Break ‘Em* Up, p. 131-133]

And as corporate power gets more and more concentrated, Fortune 500 companies control a larger and larger swath of our economy—when 96% of Fortune 500 CEOs are white, that means that the white vise grip on power has grown, because the white men at the top govern more of our lives than they did 30 years ago.’2 The higher up you go in a corporate structure, the more who you know matters, and the clubiness increases, excluding those who are not from the same background, the same schools, or don’t have the same way of talking, or the same ancestry. There has been a rise of a small but very wealthy business class in black America that moves across racial lines, and is sometimes given authority to speak for “the black community,” but it often shows a relative disdain for progressive politics, and that rise has coincided with the decline in the number of middle-class black business owners.

Instead, the more a society concentrates power, the more that institutional power reflects the legacy power-holders in it. The combination of systemic racism, financial concentration, and corporate monopolization has led to power being wielded predominantly by white people, and this is justified by a corporate system designed to appear neutral and to foster indifference to social consequences.

Even where black and brown business owners are thriving on paper, their economic—and political—power is vastly diminished. In chapter 1, I explained how chickenized industries work: a single, centralized hub maintains a high degree of control over small-business owners, who bear the risk of failure. The modern franchise model works that way, in which a central company, like McDonald’s, gives local “business owners” the right to use the McDonald’s name, and dictates most aspects of how the business is run, all the while washing its hands of liability.

African Americans, along with Hispanics and Asians, are overrepresented as franchisees, and there are more black and brown owners of franchised businesses than of non-franchised businesses.14 This franchise model, when it works, provides a path into business for people who would otherwise be cut out. But far too often, the reality of the franchisor/franchisee contract creates a structurally abusive relationship, where the franchisee is liable for lawsuits and responsible for problems, yet lacks the freedom to hire people at a decent salary. The franchisor has a high degree of visibility into the businesses and margins, and makes sure that any extra margin goes into fees, which go to executives and investors. When they enter into a franchise agreement, they often give the franchisee a 500- to 1,000-page document to sign, and the franchisor uses its huge power advantage to maximize its flexibility and minimize its liability if something goes wrong.

These business owners, unlike Warren Buffett and Mark Zuckerberg, do not have extra cash that then gets plowed into politics; they barely have enough margin to survive on. And to add insult to injury, when protesters object to the low wages paid at fast-food restaurants and other franchise arrangements, the franchisor points the finger at the franchisee—often a per son of color—and says they are to blame. Big corporations are well aware of the potency of the connection between race and monopoly and routinely try to build connections with leaders in communities of color to neutralize criticism) Walmart, for instance, contributed millions to national civil rights groups, including the NAACP, after which the NAACP supported Walmart in its bid to enter New York City. 16

#### Hope is good for mental health

LaRicka R. Wingate et al., 2016. \*\*Associate Professor and Director of Africana Studies, Oklahoma State University (OSU). \*\*David W. Hollingsworth, currently an Assistant Professor of psychology, Fairfield university; at the time of this publication, graduate student in clinical psychology, OSU. \*\*Raymond P. Tucker, graduate student in psychology, OSU. \*\*Victoria M. O’Keefe, currently assistant professor of health, Johns Hopkins Bloomberg School of Public Health; at the time of this publication, graduate student in psychology, OSU. “Hope as a Moderator of the Relationship Between Interpersonal Predictors of Suicide and Suicidal Thinking in African Americans.” *Journal of Black Psychology* 42(2): 175-90. Emory Libraries.

Discussion The current study investigated the relationships between hope, suicidal ideation, and the interpersonal risk factors of suicidal desire (Joiner, 2005) in a sample of African American college students. Consistent with previous literature, hope was negatively correlated to symptoms of depression, thwarted belongingness, and perceived burdensomeness. Hope was not significantly correlated to suicidal ideation in this sample. However, the agency subscale of hope was negatively correlated to suicidal ideation. To expand on the simple associations between hope and suicidal ideation previously established in the literature, the current study took a contextualist approach. More specifically, through the use of moderation analyses this study sought to better understand the circumstances of the established relationship between hope and suicidal ideation in an African American sample. It was hypothesized that levels of hope would moderate the relationship between feelings of perceived burdensomeness and thoughts of suicide. As hypothesized, the relationship between perceived burdensomeness and suicidal ideation was moderated by hope. High levels of hope weakened the relationship between perceived burdensomeness when statistically controlling for symptoms of depression. In other words, at high levels of hope, the relationship between perceived burdensomeness and suicidal ideation was no longer strong and positive as seen with low levels of hope. These results suggest that those who are naturally more hopeful are buffered against deleterious effects (i.e., suicidal ideation) when experiencing feelings of perceived burdensomeness. Individuals who feel comfortable setting goals and are motivated to achieve them may be better equipped to cope with feelings of perceived burdensomeness. Those who are more hopeful but feel as though they are a burden on others may be better equipped to cope with these feelings, as they may be able to naturally identify ways they can contribute to the well-being of others and are motivated to achieve these goals. This, in turn, may protect against thoughts of suicide when experiencing feelings of perceived burdensomeness. Also consistent with hypotheses, high levels of hope weakened the relationship between thwarted belongingness and suicidal ideation after controlling for symptoms of depression. Simple slope analyses indicated that the relationship between thwarted belongingness and suicidal ideation was strong and positive at low levels of hope but unrelated at high levels of hope. This result suggests that even though extreme feelings of social disconnection and unreciprocated caring are strongly associated with suicidal thinking, this relationship may only exist in those who are low in hope. Individuals who naturally engage in goal-directed thinking and are motivated to identify and use pathways to obtain their goals may feel as though they are more equipped to find solutions to feeling disconnected from others. Thus, when a hopeful individual feels thwarted in their belonging, they may be less likely to experience the negative effects of this feeling because they are better able to work toward connecting with others. Generally, the results of the current study indicate that African Americans who exhibit higher levels of hope (i.e., engage in goal-directed thinking, can identify pathways to achieve goals, and are naturally motivated to achieve their goals) may be buffered against suicidal ideation even in the presence of prominent interpersonal predictors of suicidal desire (i.e., thwarted belongingness and perceived burdensomeness). This investigation is timely, as the ITS has received empirical support as a strong model of understanding suicide in the general population (i.e., Joiner et al., 2009), African Americans (Davidson et al., 2010), American Indian/Alaska Natives (O’Keefe et al., 2013), elderly populations (Jahn & Cukrowicz, 2011), and veterans (Anestis, Bryan, Cornette, & Joiner, 2009). Although feelings of thwarted belongingness and perceived burdensomeness have been linked to thoughts of suicide in African Americans in both the current investigation and previous work (Davidson et al., 2010; Hollar, 2010; Lamis & Lester, 2012), the current study indicates that this relationship may only detrimentally affect those African Americans who are less hopeful. Specifically, for less hopeful participants, as their perceptions of being a burden and not belonging increased, so did their thoughts of suicide.

#### Neurological, racial bias is flexible -- coalitional habit forming in the brain is more determinant of bias than race and orienting groups around a common goal and institutional change best breaks them down.This is offense because their theory rejects these solutions.

Cikara and Van Bavel 15. (Mina Cikara is an Assistant Professor of Psychology and Director of the Intergroup Neuroscience Lab at Harvard University. Her research examines the conditions under which groups and individuals are denied social value, agency, and empathy. Jay Van Bavel is an Assistant Professor of Psychology and Director of the Social Perception and Evaluation Laboratory at New York University. The Flexibility of Racial Bias: Research suggests that racism is not hard wired, offering hope on one of America’s enduring problems. June 2, 2015. <https://www.scientificamerican.com/article/the-flexibility-of-racial-bias/>)

The city of Baltimore was rocked by protests and riots over the death of Freddie Gray, a 25-year-old African American man who died in police custody. Tragically, Gray’s death was only one of a recent in a series of racially-charged, often violent, incidents. On April 4th, Walter Scott was fatally shot by a police officer after fleeing from a routine traffic stop. On March 8th, Sigma Alpha Epsilon fraternity members were caught on camera gleefully chanting, “There Will Never Be A N\*\*\*\*\* In SAE.” On March 1st, a homeless Black man was shot in broad daylight by a Los Angeles police officer. And these are not isolated incidents, of course. Institutional and systemic racism reinforce discrimination in countless situations, including hiring, sentencing, housing, and even mortgage lending. It would be easy to see in all this powerful evidence that racism is a permanent fixture in America’s social fabric and even, perhaps, an inevitable aspect of human nature. Indeed, the mere act of labeling others according to their age, gender, or race is a reflexive habit of the human mind. Social categories, like race, impact our thinking quickly, often outside of our awareness. Extensive research has found that these implicit racial biases—negative thoughts and feelings about people from other races—are automatic, pervasive, and difficult to suppress. Neuroscientists have also explored racial prejudice by exposing people to images of faces while scanning their brains in fMRI machines. Early studies found that when people viewed faces of another race, the amount of activity in the amygdala—a small brain structure associated with experiencing emotions, including fear—was associated with individual differences on implicit measures of racial bias. This work has led many to conclude that racial biases might be part of a primitive—and possibly hard-wired—neural fear response to racial out-groups. There is little question that categories such as race, gender, and age play a major role in shaping the biases and stereotypes that people bring to bear in their judgments of others. However, research has shown that how people categorize themselves may be just as fundamental to understanding prejudice as how they categorize others. When people categorize themselves as part of a group, their self-concept shifts from the individual (“I”) to the collective level (“us”). People form groups rapidly and favor members of their own group even when groups are formed on arbitrary grounds, such as the simple flip of a coin. These findings highlight the remarkable ease with which humans form coalitions. Recent research confirms that coalition-based preferences trump race-based preferences. For example, both Democrats and Republicans favor the resumes of those affiliated with their political party much more than they favor those who share their race. These coalition-based preferences remain powerful even in the absence of the animosity present in electoral politics. Our research has shown that the simple act of placing people on a mixed-race team can diminish their automatic racial bias. In a series of experiments, White participants who were randomly placed on a mixed-race team—the Tigers or Lions—showed little evidence of implicit racial bias. Merely belonging to a mixed-race team trigged positive automatic associations with all of the members of their own group, irrespective of race. Being a part of one of these seemingly trivial mixed-race groups produced similar effects on brain activity—the amygdala responded to team membership rather than race. Taken together, these studies indicate that momentary changes in group membership can override the influence of race on the way we see, think about, and feel toward people who are different from ourselves. Although these coalition-based distinctions might be the most basic building block of bias, they say little about the other factors that cause group conflict. Why do some groups get ignored while others get attacked? Whenever we encounter a new person or group we are motivated to answer two questions as quickly as possible: “is this person a friend or foe?” and “are they capable of enacting their intentions toward me?” In other words, once we have determined that someone is a member of an out-group, we need to determine what kind? The nature of the relations between groups—are we cooperative, competitive, or neither?—and their relative status—do you have access to resources?—largely determine the course of intergroup interactions. Groups that are seen as competitive with one’s interests, and capable of enacting their nasty intentions, are much more likely to be targets of hostility than more benevolent (e.g., elderly) or powerless (e.g., homeless) groups. This is one reason why sports rivalries have such psychological potency. For instance, fans of the Boston Red Sox are more likely to feel pleasure, and exhibit reward-related neural responses, at the misfortunes of the archrival New York Yankees than other baseball teams (and vice versa)—especially in the midst of a tight playoff race. (How much fans take pleasure in the misfortunes of their rivals is also linked to how likely they would be to harm fans from the other team.) Just as a particular person’s group membership can be flexible, so too are the relations between groups. Groups that have previously had cordial relations may become rivals (and vice versa). Indeed, psychological and biological responses to out-group members can change, depending on whether or not that out-group is perceived as threatening. For example, people exhibit greater pleasure—they smile—in response to the misfortunes of stereotypically competitive groups (e.g., investment bankers); however, this malicious pleasure is reduced when you provide participants with counter-stereotypic information (e.g., “investment bankers are working with small companies to help them weather the economic downturn). Competition between “us” and “them” can even distort our judgments of distance, making threatening out-groups seem much closer than they really are. These distorted perceptions can serve to amplify intergroup discrimination: the more different and distant “they” are, the easier it is to disrespect and harm them. Thus, not all out-groups are treated the same: some elicit indifference whereas others become targets of antipathy. Stereotypically threatening groups are especially likely to be targeted with violence, but those stereotypes can be tempered with other information. If perceptions of intergroup relations can be changed, individuals may overcome hostility toward perceived foes and become more responsive to one another’s grievances. The flexible nature of both group membership and intergroup relations offers reason to be cautiously optimistic about the potential for greater cooperation among groups in conflict (be they black versus white or citizens versus police). One strategy is to bring multiple groups together around a common goal.

For example, during the fiercely contested 2008 Democratic presidential primary process, Hillary Clinton and Barack Obama supporters gave more money to strangers who supported the same primary candidate (compared to the rival candidate). Two months later, after the Democratic National Convention, the supporters of both candidates coalesced around the party nominee—Barack Obama—and this bias disappeared. In fact, merely creating a sense of cohesion between two competitive groups can increase empathy for the suffering of our rivals. These sorts of strategies can help reduce aggression toward hostile out-groups, which is critical for creating more opportunities for constructive dialogue addressing greater social injustices. Of course, instilling a sense of common identity and cooperation is extremely difficult in entrenched intergroup conflicts, but when it happens, the benefits are obvious. Consider how the community leaders in New York City and Ferguson responded differently to protests against police brutality—in NYC political leaders expressed grief and concern over police brutality and moved quickly to make policy changes in policing, whereas the leaders and police in Ferguson responded with high-tech military vehicles and riot gear. In the first case, multiple groups came together with a common goal—to increase the safety of everyone in the community; in the latter case, the actions of the police likely reinforced the “us” and “them” distinctions. Tragically, these types of conflicts continue to roil the country. Understanding the psychology and neuroscience of social identity and intergroup relations cannot undo the effects of systemic racism and discriminatory practices; however, it can offer insights into the psychological processes responsible for escalating the tension between, for example, civilians and police officers. Even in cases where it isn’t possible to create a common identity among groups in conflict, it may be possible to blur the boundaries between groups. In one recent experiment, we sorted participants into groups—red versus blue team—competing for a cash prize. Half of the participants were randomly assigned to see a picture of a segregated social network of all the players, in which red dots clustered together, blue dots clustered together, and the two clusters were separated by white space. The other half of the participants saw an integrated social network in which the red and blue dots were mixed together in one large cluster. Participants who thought the two teams were interconnected with one another reported greater empathy for the out-group players compared to those who had seen the segregated network. Thus, reminding people that individuals could be connected to one another despite being from different groups may be another way to build trust and understanding among them. A mere month before Freddie Gray died in police custody, President Obama addressed the nation on the 50th anniversary of Bloody Sunday in Selma: “We do a disservice to the cause of justice by intimating that bias and discrimination are immutable, or that racial division is inherent to America. To deny…progress – our progress – would be to rob us of our own agency; our responsibility to do what we can to make America better." The president was saying that we, as a society, have a responsibility to reduce prejudice and discrimination. These recent findings from psychology and neuroscience indicate that we, as individuals, possess this capacity. Of course this capacity is not sufficient to usher in racial equality or peace. Even when the level of prejudice against particular out-groups decreases, it does not imply that the level of institutional discrimination against these or other groups will necessarily improve. Ultimately, only collective action and institutional evolution can address systemic racism. The science is clear on one thing, though: individual bias and discrimination are changeable. Race-based prejudice and discrimination, in particular, are created and reinforced by many social factors, but they are not inevitable consequences of our biology**.** Perhaps understanding how coalitional thinking impacts

#### political ontology is a contradiction, prefer a phenomenological reading. Radical humanism disproves general dishonor and policies and aren’t a result of libidinal forces.

Gordon, 18 – (Lewis, Professor @ UConn, and Scott Phillips, runs the HSImpact Podcast, “HSI Podcast 81 – Dr. Lewis Gordon” HSImpact, 4-24-18, transcribed 1:35-62:28, https://hsimpact.wordpress.com/2018/04/24/hsi-podcast-81-dr-lewis-gordon/)

SP: So, you kind of started talking about bad faith and then moved into the idea of a license. What do you think about to use a lose term the structural critiques that within, let’s say liberalism, there has to be a group that is not human? If they are afropessimists or settler colonialism theorists, that it’s not possible to expand the notion of white freedom and privilege to these other groups of people – that they are just fundamentally not recognized as a human being. Coming from an existentialist tradition, how would you respond to that argument? LG: Those are bad and circular arguments. The first thing to bear in mind is they throw in a sneaky premise. Once you put forward the question of “white freedom,” of course, but if you deal the question of freedom, the question of freedom doesn’t have to be white. The other part that’s strange about their arguments is that they’re dealing with concepts that are what we call “bad structuralism.” Let me explain what that is. Bad structuralism is when you treat the social world as ontologically complete. Its as if the social world is all there is and there’s nothing outside of it. The problem with that sort of argument is it fails to take into account that its humans who built a social world, and so if you’re the person who builds social worlds, you can by definition tear it down, with a toenail outside of it. The other part of it is they don’t understand what liberalism is. Liberalism is a particular form of conception of the human being that emerged, though a particular kind of political philosophy that questions the ability to have objectivity outside of the self. In other words, it collapses into form of subjectivity that prioritizes the category for opinion. That’s why in liberalism there is this obsession with individuals. If you look at the political philosophy of Thomas Hobbes for example, he started from the premise of one atomistic individual in motion colliding with other atomistic individuals in motion which is why he made an argument for there to be a supervening stronger force to keep them form collisions, or what he called war. Most forms of liberalism have some form of appeal like that. The problem with that is that most theories of liberalism doesn’t have a conception of freedom, and that is because most liberalisms confuse freedom with liberty and the crucial distinction between liberty an freedom is liberty is about the absence of a constraint. Freedom, however, requires something more. Freedom is about the responsibility one can take for one’s liberties, and so within the framework of freedom, freedom tends to have ethical implications, it tends to have questions of accountability, and meaning – all sorts of categories that need not be encapsulated by liberty. So, the problem with those accounts is they are based on profound misunderstandings, in some cases even at the level of incompetence of the concepts being articulated. If we think to the question of what a structure is, all structures are systems that are governed by rules that are produced by human beings, and once we understand that we begin to understand the paradox of structures because it’s not only that they are created by human beings, but also that in creating them the human being is also being created, in other words the human being is not a thing like a bowling ball or a glass of water that has a causal effect on other things, it’s in the very process of producing meaning that conceptions of the human being are born. This means that human beings are an always opening and evolving understanding of relationships, and that is also why when we talk about many of these issues we may notice that different kinds of human beings may emerge as things change. A great example relating to the racial category black or afro is that the meaning of what it is to be African has shifted to the rules and relationships we have about not only the continent of Africa and the peoples there but the very idea because in the ancient African formulations of what Africa was particularly in the eastern and north eastern parts of the continent from roughly Ethiopia up to modern day Egypt, the word Africa emerges from a very specific language Metu neter, which simply means originating from the womb, because in that world the origins of all life was from the south, in other words, the southern African area which interestingly enough matches onto a lot of continental anthropology. But if one transforms Africa into something derogatory, then its meaning is going to shift as well. Sorry for the buzz my neighbors are mowing their lawn. And so even if we get to the question of black, there is no reason for black to be intrinsically negative. Its just something I don’t understand. There’s many parts of the world where black is something very positive. It’s not ugly, it’s not wrong. There are many expressions of the word black that are good from financial expressions of “being in the black” we could talk about black beauty, the beauty of the night, whatever. But if you have a society that’s invested in negating blackness they impose upon blackness a negative meaning. And so, if we come back to this idea of systems what we begin to understand is that there’s no such thing as being able to affect the world without in that effect, that act of affecting it, the effect is being affected – in short everything human beings do that has an impact on the world is having an effect on human beings and transforming us. SP: So does this idea seem to imply that antiblack racism is only a conscious choice. I guess I’m thinking more about theories of implicit bias, or in the context of afropessimist they might raise an argument about a libidinal investment. So, does this existentialist frame emphasize that there is an individual responsibility and choice element Well this is where we get to false dilemmas. The simple answer is that some people choose deliberately to be racist while others don’t. One thing to bear in mind about bad faith is that bad faith is not necessarily about a moral prescription. Like there are instances where it can be good to be in bad faith such as if one is afraid, to convince yourself you have superpowers or in situations where one is being tortured, one may want to convince themselves that what’s being done to their body isn’t being done to their personhood – but in other words we create this false dichotomy of a separated self from the body. Now with the libidinal stuff that’s in psychoanalysis – now the thing to bear in mind is there are varieties of ways in which we live in a society and have impositions placed upon us and many of us respond to impositions in different ways – some of us resist them, some of us are afraid of resisting them and rationalize our incapacity to resist them. Those aren’t necessarily libidinal forces, they are just different ways people come with reality. Now the question about choices you see some groups do willfully lie. For example, if you look at a history of something like the national review, the right wing magazine, they were really lying – these were individuals who were committed to the idea that they will use any argument to defend the white race, and for that reason a fundamental deterrent to it was blacks. Now under that framework, they would espouse certain things as if they were rational or reasonable arguments, but the truth is if you look at the history of that magazine, and there’s a fellow named Steve Dertzel who did a wonderful dissertation on this, they would argue completely opposite things. And with these people who argue opposite things, that shows it’s not really about the evidence of the arguments it’s about the position they want to hold. And that’s the crucial part. A lot of people confuse argumentation with positions. Positions is where people decide they are going to stay in a particular place no matter of the evidence that’s brought forth. And dispositions and positions, those are connected to a variety of other things they could be anything from clear. They could be based in ignorance, or they can just be based in a willful desire to manipulate. In other words, the problem with some of these accounts is they are reductionist, they don’t really look at the particular cases in full, and they want to have a one-size-fits-all model when it comes to discussing human phenomena and what every human being learns from childhood onward is that one of the fundamental things about the human world is that the world is saturated with contingency. SP: In that context then, about talking about contingency. A lot of the arguments that students have a hard time dealing with is what you mentioned before as the move to ontologize or talk about political ontology… LG: I really hate that notion of political ontology – it’s a contradiction of terms – it’s one of the stupidest notions that’s being pushed out there. It’s part of the commodification of theory and intelligence. People could always cobble together things that don’t work but they put them together because they sound intelligent and sexy but in truth they’re nonsense. There is no political ontology. And let me explain why. For something to be ontological it has to be absolutely complete. The problem with political is that political by definition is that which comes out of human action. Human action is fundamentally incomplete. So, the notion that there could be a political ontology is a contradiction of terms. What one can have in a human action is a project – the aim – of trying to create an ontology. All an ontology means is being, so in other words here’s an ontological statement: “there is no more nor less reality than there is at any given moment of time.” That’s an ontological statement and its tautologically true, but the question if a pig drops in a river and there’s some starving human around. To make the claim that the humans will eat the pig and it’s just based on human nature and ontology just won’t work. Some might, but some wont – and some wont for the most bizarre reasons – some may not because they are kosher; some may not because they are vegans; some might not because they’d rather die than kill a living thing; and then some might because they just don’t care. And this is where existentialism comes in in a very important way. Existentialism rejects the notion of human nature because nature, human nature, is an ontological imposition on the human being. Political ontology is just nonsense. What the political is about is also the human negotiation of power, and human negotiation of power is fluid. But it sounds like something theoretically sound because it has the word ontology in it. But there’s a lot of nonsense people do in theory that I could list off. For instance, people think they’re doing political analysis if they put the phrase “politics of” before any noun. But the truth of the matter is that some things aren’t political. You could have the politics of clams, the politics of earwax, the politics of dirt. Now if you’re taking about the political negotiation in a social system of how you manage dirt or organizations of how people relate to it though rituals or as resources, that is political, but a lot of these expressions are used when they are ultimately meaningless or ambiguous or unclear.

#### Unconscious bias exists, but it is NOT a libidinal economy---psychoanalytic explanations ignore specific social and cultural value systems and confuses habit with instinct

Hudis 15 (Peter Hudis – Professor of English and History @ Queens College, 2015, “Frantz Fanon: Philosopher of the Barricades,” Pg. 35-37)

Fanon’s vantage point upon the world is his situated experience. He is trying to understand the inner psychic life of racism, not provide an account of the structure of human existence as a whole. Racism is not, of course, an integral part of the human psyche; it is a Social construct that has a psychic impact. Any effort to comprehend social distress that accompanies racism by reference to some a priori structure- be it the Oedipal Complex or the Collective Unconscious- is doomed to failure. Carl Jung sought to deepen and go beyond Freud's approach by arguing that the subconscious is grounded in a universal layer of the psyche- which he called "the collective unconscious:' This refers to inherited patterns of thought that exist in all human minds, regardless of specific culture or upbringing, and which manifest themselves in dreams, fairy tales, and myths. Jung referred to these universal patterns as "archetypes:' It may seem, on a superficial reading, that 1 Fanon is drawing from Jung, since he discusses how white people tend to unconsciously assimilate views of blacks that are based on negative stereotypes. Even the most "progressive" white tends to think of blacks a certain way (such as "emotional;' "physical," or / "aggressive"), even as they disavow any racist animus on their part. However, Fanon denies that such collective delusions are part of a psychic structure; they are not permanent features of the mind. They are habits acquired from a series of social and cultural impositions. While they constitute a kind a collective unconscious on the part of many white people, they are not grounded in any universal "archetype." The unconscious prejudices of whites do not derive from genes or nature, nor do they derive from some form independent of culture or upbringing. Fanon contends that Jung "confuses habit with instinct." Fanon objects to Jung's "collective unconscious" for the same reason that he rejects the notion of a black ontology. His phenomenological approach brackets out ontological claims on both a social and psychological level insofar as the examination of race and racism is concerned. He writes, "Neither Freud nor Adler nor even the cosmic Jung took the black man into consideration in the course of his research.” This does not mean that Fanon rejects their contributions tout court. He does not deny the existence of the unconscious. He only denies that the inferiority complex of blacks operates on an unconscious level. He does not reject the Oedipal Complex. He only denies that it explains (especially in the West Indies) the proclivity of the black "slave" to mimic the values of the white "master." And as seen from his positive remarks on Lacan's theory of the mirror stage, he does not reject the idea of psychic structure. He only denies that it can substitute for an historical understanding of the origin of neuroses .23 Fanon adopts a socio-genetic approach to a study of the psyche because that is what is adequate for the object of his analysis. For Fanon, it is the relationship between the socio-economic and psychological that is of critical import. He makes it clear, insofar as the subject matter of his study is concerned, that the socio-economic is first of all responsible for affective disorders: "First, economic. Then, internalization or rather epidermalization of this inferiority."24 Fanon never misses an opportunity to remind us that racism owes its origin to specific economic relations of domination- such as slavery, colonialism, and the effort to coopt sections of the working class into serving the needs of capital. It is hard to mistake the Marxist influence here. It does not follow, however, that what comes first in the order of time has conceptual or strategic priority. The inferiority complex is originally born from economic subjugation, but it takes on a life of its own and expresses itself in terms that surpass the economic. Both sides of the problem-the socio-economic and psychological-must be combatted in tandem: "The black man must wage the struggle on two levels; whereas historically these levels are mutually dependent, any unilateral liberation is flawed, and the worst mistake would be to believe their mutual dependence automatic:''5 On these grounds he argues that the problem of racism cannot be solved on a psychological level. It is not an "individual" problem; it is a social one. But neither can it be solved on a social level that ores the psychological. It is small wonder that although his name never appears in the book, Fanon was enamored of the work of Wilhelm Reich. This important Freudian-Marxist would no doubt feel affinity with Fanon's comment, "Genuine disalienation will have been achieved only when things, in the most materialist sense, have resumed their rightful place:'27

#### Psychoanalysis isn’t universal and scaling it up to political conclusions is colonialist

Rogers, 17—Senior Lecturer in Criminology in the School of Political Sciences at the University of Melbourne and Adjunct Professor at Griffith Law School, Queensland (Juliet, “Is Psychoanalysis Universal? Politics, Desire, and Law in Colonial Contexts,” Political Psychology, Vol. 38, No. 4, 2017, dml)

The presumption of a universal form of desire is an important starting point for the analyst of any patient who arrives on the couch in the psychoanalytic clinic. The psychoanalyst can only offer certain parameters, with all their limitations. The patient, if the analyst allows for an interrogation of their own forms of resistance, however, can speak back to any frame of desire that the analyst presumes or proposes. And the analyst—if Jacques Lacan’s thoughts on resistance are taken seriously (Lacan, 2007, p. 497; Rogers, 2016, pp. 183–187)—must listen, attend, learn, and adapt. But when the desires of subjects are extended into the political realm, when the wants and needs of every subject are presumed to articulate with a psychoanalytic notion of universal desire, then something is lost. That something might be called the desire of the other, or it might not be called desire at all.

The desire of the other is not easily seen in the wake of European Enlightenment that has engulfed the imagination of psychoanalytic and political theorists and practitioners alike. It is not easily seen, and it is not easily conversed with when epistemological work presumes a trajectory of desire and then applies it. In this application, there is little space for a radically other performance of politics as action or imagination to appear. The subject who is subsumed into this imagination—the subject Gayatri Spivak (1996)1 describes as “the Other of Europe”—has little opportunity to do more than “utter” under the weight of its imagined subjectivity. As Spivak (1999) says:

[I]n the constitution of that Other of Europe, great care was taken to obliterate the textual ingredients with which such a subject could cathect, could occupy (invest?) its itinerary—not only by ideological and scientific production, but also by the institution of the law. (p. 266)

Psychoanalysis is as guilty of exercising such a form of “great care” as many of the occupations of French intellectuals that Spivak has criticized for doing so. Psychoanalysis, with its attention to the many forms of the unconscious, can appear otherwise than guilty of this. It can appear more open, generous, and curious about the many forms that desire can take. In its later forms of attention to a politically constituted “symbolic order” under the guidance of Lacan (2007), it can also appear more attentive to the particularities of desires informed by a politics of the time. I argue here, however, that attention is already constituted by an imagination of a subject who wants, who needs, who desires objects, things, rights, in a mode which cannot not start from a point of origin, and a particular political form of origin which then precludes the recognition—in both the clinic and in political analysis2 —of other forms of desire, “with which such a subject could cathect, could occupy (invest?) its itinerary.” When practices such as political psychoanalysis presume a particular form of desire, what is at stake in this constitution of desire is the political subject or the Other of Europe who cannot “speak,” in Spivak’s terms. What is lost might be called radical desire; it might be an itinerary which is cathected or invested otherwise, and, as such, it might not be recognizable in psychoanalysis or in contemporary political psychology at all.

The nonrecognition of the Other of Europe, in her many forms, is a consistent political problem—documented often and insistently by critical race and postcolonial analysts such as Spivak, but also Sanjay Seth, Leila Gandhi, Chandra Talpade Mohanty, Aileen Moreton-Robinson, Elizabeth Povinelli, Ashis Nandy, Christine Black, and Homi Bhabha. Such nonrecognition, however, when repostulated in political psychoanalysis has another effect. The trajectory of the symptoms of political practice—including desires for law, justice, particular election outcomes, rights, socioeconomic configurations, or even for the formation of political structures themselves (democracy being only one)— presume a form of desire that refers to, and endures in, its constitution. As Spivak (1999) notes in her critique of power and desire as universal:

[S]o is “desire” misleading because of its paleonomic burden of an originary phenomenal passion—from philosophical intentionality on the one hand to psychoanalytic definitive lack on the other. (p. 107)

The psychoanalytic definitive lack she speaks of refers to the Lacanian configuration of desire as always attempting to recover, to master, to instantiate an identity that is supposedly interminably lost as soon as language acts upon the subject. This lack is inaugurated through the subjects relation to what it cannot have, or, in Spivak’s terms, the “originary phenomenal passion” referring to the oedipal scene, which is presumed to be the origin of desire for all. This configuration of desire renders all subjects desiring of overcoming that lack. But it is a particular form of desire and a particular quality of lack. The presumption of this quality—the presumption about what and how people desire—I argue here, must be accountable to the politico-historical configurations which have produced it.

Politico-historical configurations, by definition, are not universal. That is, contra Zizek (2006), I argue that not all the world is a symptom, but that any psychoanalysis of a political symptom, of a political subject, or of the desires examined through psychoanalysis as they emerge in a political arena, assume a particular formation of desire. And that such an analysis operates within the parameters and employs the understandings of the oedipal scene, or, simply of a subjectivity split by language, including the language of law. As Lacan (2006) says “language begins along with law” (p. 225). While this split subjectivity may appear to be universal—and is convincingly employed as such by psychoanalytic and political theorists, and often philosophers (Butler, 1997; Epstein, 2013; Zevnik, 2016; Zizek, 2006), this splitting refers specifically to an oedipal lineage, as a particular instantiation of Oedipal Law, and, as I argue positive law as a liberal law concerned with rights and with what once can or cannot have from the polis as much as what one can take from the father. Thus the “originary phenomenal passion,” which a psychoanalysis of the political engages, always refers back as I will explain, to a (primal) father as a sovereign in a wrangle with his sons, a scene which itself cannot not be understood without its resonances to the French Revolution.

#### Anti-Blackness isn’t libidinal—their totalizing description misapplies psychoanalysis.

Hook, 18—Department of Psychology, Duquesne University (Derek, “Racism and jouissance: Evaluating the “racism as (the theft of) enjoyment” hypothesis,” Psychoanalysis, Culture & Society, September 2018, Volume 23, Issue 3, pp 244–266, dml)

While this seems, in many ways, a gripping account, the degree of reductionism here from a sociologist or historian’s perspective must appear staggering. The multiple complex sociological, economic, and socio-historical variables underlying distinctive historical forms of racism are brushed aside in favour of a generalizing psychoanalytic formula.1 Racism = reaction to perception that the (perversely enjoying) other has stolen our enjoyment. This reduction of racism to an affective equation is evident also in Žižek’s precursor in this conceptual domain, Jacques-Alain Miller:

Why does the Other remain Other? What is the cause for our hatred of him, for our hatred of him in his very being? It is hatred of the enjoyment in the Other. This would be the most general formula for the modern racism we are witnessing today: a hatred of a particular way the Other enjoys […] The question of tolerance or intolerance is […] located on the level of tolerance or intolerance toward the enjoyment of the Other, the Other who essentially steals my own enjoyment (Miller, cited in Žižek, 1993, p. 203).

Not only does the above formula generalize across different socio-historical sites of racism, but it also bundles together a variety of different forms of prejudice. Anti-Semitism, racism, (hetero)sexism, xenophobia, etc. come very close to being reduced to problems of (libidinal/political) jealousy. The depoliticization (indeed, the implicit psychologization) inherent in such a conceptual move is surprising inasmuch it is something that Žižek has proved critical of elsewhere.2 In his contribution to Christopher Lane’s The Psychoanalysis of Race (1998), for example, Žižek outlines the charge of psychological reductionism against standard psychoanalytic explanations of racism, which offer “a way of explaining racism that ignores […] not only racism’s socioeconomic conditions but the sociosymbolic context of cultural values and identifications that generate reactions to the experience of ethnic otherness. (p. 154)”

This is well said, but surely it applies also to the racism as theft of enjoyment formula outlined above? Explanations of racism as jouissance are surely prone to psychological reductionism inasmuch as they often appear to privilege a series of psychoanalytic assumptions (drive, fantasy, libido, projection, etc.) as existing prior to—or independently of—considerations of economic, historical, political, and socio-symbolic context. Does this explanatory over-reliance on the psychological not amount to a retreat from the political, to precisely an attempt to explain social phenomena on the basis of psychological accounts? Moreover, one often has the impression, in looking at passages such as those cited above, of a given conceptual template (indeed, a formula) imposed on one after another historical context by way of an “explanation” of racism, despite the huge variation in socio-historical and cultural factors. This one-size-fits-all type of explanation seems particularly ill-suited to Lacanian psychoanalysis which claims, after all, to be a science of the particular (Verhaege, 2002).