**State coercion**

**States CP---1NC**

**State solve the case. Catholic Bishop has famously not been applied to state laws.**

Alexander T. **MacDonald 21**, Shareholder and Co-Chair of Workplace Policy Institute at Littler, Director of Future of Work at major technology company, U.S. Air Force veteran in Operations Enduring Freedom and Iraqi Freedom, graduated first in law school class, "Religious Schools, Collective Bargaining, & the Constitutional Legacy of NLRB v. Catholic Bishop," Federalist Society Review, 06/17/2021, https://fedsoc.org/fedsoc-review/religious-schools-collective-bargaining-the-constitutional-legacy-of-nlrb-v-catholic-bishop

It would be difficult to find a corner of American labor law more anomalous than the one covering religious schools. Nearly half a century ago, in National Labor Relations Board v. Catholic Bishop,[1] the Supreme Court excluded those schools from the Board’s jurisdiction. It did that by reading the National Labor Relations Act narrowly: it reasoned that because the Act never mentioned religious schools, Congress must have meant to exclude them. In other words, the Court anticipated Justice Neil Gorsuch’s Canon of Donut Holes.[2]

That logic was, to put it generously, unorthodox. But the Court had its reasons. It paid little attention to the statutory language, focusing instead on the effect any other interpretation would have had on the schools’ constitutional rights. Had the Board been given jurisdiction over the schools, it would have been responsible for policing collective bargaining and investigating alleged unfair labor practices in religious schools. Both activities would have forced it to question the schools’ motivations in various contexts, which would have led it into disputes often grounded in religion. And in that way, the Board risked colliding with core First Amendment activity. Unwilling to stomach that risk, the Court avoided it by reading an exception into the law.

The Court’s decision, however, was hardly the last word. In the decades that followed, the Board launched effort after effort to reassert jurisdiction over the schools. It formulated multiple tests and theories, each of which aimed to bring the schools back under its purview. Perhaps predictably, those theories were rebuffed by lower courts. The courts saw the theories for what they were: post hoc attempts to limit Catholic Bishop’s scope. And the courts proved more than willing to defend Catholic Bishop’s core holding, despite its counterintuitive rationale.

They proved less willing, however, to apply the same rigor to similar efforts by the states. Even as the Board was trying and failing to reassert jurisdiction, states were rushing to fill the gap. New York, New Jersey, and Minnesota applied their own labor-relations laws to religious schools. They reasoned that Catholic Bishop addressed only the scope of federal statutory law; it had nothing to say about state law. And courts gave that logic their stamp of approval. They held Catholic Bishop’s black-letter holding dealt only with the NLRA. It had no import for questions of state law.

That approach presents us with a puzzle. It is well accepted that one should not read a decision only for its core holding.[3] The rationale producing that holding is at least as important.[4] And Catholic Bishop’s rationale should have led courts to reject the application of state labor-relations laws to religious schools. At Catholic Bishop’s core was the doctrine of constitutional avoidance: the Court strained to read the Act as it did because a different reading would have produced an unacceptable risk to First Amendment rights. And courts have long recognized that the First Amendment applies with the same force to the states as it does to the federal government. The same analysis, then, should have applied whether jurisdiction was being asserted by the Board or by a state agency. In either case, Catholic Bishop should have led lower courts to avoid a conflict by denying states regulatory jurisdiction.

Yet for whatever reason, they failed to approach the question that way. And so a dichotomy has persisted in the law. Even today, after the Board has given up any hope of reinserting itself into religious schools, state agencies continue to regulate them. That is, states continue to do exactly what Catholic Bishop said the Board could not. And with each passing year, the dichotomy grows harder to defend. The Supreme Court has repeatedly emphasized that the First Amendment protects religious schools’ control over their internal affairs—including their relationships with their employees. Meanwhile, scholars, lower courts, and the Supreme Court itself have questioned one of the key precedents used to justify state involvement in religious schools—Employment Division v. Smith.[5]

### S – Corruption

**1. Nothing to capture. The CP guarantees that states and localities leverage regs in a pro-union direction. That's Sachs.**

**2. It's uncapturable by design.**

Benjamin I. **Sachs 11**, Assistant Professor of Law, Harvard Law School, "Despite Preemption: Making Labor Law in Cities and States," Harvard Law Review, 03/21/2011, https://harvardlawreview.org/print/vol-124/despite-preemption-making-labor-law-in-cities-and-states/

The type of variation that tripartism permits is, however, limited in an important way. This limitation stems from the fact that tripartite labor lawmaking has a predictable political valence — namely, a pro-union one. The reason for this valence is that states and cities have wide-ranging regulatory leverage over employers. To take just the examples developed here, many employers are dependent on cities and states for zoning and development permits, merger approvals, funding streams, and structuring the rules and costs of litigation.254 Among many other examples, state and local health regulation, environmental regulation, licensing requirements, tax policy, and transportation policy can all be critical to firms’ viability. In contrast, states and cities have little regulatory leverage over unions.255 Indeed, any state or local law that burdened unions’ viability — that interfered, for example, with unions’ ability to organize workers or bargain collective agreements — would be invalid.256 And, as opposed to the relationships they have with employers, states and cities have far fewer points of interaction with unions that are independent of the NLRA’s subject matter.

As a result of this regulatory asymmetry, the kind of tripartite lawmaking possible under preemption will almost always involve the exchange of state or local action favorable to employers for private agreements that shift the rules of union organizing and bargaining in a manner that facilitates unionization. From a substantive perspective, this dynamic implies that tripartite lawmaking allows for the correction of only those NLRA pathologies that skew the law in a nonunion direction. Other types of needed repairs — fixes that unions would not have an incentive to seek — will not be facilitated by tripartism. From an experimentalist perspective, tripartism’s uniform political valence creates a similar limitation: tripartism may allow us to learn about reforms to the NLRA rules that unions desire, but it will not provide us with any data about changes that unions do not seek.257

**3. Tripartite governance empowers citizen participation---checks capture.**

Richard C. **Schragger 19**, Perre Bowen Professor of Law, University of Virginia School of Law, "Federalism, Metropolitanism, and the Problem of States," Virginia Law Review, vol. 105, 12/01/2019, pp. 1537

A different objection is that cities are more likely than states or the national government to suffer from significant political pathologies. Skeptics of local government often worry about the ease with which majority or minority factions can assert their strength in smaller places, relying on Federalist 10's celebration of the extended sphere. Madison theorized that a larger republic would be less susceptible to such factions.25 2

That view has been challenged, however, by public choice scholars who argue that larger, more complicated, and more distant governments are more susceptible to anti-majoritarian forces. 253 That industry interests have had such success in influencing state legislatures to adopt targeted preemptive legislation seems to support this view.25 4 In short, it is not at all clear that cities are more susceptible to political process failures than are states.

A related objection might be that even if cities are economically capable of regulating cross-border capital, they are likely to be captured by the same political forces that have exercised undue influence in the states. If corporate capital is powerful at the state level, it may be even more powerful in the city. Cities regularly adopt the same attract-and-retain strategies directed to mobile firms and skilled workers that state leaders favor.255

That being said, local residents are beginning to raise questions about the power of corporate interests. And city leaders are increasingly coming to the conclusion that pro-business policies are ineffective. Cities have begun to resist development deals that do not appear to benefit local residents. 256 [FOOTNOTE 256 BEGINS] 256 See, e.g., Scott L. Cummings, Mobilization Lawyering: Community Economic Development in the Figueroa Corridor, in Cause Lawyers and Social Movements 302, 319 (Austin Sarat & Stuart A. Scheingold eds., 2006); Catherine L. Fisk & Michael M. Oswalt, Preemption and Civic Democracy in the Battle Over Wal-Mart, 92 Minn. L. Rev. 1502, 1521-23 (2008); cf. Benjamin I. Sachs, Despite Preemption: Making Labor Law in Cities and States, 124 Harv. L. Rev. 1153, 1155-56 (2011) (describing a system of "tripartite lawmaking" in which local governments adopt pro-business policies in exchange for contractual agreements favorable to local citizenry). [FOOTNOTE 256 ENDS] Amazon, for example, pulled out of its commitment to relocate to Long Island City after a torrent of local opposition. 257 The successful opposition to the Amazon deal suggests that local residents can push back against conventional "growth machine" politics, even as state leaders continue to pursue it.

# Distinguish

### Overview---2NC

The CP solves---it directly holds that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is controlling precedent.

This does NOT require ruling on labor. It’s just one application; the premise of their advantage is that others are directly analogous and can be resolved by the same rule.

The CP generates the rule in those cases directly instead of relying on spillover from the topic.

It distinguishes the rule from labor, preventing reverse spillover and avoiding topic DAs.

### Solvency---2NC

#### It has the same effect on dated precedent but doesn’t spill over to the AFF

Stuart Minor Benjamin 99, Associate Professor, University of San Diego Law School. B.A., Yale University, 1987; J.D., Yale Law School, 1991, “Stepping into the Same River Twice: Rapidly Changing Facts and the Appellate Process,” 78 Tex. L. Rev. 269, December 1999, WestLaw

Reconsideration need not produce an overruling even if the facts have changed. The relevant court might find other bases to support the original position (or simply find that the remaining bases articulated in the original opinion are sufficient to support it). 48 And if the court concluded the original holding was no longer supportable, it might declare that the original opinion is limited to its facts (and/or no longer relevant to the world) without overruling it; there would be no real difference between such a ruling and an outright overruling, so the difference would be largely a matter of atmospherics. To return to the example of Red Lion, 49 a court faced with persuasive evidence that the broadcast spectrum was no longer scarce in a manner that distinguished it from other media might reach the same result for different reasons (e.g., because broadcast spectrum has been given free of charge 50 ); limit the case to its facts (which, [\*283] presumably, would never recur if one of the relevant facts was a now-discarded notion of spectrum scarcity); or simply overrule it entirely.

#### It’s not confusing---it’s commonplace! Courts use distinguishing to apply different rules to different cases all the time.

Dean Masaru Hashimoto 96, Assistant Professor of Law, Boston College, “The Legacy of Korematsu v. United States: A Dangerous Narrative Retold,” 4 Asian Pac. Am. L.J. 72, Fall 1996, WestLaw

To the extent that there is a consensus that Korematsu was wrongly decided, using stare decisis to distinguish Kent is an effective way to confine it. This technique fleshes out the essential features of Korematsu and limits its applicability through definition. Thus, the diffuse and unqualified quality of the holding in Korematsu might be clarified, defined, and limited through stare decisis. For example, Justice Frankfurter believed that Korematsu could be confined to the context of the exercise of the war power. 121 Later courts could accomplish this by continually distinguishing it as precedent. Moreover, this technique could result in the eventual overruling "sub silentio" of Korematsu. 122 There is indeed a natural resistance to overruling cases, with courts preferring to accomplish the equivalent result by distinguishing and qualifying the precedent out of existence. 123 The traditional use of stare decisis with respect to Korematsu appears, however, to have been abandoned by the mid-1960s. After this period, the Court used interpretive methods different than those usually associated with stare decisis.

1. Not illegitimate. Judges can find facts for any decision, for example [contextualize], which proves it doesn’t interfere with spillover.

2. Their spillover argument is not dependent on the case outcome, just reviving the doctrine of []. The CP only fiats the outcome for this case, but if they’re right that reviving the standard will effectively check the other ones, it solves that too.

3. If they’re right that the courts will by default rule the other way on [spillover issue] regardless, then they can’t solve!

### Solvency---AT: Not Distinguishable

#### Courts can distinguish labor cases---they can formulate new rules whenever they are presented with a different fact pattern.

Linda Meyer 94, Assistant Professor, Vanderbilt Law School, “‘Nothing We Say Matters’: Teague and New Rules,” 61 U. Chi. L.Rev. 423, WestLaw

Taken together, these propositions suggest that a new rule arises in any case that can be reasonably distinguished on its facts from prior cases. However, the boundaries of the reasonable are rather permeable: the prior court's own statements of the rule, of the material facts, and of the rule's relation to prior precedent are all not determinative.

The "holding" of the prior case is thus a moving target, from which no deduction or "dictation" is possible. No bright-line test of newness can avoid this slippery slope--if the holdings of cases will not sit still, they cannot be cleaved into new ones and old ones by any analysis, no matter how fine. 162 Even the obvious "bright line" that new rules are limited to outright overrulings fades when a prior decision's holding can be characterized at various levels of generality. Couching the holding of a prior case in general terms makes it more likely to be overruled; couching the holding in fact-specific terms makes it impossible to overrule. And if state courts are allowed to reinterpret the holdings of precedents, practically every judicial decision can be characterized as a new rule--whatever line is used to divide new from old.

#### That means it’s always possible---every case is different!

Jeffrey B. Loeb & James T. Finnigan 19, Jeffrey B. Loeb, James T. Finnigan, Rich May, P.C., “Plaintiffs-Appellants' Reply Brief,” Mason BROWNE, John Thompson, and Bruce Sunstein, Plaintiffs-Appellants, v. Charles W. CHRISTOPHER, Alan Battistelli, Tacy D. San Antonio, Peter Bergholtz, Michael Bace, Lars-Erik Wiberg, John N. Rees, Frederick Frithsen, and Debra Dellacona, as they are Members of the Town of Rockport Zoning Board of Appeals, and Turks Head, LLC, Defendants-Appellees, 9/3/19, 2019 WL 7816699, WestLaw

Turks Head dismisses the cases cited by the plaintiffs as “irrelevant” because the facts in those \*14 cases are different from this case. (Appellee Brief, p. 30 & n.13). But no two cases are ever factually identical. Thus, the issue is not whether “cases are distinguishable on their facts, [but] rather ... whether they are distinguishable on principle.” J. Rice and J. Boeglin, Confining Cases To Their Facts, 105 Va.L.Rev. 865, 875 (2019) (emphasis in original).

### Plank---1NC

#### --relax the law of circuits to allow panels to revisit prior panel decisions in light of circuit conflicts

#### Resolves circuit splits without requiring definitive SCOTUS resolution

Wyatt G. Sassman 20, Assistant Professor, University of Denver Sturm College of Law, “How Circuits Can Fix Their Splits,” 103 Marq. L. Rev. 1401, Summer 2020, WestLaw

IV. HOW CIRCUITS CAN FIX THEIR SPLITS

This Part offers my proposal for relaxing the law of the circuit doctrine in conflict cases. Section A explains the proposal and offers ways to adopt the proposal. Section B lays out the proposal's benefits, including structural benefits by reducing reliance on the Supreme Court to resolve conflicts and institutional benefits such as increased transparency and dialogue in appellate decisionmaking at a lower cost than other proposals seeking similar goals. Section C confronts the proposal's potential tradeoffs--increased flexibility in exchange for less stability. Section C therefore discusses two representative counterarguments stemming from potential instability created by the proposal: that the proposal will generally result in too much volatility in federal law, and that the proposal threatens specific doctrinal areas where stability is especially important, such as the need for clearly-established constitutional law. I argue that, on balance, the benefits of the proposal outweigh these risks.

A. Relaxing the Law of the Circuit Doctrine in Conflict Cases

My proposal is that the courts of appeals should relax the law of the circuit doctrine when a prior panel opinion has subsequently resulted in a conflict with another circuit. Courts should relax the doctrine to allow the latter panel to revisit the prior decision and address the grounds for the conflict with another circuit.

The proposal is narrow in three important ways. First, I'm only advocating that the courts of appeals relax the doctrine in conflict cases; the existing strict rule could still apply in the vast majority of cases. Second, I am not advocating that the latter panel must resolve a conflict; it could resolve the conflict, clarify that there is no conflict, or even maintain the conflict despite the competing arguments. Any of these outcomes offer benefits over the status quo, as I argue below. Third, the proposal does not change the hierarchical relationship between panels, the en banc court, or the Supreme Court. A panel decision revisiting a prior decision because of a conflict could, for example, still be reheard en banc or heard by the Supreme Court. The same accountability structures could apply; panels simply gain a tool to help address conflicts and, arguably, these accountability structures will be improved by reducing reliance on the Supreme Court to resolve conflicts.

Let's return to the conflict introduced earlier involving the Sixth and Eleventh Circuits to illustrate the proposal.307 In that example, the Sixth Circuit \*1452 issued a decision in 2000 pro se case that there is no implied right of action to enforce a provision of the Voting Rights Act.308 In 2003, the Eleventh Circuit subsequently split with the Sixth Circuit on this issue, arguing, among other things, that the Sixth Circuit had outright missed controlling precedents.309 In 2016, a voting rights non-profit asked the Sixth Circuit to reconsider its prior decision in light of the Eleventh Circuit's contrary decision.310

This is where my proposal would kick in. Rather than being bound to the prior panel decision, as the Sixth Circuit held, the Sixth Circuit could revisit the issue. The Sixth Circuit could then consider the Eleventh Circuit's reasons, including the precedents that the Eleventh Circuit found controlling. The Sixth Circuit then has several options. It could change position, align with the Eleventh Circuit, and resolve the conflict. Or it could reject the Eleventh Circuit's reasons and maintain the conflict. Or it could explain, for whatever reason, that there is actually no conflict and that its prior decision remains controlling. At best, the conflict is eliminated. At worst, substantial uncertainty regarding the Sixth Circuit's view is eliminated--the Sixth Circuit has confronted the precedents and reasons that persuaded the Eleventh Circuit, clarifying its dated position on the issue. Even if the Sixth Circuit maintains the conflict, it has nevertheless contributed to further development of the issue by better articulating its position.311

\*1453 This example helps clarify that the primary goal of the proposal is to change how the federal courts as a whole handle conflicts, not necessarily to eliminate conflicts. As we've discussed, the current interaction between the law of the circuit and the Supreme Court's approach to certiorari results serious structural costs on the federal courts. While other proposals have suggested reforming the Supreme Court's certiorari practice to address these problems, this proposal approaches the same goal--reducing reliance on the Supreme Court to resolve conflicts--from a different direction by reforming how the courts of appeals generate and perpetuate conflicts. As I'll explain below, the proposal has a co-benefit of increasing overall capacity to resolve conflicts, and in particular the kind of low-stakes conflicts implicating a couple or few circuits that many commenters believe are not worth the effort of Supreme Court or en banc review.312 But the proposal does not, and is not intended to, guarantee an overall reduction in conflicts. The goal is to adjust the roles of the federal courts regarding conflicts and thereby relieve bottlenecks that impose structural costs on the entire federal judiciary.

Courts could relax the law of the circuit doctrine in conflict cases relatively easily by modifying their local rules. One option is for courts modify the law of the circuit doctrine itself and create an exception to the rule for conflict cases. Courts could accomplish this either by modifying their rules to create an entirely new exception to the doctrine for conflict cases, or make use of the existing doctrinal exception by defining a “change in the law” sufficient to enable a panel to revisit a prior decision to include a conflict with another circuit. A uniform federal rule is likely not necessary--even incremental adoption of the proposal across some of the circuits would offer benefits over the status quo.

Another option would be to adopt an informal, mini-en banc procedure for revisiting panel decisions in conflict cases.313 Under this approach, the current \*1454 panel would be able to circulate the opinion revisiting the prior decision in a conflict case to the rest of the court for approval. Assuming that such informal procedures are valid exercises of the en banc power, this option would not require modification of either the law of the circuit doctrine or the court's rule: the en banc court would be revisiting the prior decision as allowed under the current doctrine, only the panel is doing most of the work. A court could even adopt this option only for conflict cases. Informal en banc procedures are controversial, and a court could limit potential negative effects of the practice by limiting its use to revisiting panel decisions that resulted in a conflict.314

Both of these options could also be achieved by changing the circuit's case law. The law of the circuit doctrine is itself a creature of case law, which creates an odd problem of circularity: because the doctrine makes prior cases strictly binding, it would be impossible for a later panel to change the doctrine.315 Changing the doctrine by modifying the circuit's case law may therefore require an en banc proceeding, which seems both appropriate and worth the additional cost given the lasting benefits the change could have for future panels' work. Some circuits have “adopted” informal mini-en banc procedures by simply using it in a panel decision and then citing back to that opinion as authority for the practice.316 So too could a court adopt this practice for conflict cases.

B. Benefits

Relaxing the law of the circuit doctrine in conflict cases would offer many benefits at lower cost than other proposals. This section discusses these benefits in two categories: benefits to overall structure of the federal courts, and benefits to the specific institution of the courts of appeals. I then discuss the proposal's low cost and ease of implementation, which I see as its distinguishing feature. While many proposals have targeted the structural and institutional benefits discussed below, relaxing the law of the circuit using tools already available to the courts of appeals offers a way of pursuing those benefits with substantially less disruption to the courts or other tradeoffs.

\*1455 1. Structural Benefits

Relaxing the law of the circuit to allow circuits to address conflicts offers two structural benefits that have long been pursued by advocates of reform in the federal courts: reduced reliance on the Supreme Court to resolve conflicts, and increased capacity to resolve conflicts.

a. Less Reliance on the Supreme Court

As discussed, sole reliance on the Supreme Court to resolve conflicts has imposed serious costs on the federal judiciary, including opening the Supreme Court's docket to capture and creating informational and accountability gaps between the Supreme Court and courts of appeals.317 These costs are associated with the Supreme Court's role as conflict-resolver, and many proposals have focused on changing the Supreme Court itself to either accommodate that role,318 or to eliminate the Court's role in reducing conflicts altogether.319 This proposal comes at the same goals indirectly, by enabling the courts of appeals to take on some responsibility, perhaps even primary responsibility, for resolving conflicts. The Supreme Court could still exercise some role in resolving persistent conflicts among the courts of appeals, but conflicts generally could take on lesser importance in the Court's overall docket.

While less direct than other proposals, this approach offers a more realistic and incremental approach to addressing these problems. In this way, the proposal is an important contribution linking the reforms in the lower federal courts with persistent debates about reforming the Supreme Court's certiorari docket. Approaching reform indirectly by addressing the source of conflicts that skew the Court's certiorari docket offers a new perspective to these long-standing debates, and as discussed below, a realistic opportunity for reform in a discourse that has been dominated by creative but costly proposals.

b. Increased Capacity to Resolve Conflicts

Relaxing the law of the circuit to allow the courts of appeals to address conflicts increases overall capacity for potentially resolving conflicts. This Article has primarily focused on the negative effects of conflicts on the \*1456 Supreme Court's relationship with the courts of appeals, and there is substantial debate about the negative effects of conflicts themselves.320 Nevertheless, allowing the courts of appeals to resolve conflicts on their own increases the overall number of decisionmakers available to address conflicts--more so than forcing the Supreme Court to decide more conflict cases or than creating a dedicated court or panel of existing Article III judges dedicated to conflicts. This is a potential co-benefit of the proposal alongside the benefits of reducing reliance on the Supreme Court to resolve conflicts. While the Supreme Court could still resolve particularly severe disagreements among the circuits, this proposal would be well suited to resolving lower-stakes disagreements among a few or handful circuits--precisely the kind of conflicts that many critics suggest are not that important and not worth the extraordinary effort the federal appellate structure currently devotes to them.321 In this way, this proposal not only helps increase capacity to resolve conflicts, but increases capacity in the right place to help resolve the right kind of conflicts--those that impose the highest costs for the lowest payoff.

2. Institutional Benefits

In addition to structural benefits offered by reducing overall reliance on the Supreme Court and increasing capacity for potentially resolving conflicts, relaxing the law of the circuit doctrine to address conflicts offers three benefits to the courts of appeals themselves. These benefits can be broadly understood as improving the law-declaration function of the courts of appeals in conflict cases, where this function is particularly important, while maintaining the case-management benefits of the strict law of the circuit doctrine, however limited, in the majority of cases.

a. Better Decisionmaking

Allowing circuits to engage with each other in conflict cases may result in better decisions. It returns to conflict cases an incremental, common-law approach to judicial decisionmaking that underlies the theory of percolation-- that repeated engagement with an issue over several sets of facts will yield better results.322 The federal courts' role in declaring the law is particularly important among panels of the federal courts of appeals, where their decisions \*1457 create binding precedent and are the final word on most issues of federal law.323 “Thus, it is exceedingly important,” as Amanda Frost put it, that panels on the federal courts of appeals “get decisions right.”324 Decisions that have subsequently resulted in a conflict with another circuit present at least a plausible concern that the initial decision is wrong, justifying the need to revisit the initial decision. The result is greater confidence in the court of appeals' decisionmaking, supporting percolation and the declarative function of the courts of appeals.

This is perhaps my proposal's primary advantage over a strict rule of intercircuit stare decisis--a competing proposal that the first panel of a court of appeals to address an issue binds all panels of all other circuits.325 Proposals for intercircuit stare decisis offer some similar benefits--namely, increased uniformity through reduced conflicts--but at the cost of dialogue across the multi-circuit system.326 Intercircuit stare decisis results in the first panel decision controlling all courts, undercutting percolation and inhibiting the declarative function of the courts. My proposal, by contrast, maintains this value of the multi-circuit system and may therefore result in better decisions while still addressing the negative influence of conflicts.

b. Increased Transparency

Relaxing the law of the circuit doctrine in conflict cases may also result in more candid judicial engagement with prior decisions and decisions from other circuits. One common concern with the existing law of the circuit doctrine is that judges will disingenuously ignore or distinguish prior decisions that, though binding, they disagree with.327 Likewise, there is some concern that panels will use unpublished decisions to either avoid binding circuit precedent or manipulate conflicts.328 Or that strict adherence to the law of the circuit may result in circuits setting precedent without full awareness of relevant issues or \*1458 cases, such as the Sixth Circuit's first decision in our Voting Rights Act example.329

Allowing panels to revisit prior decisions that have resulted in a conflict with another circuit may help mitigate these problems. While this proposal cannot guarantee judicial adherence to precedent in all cases, it may result in more candid engagement with prior decisions in conflict cases by enabling the latter panel to surface and express disagreement. Likewise, panels would have less incentive to submerge disagreements with precedent or other circuits using unpublished decisions if they could openly engage with those decisions with confidence that it could be revisited in light of subsequent disagreements. Finally, the proposal would allow panels to confront information that the prior panel missed, whether inadvertently or not. These benefits, thought limited to a narrow range of cases, may be of most benefit in conflict cases where reasoned engagement with contrary viewpoints is a core aspect of percolation and improving decisions through continued dialogue.

c. Uniformity, Efficiency, and Percolation

Finally, the proposal balances increased attention to conflicts with the law of the circuit doctrine's role in pursuing uniformity, efficiency, and percolation--and in some cases, the proposal improves the doctrine's ability to achieve these values. By limiting this proposal to conflict cases, the strict law of the circuit doctrine would still operate in the vast majority of cases. Although the uniformity and efficiency benefits of the existing doctrine are likely thinner than the literature suggests, this proposal nevertheless maintains those benefits for most cases. Rather, it targets a narrower set of conflicts that most clearly undermine values of uniformity. By giving circuits the tools to address conflicts, the proposal helps better balance the tension in the existing doctrine between intracircuit and intercircuit conflicts. Moreover, allowing circuits to engage with and resolve conflicts is consistent with the theory of percolation, removing an existing barrier in conflict cases to continued dialogue and development of an issue. The proposal therefore maintains the upside, however limited, of the existing doctrine in most cases and helps mitigate some of the doctrine's downside imposed by its role in generating and perpetuating conflicts.

### Overpopulation – 1NC

#### Population’s stable and sustainable. If it wasn’t, there’d be no way to solve through population control.

Hannah Ritchie 24, senior researcher in the Programme on Global Development at the University of Oxford, deputy editor and lead researcher at the highly influential online publication Our World in Data, was named Scotland’s Youth Climate Champion, “1. Sustainability: A tale of two halves,” in Not the End of the World: How We Can Be the First Generation to Build a Sustainable Planet, Little, Brown Spark, pp. 25–42

Two ideas that won’t fix our problems

Before we take off into the air and the first stop on our journey, I need to look at a few arguments that cut across all these challenges. Our collective environmental impact is quite simple when we break it down: it’s the number of people multiplied by everyone’s individual impact. When we put it that way, two grand solutions emerge: reduce the number of people on the planet or cut our individual impacts by intentionally shrinking the economy.

These arguments – referred to as depopulation and degrowth – are represented by very loud advocates in environmental debates. But neither of these options is viable. We will not achieve sustainability by shrinking the population or the economy. In the following chapters I’ll walk us through why in much more detail. But first, here’s what you need to know before we start.

(1) Depopulation

Many people are worried that the global population is still growing rapidly. That we’re seeing exponential population growth, and it’s out of control. This isn’t true. The global population growth rate – the change from one year to the next – peaked a long time ago. In the 1960s it was growing at more than 2% per year. 17 Since then, this rate has more than halved, to 0.8% in 2022. And it will keep falling in the decades to come. For population growth to be ‘exponential’ the growth rate would have to stay at 2% per year.

This is happening because women are having far fewer children than in the past. For most of human history having five or more kids was not uncommon. But this didn’t drive fast population growth because so many children died young. By the 1950s and 60s, the global average was still similar – women would give birth to five children.18 Thankfully far more children now survived, which is why the population increased rapidly. But, since then, the global fertility rate has more than halved and is now just over two children per woman.

[FIGURE OMITTED]

As a result, the world has already passed ‘peak child’. According to statistics compiled by the United Nations, the number of children in the world peaked in 2017vi and is now falling. Take a moment to think about what that means: there may never be more children in the world than there were in 2017. Global population growth will peak when all these children reach old age. The United Nations projects this will happen in the 2080s at 10 to 11 billion people.19 From there, it expects the world population will start to shrink.

So, rapid population growth is behind us, the world is not facing an uncontrolled ‘population explosion’. For some, this is not enough. They argue that we should actively decrease the number of people in the world. In The Population Bomb, Paul R. Ehrlich argued that the optimal global population was around 1 billion people. He still argues for this today. Here’s the thing: if we were to accept for a moment that this was the optimal number of people (which I don’t), it’s not possible to reduce the population quickly enough for that to help address our environmental problems. If anyone argues that it is, they don’t understand how demographic change works.

Even if some countries implemented a one-child policy and birth rates became much lower – around 1.5 as the global average – we might be talking about the population in 2100 being 7 or 8 billion, similar to our current level. To get anywhere close to 1, 2 or 3 billion people would mean killing billions or stopping people from having any children at all. If you think that’s a viable and moral solution, then I don’t know what to tell you. Trying to ‘control’ population in any humane way (if there is such a thing) might reduce it a bit, but not by that much. Our sustainability solutions need to be scalable for many billions of people. If we can make them scalable for 8 billion people, we can do it for 10 billion.

**2NC**

**Doctrinal Stability**

### Turn---2NC

The 1AC is anti-religious freedom. They explicitly subordinate religious rights to collective bargaining rights. The entire idea of a religious civil war is that deranged Christian nationalists will start a violent conflict over vaccines, abortion, and contraception because they can’t handle being in a civilized society with secular people. The aff exacerbates this conflict by further deprioritizing religious rights!

Before evaluating any issues, you need to know that their 1AC cards are highlighted like a second-grader did it. You should not read a single card without first using invisibility mode. Ignore every single unhighlighted word and impose a strict standard of coherence on this garbage.

#### But, even a generous reading of their 1AC Witte internal link card makes clear that it’s a neg card. It explicitly says that religious freedom depends on placing religion on a pedestal, above other First Amendment rights and preventing it from being overridden by other priorities like collective bargaining rights.

John Witte Jr. 24, JD, Professor, Law, Emory University. Distinguished Professor, Religion, Emory University. Faculty Director, Center for the Study of Law and Religion, Emory University, "A New Great Awakening of Religious Freedom in America," Journal of Christian Legal Thought, Vol. 14, No. 1, 2024, pg. 44-55.

[**This part is cut from earlier in the article than Northwestern’s section of the article**]

Religious freedom has reawakened in America over the past decade, and the loudest wake-up call has come from the United States Supreme Court. Only a dozen years ago, American religious freedom was in trouble in several states and federal circuits. Old religious monuments were targeted for removal as badges of bigotry and religious favoritism.1 Religious parties were excluded from state scholarships and other public programs and benefits.2 State civil rights commissions penalized conscientiously opposed vendors for not servicing same-sex weddings,3 religious pharmacists for not filling prescriptions for abortifacients,4 religious schools for not teaching inclusive sexual ethics, and religious charities for discriminating in their delivery of services.5 Some critics and legislators called for religious communities to be stripped of their tax exemptions, marital solemnization rights, teaching licenses, and social service contracts.6 Several states enacted new anti-Sharia measures.7 The Supreme Court, throughout the 1990s and 2000s, enforced religious freedom provisions relatively weakly, leaving most religious freedom questions for states and legislatures to work out in accordance with the Court’s new devotion to federalism and separation of powers.

There were many likely reasons for this turn against religion and religious freedom: worries about militant Islamism after 9/11; the exposures of massive sex scandals and cover-ups within some churches; new media exposés on the luxurious lifestyles of some religious leaders occupying large tax-exempt institutions; and transparent political gamesmanship by some religious groups.8 A stronger reason still was that some faith communities opposed the emerging constitutional rights of same-sex equality and marriage, and some also opposed constitutional rights to contraception and abortion.9 Strong critics in the academy and the media now brand ed religion as an enemy of liberty, and decried religious freedom as a dangerous and outdated constitutional luxury.10

All that has changed dramatically in the past decade. While loud criticisms of religion continue to clatter in the media and the law reviews, the U.S. Supreme Court has led a great awakening of American religious freedom. In more than two dozen cases since 2011, the Court has used both the First Amendment and federal statutes to strengthen the rights of religious organizations to make their own internal decisions about employment and employee benefits.11 The Court has held that some forms of government aid to religion and religious education are not only permissible under the Establishment Clause, but also required under the Free Exercise and Free Speech Clauses.12 The Court has used the Free Exercise Clause to enjoin several public regulations and policies that discriminated against religion, that penalized parties for taking religious stands, or that coerced parties to act contrary to their conscience.13 The Court has strengthened both the First Amendment and statutory claims of religious individuals and groups to gain exemptions from general laws that substantially burdened their conscience.14 The Court has used religious freedom statutes to give new protections to Muslim prisoners15 and insisted that death row inmates have access to their chaplains to the very end.16 The Court has even allowed the collection of money damages from government officials who violated individuals’ statutory protections of religious freedom.17

These two dozen recent cases signal a marked return to America’s founding axiom that religious freedom is the first freedom of our constitutional order, not a second class right. The eighteenth-century founders’ vision was that religion is more than simply another form of expression and association; it deserves separate and special constitutional treatment. The founders thus placed the guarantee of freedom of religion before the freedoms of speech, press, and assembly in the First Amendment. That gave both religious individuals and groups special protections for their faith claims. All peaceable exercises of religion, whether individual or corporate, private or public, traditional or new, popular or reviled, properly deserve the protection of the First Amendment.18 The current Supreme Court has seized on this traditional teaching with new alacrity.

#### Think of all the deranged militants who showed up at state houses to protest COVID vaccine mandates. The plan galvanizes organized resistance to collective bargaining rights.

Johan C. Bester 15, Department for Ethics, Humanities & Spiritual Care, Cleveland Clinic, and Centre for Applied Ethics, University of Stellenbosch, Stellenbosch, South Africa, “Vaccine Refusal and Trust: The Trouble With Coercion and Education and Suggestions for a Cure,” *Bioethical Inquiry*, Volume 12, 2015, pp. 555-559

Option 1 seems problematic, as it would introduce substantial costs to families and, consequently, society (Ross and Aspinwall 1997). Prosecution would fall on parents who fail to vaccinate their children, incurring harm to these parents, harm to the family, and eventually harm to the child. Thus, in an attempt to protect the best interests of the child, the child ends up being harmed. Since families are the building blocks of society, harming families in this way also would harm society.

Yet, this approach can be justified when the costs to individual children and to society are very high should vaccination be refused. If it were so that Ebola was endemic in the United States, and it were so that there was a safe and effective vaccine, it would follow that mandated vaccination would be reasonable despite the costs of state power. This was the background of Jacobson v. Massachusetts: the city of Cambridge (in Massachusetts) faced a smallpox epidemic and a vaccine was available. The U.S. Supreme Court decided that the state, as part of its Bpolice power,^ has the authority to mandate vaccination in these circumstances to protect the public’s health (Ross and Aspinwall 1997). Endemic Ebola would be a similar situation. The state should have the power to intervene through various coercive ways to protect the public against a public health disaster. Justifying the use of such power is less clear if the risk from the disease is very low (for example, an illness that is not really that serious or is not endemic in society) or if the protecting vaccine has substantial harms associated with it. Additionally, in a highly vaccinated society, when it comes to diseases such as measles and polio, the risk to society and to an individual child from sporadic vaccine refusal is low (Ross and Aspinwall 1997). For example, within a population where 99 per cent of children are vaccinated with the measles, mumps, and rubella (MMR) vaccine, the risk that an unvaccinated child would acquire measles is extremely low. Therefore, punishing parents who fail to vaccinate in such a situation seems to incur unduly high levels of harm for minimal benefit (Ross and Aspinwall 1997).

The history of mandatory policies shows us that coercion can sometimes have the unintended effect of galvanizing resistance to vaccination. As noted above, Britain introduced a mandatory vaccination policy in 1871, with rather harsh penalties for refusal (Allen 2007). It eventually abandoned this policy in 1948 in the face of organized resistance (Allen 2007). In the United States, the introduction of compulsory vaccination laws also changed the anti-vaccine movement from one of passive resistance to more organized, active resistance (Allen 2007). An aspect that is present in some sectors of the contemporary anti-vaccine movement is the idea that parents should take responsibility for their own child, resisting those who would coerce them to act against the best interests of their child (Kata 2010). Some types of coercion may therefore paradoxically strengthen resistance to vaccination; using too strong a hand may hinder the goal of ensuring vaccination uptake.

#### The plan explicitly makes religion a second-class right when compared to collective bargaining rights---that undermines special protection of religion and draws the ire of every deranged religious fanatic who currently run our constitutional system

John Witte 16, Robert W. Woodruff University Professor of Law, McDonald Distinguished Professor, and Director of the Center for the Study of Law and Religion at Emory University, “"Come Now Let Us Reason Together": Restoring Religious Freedom in America and Abroad,” *Notre Dame Law Review*, 92 Notre Dame L. Rev. 427

So matters stood a generation ago. But in the ensuing years, these special legislative protections of religious freedom have come under increasing attack. Several states of late, including relatively conservative bastions like Georgia8 and Indiana,9 have buckled under massive lobbying and media pressure, and have scrapped or vetoed their new or revised RFRA plans; other states have started to limit the application of their existing RFRAs.10

There are many causes for this change of legislative heart. First, highly publicized religious pathologies have made it more difficult to sympathize with the cause of religion and religious freedom. Particularly, the rise of Islamicism, and the horrors of 9/11, London’s 7/7, Fort Hood, Madrid, Paris, San Bernardino, Brussels, Orlando, Nice, and more have renewed traditional warnings about the dangers of religion in general and triggered fresh waves of “anti-Shari’a statutes”11 and harsh treatment of Muslims by regulators and courts.12 Leading political figures now advocate a “‘total and complete’ ban” on Muslims entering the United States 13 and urge that the United States should “test every person here who is of a Muslim background, and if they believe in sharia, they should be deported.”14 Second, the media narrative has turned more against legislative protections. For example, in 2006, The New York Times ran a sensational six-part expose describing the ´ “hundreds” of special statutory and regulatory protections, entitlements, and exemptions that religious individuals and groups quietly enjoy under federal, state, and local laws, despite all the loud lamentations about the Smith case’s truncation of religious freedom.15 Third, the Catholic Church was rocked by an avalanche of news reports and lawsuits about the pedophilia of delinquent priests and cover-ups by complicit bishops—all committed under the thick constitutional veil of religious autonomy.16 Fourth, Evangelical megachurches faced withering attacks for their massive embezzlement of funds, and the lush and luxurious lifestyles of their pastors—all the while enjoying tax exemptions for their incomes, properties, and parsonages.17

But even bigger challenges of late have come with the new culture wars between religious freedom and sexual freedom.18 The legal questions for religious freedom are mounting. Must a religious official with conscientious scruples marry a same-sex or interreligious couple? How about a justice of the peace or a military chaplain? Or a county clerk asked to give them a marriage license?19 Must devout medical doctors or religiously chartered hospitals perform abortions, or give assisted-reproduction procedures to unwed mothers, contrary to their deeply held religious beliefs about marriage and family life? How about if they are receiving government funding? Or if they are the only medical service available to the patient for miles around? Must a conscientiously opposed pharmacist fill a prescription for a contraceptive or abortifacient?20 Or a private employer carry medical insurance for the same prescriptions? What if these are franchises of bigger pharmacies or employers that insist on these services? May a religious organization dismiss or discipline its officials or members because of their sexual orientation or sexual practices, or because they had a divorce, abortion, or same-sex marriage? May private religious citizens refuse to photograph or cater a wedding, rent an apartment, or offer a general service to a same-sex couple whose relationship they find religiously or morally improper21—especially when state non-discrimination laws command otherwise?22

These are only a few of the headline issues today, which officials and citizens are struggling mightily to address. Two recent 5-4 Supreme Court cases on point have only exacerbated the tension. In Christian Legal Society v. Martinez (2010),23 sexual non-discrimination rights trumped religious freedom claims; in Burwell v. Hobby Lobby (2014),24 religious freedom trumped reproductive freedom claims.25 The culture wars have only escalated as a consequence. “Each side is intolerant of the other; each side wants a total win,” Douglas Laycock writes, after a thorough study of these new culture wars.26 “This mutual insistence on total wins is very bad for religious liberty.”27 And with easy political talk afoot about repealing unpopular statutes—not just the Affordable Care Act—legislative protections for religious freedom appear vulnerable. Add the fact that both the Free Exercise and Establishment Clauses are now much weaker protections than they were before the 1980s, and it is hard to resist the judgment of leading jurist Mary Ann Glendon that religious freedom is in danger of becoming “a second-class right.”28

Concede they solve reproductive car. Abortion inflames religious institutions!

**Hospitals**

**Disease Pandemics Defense---2NC**

**Human and animal history proves.**

David **Thorstad 23**, Assistant Professor of Philosophy at Vanderbilt University, was a research fellow at the Global Priorities Institute and Kellogg College, Oxford, did a PhD in philosophy at Harvard and BA in philosophy and mathematics at Haverford College, “Exaggerating the risks (Part 9: Biorisk – Grounds for doubt),” Reflective Altruism, 7/8/23, https://reflectivealtruism.com/2023/07/08/exaggerating-the-risks-part-9-biorisk-grounds-for-doubt/

4. Human history

We have experienced a great number of catastrophic pandemics throughout human history. These pandemics have all fallen far short of existential catastrophe: indeed, they have often failed to cause even local forms of societal collapse, and only extremely rarely if ever caused a region to become uninhabited for any significant amount of time.

One of the best known pandemics is the `Black Death’ which swept Europe from 1346 to 1352. Though the pandemic led to massive loss of life, there was little evidence of societal collapse or even breakdown of large-scale social institutions. The historian John Haldon and colleagues write:

Claims of mortality rates of as much as 50% give the impression that this event must have been devastating for the societies affected. Yet when we examine how different states and societies responded, we find that—without minimizing the terrible impact on people and communities—the medieval world did not grind to a halt, still less did a series of revolutionary transformations occur. Indeed, the Black Death struck at the beginning of the Hundred Years’ War, and in spite of its demographic impact both the kingdoms of England and France continued to field effective armies, even if there was a brief pause in hostilities (similar to contemporary calls for ceasefires in ongoing international conflicts in the context of COVID-19). Instead, some societal developments that were already under way accelerated while various groups within society responded by exploiting their situation and attempting to slow down, stop or otherwise control changes which they perceived as disadvantageous.

Still more devastating pandemics, combined with other risk hazards such as brutal colonial expansion, have still been frequently unable to produce even regional societal collapse. For example, the political scientist Alberto Diaz-Cayeros and colleagues study the combined effect of pandemic, violence and other colonialist disasters on Mexico from the mid-1500s onwards. Despite dramatic loss of life (average settlement population fell 95% by 1646), most settlements survived, and 13% even grew by the end of the colonial period. They write:

We develop a new disaggregated dataset on pre-Conquest economic, epidemiological and political conditions both in 11,888 potential settlement locations in the historic core of Mexico and in 1,093 actual Conquest-era city-settlements. Of these 1,093 settlements, we show that 36% had disappeared entirely by 1790. Yet, despite being subject to Conquest-era violence, subsequent coercion and multiple pandemics that led average populations in those settlements to fall from 2,377 to 128 by 1646, 13% would still end the colonial era larger than they started.

Human history is replete with such examples of resilience not only to pandemics, but also to the combination of pandemics with numerous other catastrophes. If our ancestors could survive and flourish with little in the way of modern medical knowledge or technology, then we should become relatively more confident in our own ability to survive future pandemics.

5. Mammalian history

It is not just human history that provides tales of resilience. Throughout history, there is only one recorded instance in which disease has led to the extinction of a mammalian species. Don’t take it from me – here are Piers Millett and Andrew Snyder-Beattie:

The number of mammalian species that have gone extinct due to disease (as opposed to other factors) is very limited, with just 1 confirmed example.

The confirmed example is the extinction of a species of rat in a very small and remote location (Christmas Island).

While we might take the relatively larger incidence of disease-driven extinction in non-mammalian species as evidence of the threat posed to such species, if the closest thing to a mammalian extinction that we can pin on pandemic disease is the extinction of an isolated species of rat, then we should be hesitant to place too much stock in the idea that humanity is soon to be driven extinct by disease.

**Public health responses solve---they can field a vaccine in weeks.**

David **Thorstad 23**, Assistant Professor of Philosophy at Vanderbilt University, was a research fellow at the Global Priorities Institute and Kellogg College, Oxford, did a PhD in philosophy at Harvard and BA in philosophy and mathematics at Haverford College, “Exaggerating the risks (Part 10: Biorisk: More grounds for doubt),” Reflective Altruism, 8/12/23, https://reflectivealtruism.com/2023/08/12/exaggerating-the-risks-part-10-biorisk-more-grounds-for-doubt/

2. Public health response

One of the strongest lessons from the COVID-19 pandemic is that simple non- pharmaceutical interventions such as masking, social distancing, and travel restrictions, can be highly effective if governments have the will to enforce them. For example, a study in Nature of early COVID measures in mainland China found that non-pharmaceutical interventions reduced cases by a factor of 67 by the end of February 2020. Here are their estimates for the course of the outbreak in Wuhan (b) and Hubei (f) with and without intervention.

That is not to say that non-pharmaceutical interventions are a panacea. They work less well when they are not consistently enforced. And in the case of China, they ultimately failed to counteract the effects of insufficient vaccination among the elderly. But used properly, non-pharmaceutical interventions are a remarkably effective tool in slowing the spread of disease.

Another novel feature of the COVID-19 pandemic is that, for the first time, an active pandemic was brought to an end through real-time development and deployment of vaccines. Although vaccines took over a year to bring to market, serviceable vaccines were quite quick to develop, and a society facing existential catastrophe might well bring a serviceable vaccine to market far more quickly, on a scale of months or even weeks, and advances in medical technology might bring further improvements beyond this. This would be particularly true if societies were willing to loosen restrictions on human trials and regulatory approval, which a society facing existential catastrophe might well do.

It is hard to exaggerate how novel and exciting this development is. Historically, societies have been unable to develop novel pharmaceutical responses to pandemic pathogens in time to affect the course of an initial pandemic. This would be deeply frightening in the face of potentially sophisticated engineered pathogens. But it is not just our ability to engineer pathogens that is advancing. We are also increasingly gaining the ability to develop effective vaccines to counter novel pathogens.

Would-be omnicidal bioterrorists need to develop a pathogen that is not only in principle able to destroy all living humans, but which will succeed in practice despite our best efforts to stop it. Humans are not sitting ducks, and we are unlikely to take a world-ending pandemic complacently.

**Isolation and medical systems check.**

Noah B. **Taylor 23**, PhD, Peace, Conflict, and Development Studies, Universitat Jaume I de Castellón, "Existential Risks in Peace and Conflict Studies," Springer, 2023, pp. 86

Pandemics alone may not be an actual existential risk. A pandemic alone is unlikely to bring about the extinction of the human species. Humanity has survived many plagues in the past. There are many reasons to believe that, as a species, humanity would likely survive most global pandemics (Snyder-Beattie et al. 2019; Ord 2020). Humans are spread out across the planet, with some groups primarily isolated from the rest of the world, making it possible that some groups would remain unaffected. Given the scale of the global population, it is likely that some groups of people will have greater resistance to a particular disease than others. Modern sanitation practices and advancements in preventative and curative medicine have significantly reduced the transmission of communicable diseases in many parts of the world. Though sometimes not operated in the most efficient manner, medical systems worldwide have significant capacity to mitigate the terminal spread of a pandemic disease.

**That’s sufficient to stop it becoming terminal.**

Stephanie **Pappas 23**, freelance science journalist, quoting Amesh Adalja, infectious disease physician at the Johns Hopkins Center for Health Security, "Will Humans Ever Go Extinct?" Scientific American, 03/21/2023, https://www.scientificamerican.com/article/will-humans-ever-go-extinct/

The end of humanity is far more likely to be brought about by multiple factors, Kemp says—a pileup of disasters. Though apocalyptic movies often turn to viruses, bacteria and fungi to wipe out huge swathes of population, a pandemic alone is unlikely to drive humanity to extinction simply because the immune system is a broad and effective defense, says Amesh Adalja, an infectious disease physician at the Johns Hopkins Center for Health Security. A pandemic could be devastating and lead to severe upheaval—the Black Death killed 30 to 50 percent of the population of Europe—but it’s unlikely that a pathogen would kill all of humanity, Adalja says. “Yes, an infectious disease could kill a lot of people,” he says, “but then you’re going to have a group [of people] that are resilient to it and survive.”

Humans also have tools to fight back against a pathogen, from medical treatments to vaccines to the social-distancing measures that became familiar worldwide during the COVID pandemic, Adalja says. There is one example of a mammalian species that may have been entirely wiped out by an infectious disease, he says: the Christmas Island rat (Rattus macleari), also called Maclear’s rat, an endemic island species that may have gone extinct because of the introduction of a parasite.

“We are not helpless like the Christmas Island rat who couldn’t get away from that island,” Adalja says. “We have the ability to change our fate.”

**Even without mitigation, it’s contained.**

James **Fodor 20**, PhD student at the University of Melbourne, completed masters in neuroscience at the Australian National University, research assistant in structural biology at Monash University, 5/11/2020, “Critical Review of 'The Precipice': A Reassessment of the Risks of AI and Pandemics,”

As such, I believe it is important to carefully consider the probability of various proposed existential risk scenarios. In the subsequent two sections I will consider risks of engineered pandemics and unaligned artificial intelligence.

Engineered Pandemics

Extinction level agent exists

One initial consideration that must be addressed is how likely it is that any biological pathogen can even kill enough people to drive humanity to extinction. This places an upper limit on what any biotechnology could achieve, regardless of how advanced. Note that here I am referring to an agent such as a virus or bacterium that is clearly biological in nature, even if it is engineered to be more deadly than any naturally-occurring pathogen. I am not including entities that are non-biological in nature, such as artificial nanotechnology or other chemical agents. Whilst it is impossible to determine the ultimate limits of biology, one relevant point of comparison is the most deadly naturally-occurring infectious disease. To my knowledge, the highest fatality rate for any infectious biological agent that is readily transmissible between living humans is the Zaire ebolavirus, with a fatality rate of around 90%. It is unclear whether such a high fatality rate would be sustained outside of the social and climactic environment of West Africa whence the disease originated, but nevertheless we can consider this to be a plausible baseline for the most deadly known human infectious pathogen. Critically, it appears unlikely that the death of even 90% of the world population would result in the extinction of humanity. Death rates of up to 50% during the Black Death in Europe do not appear to have even come close to causing civilisational collapse in that region, while population losses of up to 90% in Mesoamerica over the course of the invasion and plagues of the 16th century did not lead to the end of civilization in those regions (though social and political disruption during these events were massive).

If we think the minimal viable human population is roughly 7,000 (which is near the upper end of the figures cited by Ord (p. 41), though rounded for simplicity), then a pathogen would need to directly or indirectly lead to the deaths of more than 99.9999% of the current world population in order to lead to human extinction. One could argue that the pathogen would only need to directly cause a much smaller number of deaths, with the remaining deaths caused by secondary disruptions such as war or famine. However to me this seems very unlikely, considering that such a devastating pathogen would significantly impair the ability of nations to wage war, and it is hard to see how warfare would affect all areas of the globe sufficiently to bring about such significant population loss. Global famine also seems unlikely, given that the greater the number of pandemic deaths, the more food stores would be available to survivors. Perhaps the most devastating scenario would be a massive global pandemic followed by a full-scale nuclear war, though it is unclear why should a nuclear exchange would follow a pandemic. One can of course devise various hypothetical scenarios, but overall it appears to me that a pathogen would have to have an extremely high fatality rate in order to have the potential to cause human extinction.

In addition to a high fatality rate, an extinction-level pathogen would also have to be sufficiently infectious such that it would be able to spread rapidly through human populations. It would need to have a long enough incubation time such that infected persons can travel and infect more people before they can be identified and quarantined. It would also need to be able to survive and propagate in a wide range of temperatures and climactic conditions. Finally, it would also need to be sufficiently dangerous to a wide range of ages and genetic populations, since any pockets of immunity would render extinction considerably less likely. Overall, it is highly unclear whether any biological agent with all these properties is even possible. In particular, pathogens which are sufficiently virulent to cause 99% or more fatality rates are likely to place such a burden on human physiology such that they would have a short incubation time, potentially rendering it easier to quarantine infected persons. Of course we do not know what is possible at the limits of biology, but given the extreme properties required of such an extinction-level pathogen, in my view it is very unlikely that such a pathogen is even possible.

**Populations recover from worst cases.**

John **Shea 23**, Professor of Anthropology at Stony Brook University, Ph.D. from Harvard University, "Unstoppable? Human Extinction," The Unstoppable Human Species: The Emergence of Homo Sapiens in Prehistory, Ch. 13, pp. 276-289

Pandemic Diseases

Pandemic diseases so terrified ancient societies that people attributed plague to supernatural forces. During the mid-14th century, the Black Death, an epidemic caused by the Yersinia pestis bacillus, and other diseases killed between 30 and 60 percent of Europeans and around 22 percent of the Earth’s estimated 450 million people (Bendictow 2021). Historians estimate smallpox virus, combined with warfare, other diseases, and famine, killed up to 90 percent of some Native American and Aboriginal Australian populations. All the same, Native Americans today number in the millions, Aboriginal Australians in the hundreds of thousands. 4 The better-documented 1918–1920 Influenza pandemic killed between 50 and 100 million people, roughly 3–5 percent of Earth’s population at the time. Nevertheless, human populations continued to grow after 1920, exceeding pre-pandemic numbers within a decade. Pandemics will occur in the future, but our ability to detect and inoculate ourselves against them increases, too. As I write, the Covid-19 pandemic is beginning to subside, but even though this virus exhibits unprecedented rates of infection, its lethality declines, much as happened with the viruses involved in earlier pandemics. Barring unforeseen increases in microbial lethality or decreases in our ability to detect and treat viral disease, pandemic diseases are not a credible extinction threat.

**Climate Change Warming Defense---Top---2NC**

**No existential climate impact AND adaptation solves.**

Dr. Nicola **Scafetta 24**, PhD, Associate Professor, Department of Earth Sciences, University of Naples Federico II, "Impacts and Risks of ‘Realistic’ Global Warming Projections for the 21st Century," Geoscience Frontiers, Vol. 15, Issue 2, March 2024, ScienceDirect

Most of the time, for cases #1–3, the impacts and risks of climate changes would be moderate (yellow-orange flag) until 2050. The SSP2-4.5 scenario may also ensure an average global surface temperature of less than 2 °C by 2100, and hence also this moderate SSP should be considered compatible with the Paris Agreement warming objective. As a result, while suitable adaptation techniques may always be required, they may be rather affordable because the impacts and risks of actual future climate change are expected to be non alarming.

7. Discussion and conclusion

The IPCC used the CMIP6 GCMs to assess the probable risks and impacts of climate change on global and regional scales over the next century (Masson-Delmotte et al., 2021, Pörtner et al., 2022). Climate change estimates are influenced by the climate’s sensitivity to radiative forcing as well as by the projected greenhouse gas emissions, which are linked to varying rates and kinds of socioeconomic developments. However, there is a great deal of uncertainty in both conditions that must be restricted to properly assessing realistic climate-change impacts and risks for the 21st century and developing appropriate climate policies to optimally address them.

The ECS of the CMIP6 GCMs ranges between 1.8 °C and 5.7 °C, but the IPCC AR6 acknowledged the existence of a “hot” model problem and claimed that the actual ECS may likely range between 2.5 °C and 4.0 °C, with a best estimate of around 3.0 °C (Sherwood et al., 2020, Hausfather et al., 2022). However, recent research suggests that the expected ECS range should vary within lower values between 1.5 °C and 3 °C (Nijsse et al., 2020, Scafetta, 2022, Scafetta, 2023a, Lewis, 2023, Spencer and Christy, 2023). Furthermore, according to a number of empirical studies, the actual ECS values could even be significantly lower, ranging between 1 °C and 2 °C (Lindzen and Choi, 2011, Scafetta, 2013, Scafetta, 2023c, Bates, 2016, McKitrick and Christy, 2020, Stefani, 2021).

The IPCC AR6 investigates a range of SSP scenarios for the 21st-century without assigning a probability to their plausibility. In any case, despite the questionable visibility given to SSP5-8.5 (the worst-case scenario), which yields the largest and most alarming projected global warming of up to 4–8 °C (66%) by 2080–2100, table 12.12 of the IPCC AR6 (Masson-Delmotte et al., 2021, p. 1856) already reports for the entire 21st century low confidence in the direction of any change in the frequency, severity or extent of frost, river floods, landslides, aridity, hydrological drought, agricultural and ecological drought, fire weather, mean wind speed, severe wind storms, tropical cyclones, sand and dust storms, heavy snowfall and ice storms, hail, snow avalanche, coastal floods, coastal erosion, marine heatwaves, air pollution weather or radiation at earth’s surface. Medium and high confidence of changes are mostly expected in climatic impact-driver types more directly associated with increasing atmospheric CO2 concentration at surface and global warming such as increasing mean air temperature, extreme heat, sea level, mean ocean temperature, ocean salinity and ocean acidity; with decreasing cold spell, snow, glacier and ice sheet, permafrost, lake, river and sea ice, and dissolved oxygen; mean precipitation will increase in some regions and decrease in others.

However, recent research argued that the alarmistic SSP3-7.0 and SSP5-8.5 scenarios are likely and very likely unrealistic, respectively (Burgess et al., 2020, Hausfather and Peters, 2020, Pielke and Ritchie, 2021a). These studies indicate that the radiative forcing functions derived from the SSP2-4.5 (or even SSP2-3.4) scenario are the most plausible. The SSP2-4.5 is a moderate scenario; it projects about half of the 21st-century warming than what the SSP5-8.5 scenario does (Fig. 1) and is thus far less alarming.

With the aforementioned factors in mind, it was proposed here to use only the SSP2-4.5 scenario and the GCMs with ECS ≤ 3 °C to more precisely assess “realistic” global and regional impacts and risks that could be associated with climate changes that are expected to occur in the 21st century, and to compare them with the Paris Agreement warming target of keeping global surface temperature < 2 °C above the pre-industrial levels throughout the 21st century. To optimize the result even more, the simulation ensembles containing the low, medium, and high-ECS macro-GCMs were linearly scaled to best reflect the real global surface warming recorded from 1980–1990 to 2012–2022.

According to the IPCC, if there is little-to-no adaptation, the impacts and risks of projected climate change will be moderate-high (orange-red flag) by 2040–2060, and the situation might worsen considerably by 2100 even if the SSP2-4.5 moderate scenario is implemented. In fact, according to the analysis reported in Table 3, the GCMs within the IPCC’s preferred ECS range of 2.5–4.0 °C project a warming of 1.98–3.82 °C by 2080–2100. Thus, the IPCC (Masson-Delmotte et al., 2018) analysis suggests that only net-zero-emission scenarios like the SSP1-2.6 (which could produce a warming of 1.26–2.82 °C by 2080–2100) should be adopted to avoid too dangerous climatic changes, which are expected to begin if global surface temperatures rise more than 2–2.5 °C above the 1850–1900 level in a few decades (Gao et al., 2017, Tol, 2015). Climate-change alarmism and world-wide proposals for prompt implementations of net-zero emission policies are only based on such claims.

However, using only the low-ECS models (ECS ≤ 3.0 °C) and the SSP2-4.5 scenario, Table 3 suggests that global warming in the 21st century will be moderate, ranging from 1.36 °C to 2.25 °C (median 1.77 °C) by 2050 and from 1.96 °C to 2.83 °C (median 2.28 °C) by 2080–2100, which partially overlaps with the upper warmer half of the climate projection obtained using the SSP1-2.6 scenario and the GCMs with ECS of 2.5–4.0 °C. Thus, climate change impacts and risks will worsen by the end of the 21st-century, albeit at a slower rate than predicted by the IPCC using the same SSP2-4.5 scenario. As a result, the SSP2-4.5 scenario, which is moderate and affordable, may be close enough to roughly meet the Paris Agreement warming target, whereas the SSP2-3.4 scenario, which could be even more realistic (Pielke et al., 2022), should even more likely fully meet it.

I also proposed an alternative methodology for estimating “realistic” 21st-century climate projections and assessing their respective impacts and risks. In fact, the low-ECS macro-GCM appears to be slightly warmer than global surface temperature records and there are serious concerns about the reliability of the global surface temperature records, which cannot be ignored. In fact, their warming appears to be excessive in comparison to alternative temperature records, such as satellite-based ones relative to the lower troposphere (Spencer et al., 2017, Zou et al., 2023), and there are various evidences suggesting their contamination from urban heat islands and other non-climatic surface factors (Connolly et al., 2021, Scafetta, 2021a, Scafetta, 2023b, Soon et al., 2023, Spencer, 2023). There are also concerns regarding the ability of the GCMs to properly reconstruct decadal to millennial natural climate oscillations (e.g.: Scafetta, 2013, Scafetta, 2021b, Scafetta, 2023c). As a result, all GCMs may be grossly inadequate for estimating climate change in the 21st century, as also McKitrick and Christy (2020) concluded. Thus, the models likely need to be corrected and upgraded with new relevant physical mechanisms. It is possible to agree with McCarthy and Caesar (2023) who recently showed the inability of the CMIP5 and CMIP6 GCMs in properly hindcasting the Atlantic Meridional Overturning Circulation and concluded “if these models cannot reproduce past variations, why should we be so confident about their ability to predict the future?”.

To address the above issues, I have proposed an alternative methodology that uses empirical modifications of the actual GCM projection ensembles via appropriate linear scaling in such a way to simulate the outputs of hypothetical climate models that could accurately represent the warming observed from 1980 to 2022. The 1980–2022 period was selected because it is covered by a variety of temperature records with low statistical errors. This methodology would essentially simulate hypothetical GCMs that are supposed to optimally reproduce the data. Simple testing validates the proposed methodology because scaling the projection ensembles of the three macro-GCMs to a similar level from 1080–1990 to 2011–2022 results in projection ensembles that approximately overlap throughout the 21st century.

The proposed methodology may also be justified by considering that the GCMs are extremely sensitive to small modifications of their internal free parameters, in particular to those regarding cloud formation, and even GCM modelers adopt complex tuning approaches to explicitly calibrating them to better match historical data (Mauritsen and Roeckner, 2020, Mignot et al., 2021). Section 4 proposes and investigates several of these modeling approaches, the results of which are depicted in Fig. 5, Fig. 7.

If the warming of the HadCRUT5 record from 1980 to 1990–2011–2022 is assumed correct, it is found that the SSP2-4.5 scenario produces climate projections similar to those produced by the low-ECS macro-GCM. In fact, the projected warming ranged from 1.65 °C to 3.03 °C by 2080–2100, with a median of 2.28 °C (Table 4, case #1). This conclusion is unsurprising given that the low-ECS macro-GCM has already successfully recreated the HadCRUT5 warming.

However, if the reference warming is that reported by lower troposphere satellite temperature data (Spencer et al., 2017, Zou et al., 2023), the warming of the low-ECS macro-GCM simulations must be lowered by about 30%. As a result, global warming by 2080–2100 is projected to range from 1.18 °C to 2.16 °C (median 1.63 °C) above pre-industrial levels using the SSP2-4.5 scenario (Table 4, case #2), which is well below the (safe) threshold of 2.0 °C and is even cooler than the 1.26–2.82 °C estimate obtained with the GCMs with ECS within the IPCC likely range of 2.5 °C and 4.0 °C using the SSP1-2.6 net-zero emission scenario.

A similar result was obtained with an empirical climate model that assumes that the global surface temperature record is sufficiently accurate, but also takes into account temperature changes caused by empirically identified large climate cycles and/or solar effects that the CMIP6 GCMs do not replicate (Scafetta, 2010, Scafetta, 2013, Scafetta, 2021b); this case projects a warming ranging from 1.15 °C to 2.52 °C with median 1.78 °C by 2080–2100 (Table 4, case #3). Unfortunately, the IPCC ignores such semi-empirical modeling of the climate system although it has been developed and discussed in the scientific literature, and it should not be dismissed lightly given that the GCMs fail to reproduce the natural oscillations observed throughout the Holocene. They do not, for example, reproduce any of the Holocene warm periods, such as the Roman and Medieval warm periods, which indicate a quasi-millennial oscillation, a quasi-60-year oscillation, and many other natural climate oscillations. Also this kind of empirical modeling predicts very modest ECS values, ranging at least between 1 and 3 °C, but more likely between 1 °C and 2 °C (Lindzen and Choi, 2011, Scafetta, 2013, Scafetta, 2021b, Scafetta, 2023c, Bates, 2016, Stefani, 2021).

In conclusion, as Hausfather and Peters (2020) pointed out, it is past time to stop treating the worst-case climate change scenarios (e.g., SSP3-7.0 and SSP5-8.5) as the most likely outcomes, because only realistic and pragmatic scenarios, such as SSP2-4.5 or SSP2-3.4, can lead to sound policies that can be accepted by all nations. Furthermore, net-zero scenarios such as SSP1-2.6 look to be equally unattainable, as the depletion of crucial metals required for low-carbon solar and wind technologies, as well as electric vehicles and their chargers, appears to make low-carbon technology production impossible on the very large scale required to substitute fossil fuels (Groves et al., 2023). In fact, despite the IPCC AR6 reports are rather alarming because global surface temperatures were projected to rise by up to 4–8 °C above pre-industrial levels according to unrealistic shared socioeconomic pathways (see Fig. 1 and Masson-Delmotte et al., 2021), with catastrophic consequences in many situations (Pörtner et al., 2022), Fig. 5, Fig. 7, Fig. 8 show that “realistic” climate change impacts and risks for the 21st century will likely be much more moderate than what the IPCC claims. This is because there is a growing body of evidence that the actual ECS may be rather low (1.5–3.0 °C, or even 1–2 °C) for a variety of reasons derived from direct CMIP6 GCM assessments, likely warming biases affecting global surface temperature records, and a (likely solar induced) natural variability that the current climate models do not reproduce. According to the semi-empirical climate modeling proposed above, the climate system will likely warm by less than 2.0–2.5 °C by 2080–2100, and on average less than 2.0 °C, also if the moderate SSP2-4.5 scenario is implemented. As a result, rapid decarbonization and net-zero emission scenarios such as the SSP1-2.6 are shown to be unnecessary to maintain global surface temperature < 2 °C throughout the 21st century.

Fig. 9 employs the climate “thermometer” proposed by Climate Action Tracker (2022) to summarize the above findings by contrasting the projections derived from the IPCC climate assumptions, where only the SSP1-2.6 net-zero emission scenario could satisfy the 2.0 °C target, with the new proposed assessments of “realistic” global warming impacts and risks obtained using the three semi-empirical models discussed above with the pragmatic SSP2-4.5 scenario that approximately agrees with the real world action based on current policies (Tables 3B and 4).

[Figure omitted]

As a result, despite predictions that the climate system would continue to warm throughout the 21st century, there is no compelling evidence of an impending global disaster caused by manmade greenhouse gas emissions. The 2.0 °C Paris-agreement warming target for the 21st century can likely be met even under the feasible and moderate SSP2-4.5 emission scenario because future climate change is expected to be modest enough that any potential related hazards can be addressed efficiently through effective and low-cost adaptation strategies, without the need for implementing rapid, expensive, and technologically likely impossible net-zero decarbonization policies.

**Expert studies by the US government agree it’s not existential.**

Roger **Pielke 24**, faculty of the University of Colorado since 2001, center for Science and Technology Policy Research, "Global Existential Risks: A first look at a new U.S. government assessment on the most significant risks facing humanity," The Honest Broker, 11/13/2024, online

In 2022, on a bipartisan basis, the U.S. Congress passed the Global Catastrophic Risk Management Act of 2022 requiring the Department of Homeland Security to coordinate an expert assessment of global catastrophic and existential risks. The Department of Homeland Security published the first Global Catastrophic Risk Assessment two weeks ago, and reached some important — and one surprising — conclusions.1

The legislation provided key definitions:

The term ‘‘existential risk’’ means the potential for an outcome that would result in human extinction.

The term ‘‘global catastrophic risk’’ means the risk of events or incidents consequential enough to significantly harm or set back human civilization

at the global scale.

The term ‘‘global catastrophic and existential threats’’ means threats that with varying likelihood may produce consequences severe enough to result in systemic failure or destruction of critical infrastructure or significant harm to human civilization.

Congress requested that the assessment focus on six areas of risk:2

the use and development of artificial intelligence (AI);

asteroid and comet impacts;

sudden and severe changes to Earth’s climate;

nuclear war;

severe pandemics, whether resulting from naturally occurring events or from synthetic biology;

supervolcanoes;

Using the key definitions across these six categories, the table below summarizes my reading of the report.

What to fear for the future of humanity. Source: my reading of the GCRA 2024.

Below is the full summary table from the report, within which, each chapter goes into extensive detail on each of the six risk categories.

Summary Key Findings from the Risk Assessments. Source: GCRA 2024. Click to embiggen, or find it as Table S.1 in the report.

The report is well done, and each of the six risk areas are worth their own focused post here at THB.3 In the remainder of this post, I highlight what the report says about climate change — which the report does not identify as an existential risk.

The assessment recognizes that changes in climate have many significant consequences for people and ecosystems, but the corresponding risks are local and regional, not global:

“An important dynamic of climate change effects is that any one mechanism by which climate change creates risk, such as those listed above, although potentially devastating on a local to regional scale, might not rise to the level of a global catastrophe or an existential risk.”4

The report acknowledges diplomatically that activists often characterize climate change as an existential risk, which reflects “subjective values and worldviews” rather than scientific judgments of real-world risks:5

“A strong, international activist movement now exists that engages in advocacy for addressing climate change. That movement emphasizes the urgency of climate change; sponsors civic engagement efforts, including protest and civil disobedience, particularly among youths around the globe; and argues that climate change is a potential existential risk. . . although social movements reflect a genuine and legitimate concern about climate change’s potential risks to society, they are not necessarily grounded in objective assessment of those risks.”

The report acknowledges some of the extreme claims found in the scientific literature from those in the catastrophist planetary boundaries community as well as some of the outlier work in climate econometrics. However, the assessment largely rejects these outliers and is very clear in its conclusion that climate change does not present a catastrophic health risk — even over the course of a century:

“Although there is no accepted determination of what would constitute a global catastrophic health risk from climate change, authors of at least one report defined it as a mass-mortality event taking the equivalent of 25 percent of the population. For the United States, based on the 2020 population (330 million), percent would mean approximately 80 million people, or 2 billion for the estimated global population in 2022 of 8 billion. . . Mortality of this magnitude would effectively be ten times that of the 1918 influenza pandemic. These values suggest a very high bar for catastrophic risk. . . No published study has suggested the possibility of a singular mass-mortality event of this magnitude, nor is there evidence of an indirect mechanism, such as collapse of global food supplies or climate-mediated pathogenesis, that would result in such high rates of mortality. Even with cumulative losses over a century, mortality would not meet these thresholds.”

The bottom line: Climate change is important and poses significant risks that will require continued policy development and implementation in mitigation and adaptation — but climate change is not an existential risk. The world does indeed face existential risks and we should take care that concern over climate does not overshadow these other risks.

**The climate planetary boundaries effect is literally impossible---disproven by geologic history.**

Alex **Epstein 22**, energy expert and founder of the Center for Industrial Progress, winner of the “Most Original Thinker of 2014” award from The McLaughlin Group, “Rising CO2 Levels: The Full Context,” Fossil Future: Why Global Human Flourishing Requires More Oil, Coal, and Natural Gas - Not Less, Portfolio/Penguin, 2022, pp. 361–400

The Impossibility of an Unlivable Earth

My number one takeaway from surveying a range of climate experts is this: given what we know about the history of temperature and CO2 on Earth, the widespread idea that rising CO2 will make the Earth unlivable is literally impossible.

Our knowledge system communicates that there is a very real possibility that rising CO2 levels will create not just a different and worse diversity of dangerous, dynamic climates around the world but a world with a collection of climates that will be nearly unlivable or totally unlivable for humans. Hence apocalyptic book titles such as The Uninhabitable Earth.

The basic idea we pick up about how Earth will become unlivable is that “unprecedented” CO2 levels will lead to accelerating, unstoppable temperature increases, making the Earth a place where our physical bodies, along with many other living things (including our crops), just can’t handle the heat.

The plausibility of this idea depends on CO2 levels’ being “unprecedented.” We get the idea that we are “playing God” with the mysterious set of forces that is the global climate system, and we are doing so by increasing the concentration of the warming molecule CO2 into unprecedented territory that is already leading to unprecedented temperatures.

In reality, there’s nothing whatsoever “unprecedented” going on in terms of the amount of CO2 in the atmosphere or the average temperature on Earth.

This is not my opinion. This is the unanimous consensus of anyone remotely knowledgeable about the history of this planet’s climate.

In fact, if we look at the universally acknowledged history of climate and life on this planet, we inevitably come to the conclusion that rising CO2 levels leading to an unlivable planet is literally impossible—because the planet was incredibly livable for far less-adaptable organisms, with much in common with us, when CO2 was at levels that we could not come close to even if we wanted to.

There are four basic truths about the history of climate that lead me to this conclusion:

1. The global climate system is near historic lows in CO2 and temperature.

2. We have no near-term mechanism of reaching even one fourth the historical high of CO2.

3. Life on Earth thrived at far higher CO2 levels and temperatures in the past.

4. Planetary warming is concentrated in colder parts of the Earth—it is not truly global.

The Global Climate System Is Near Historic Lows in CO2 and Temperature

All the language of “unprecedented” and “record” when it comes to CO2 and temperature is misleading unless it comes with the following qualification: CO2 levels and temperatures are far lower than they have been throughout most of the planet’s history.

As the estimate of historical CO2 and temperature levels on the following page captures, there are enormous historical changes in climate, including shifts in CO2 and temperature—often going in opposite directions —demonstrating that CO2 is not the overriding driver of climate that it is portrayed as. (It can be, and I believe currently is, a meaningful driver.) Today, from the standpoint of the planet’s history, we have very low levels of CO2 (less than one tenth their historical highs) and temperatures (it used to be 25°F [14°C] warmer on average).

Thus, we’re not in some unprecedented territory where the Earth is going to be hotter than it’s ever been.

But could we get there soon? Not even close, because of the next fact.

We Have No Near-Term Mechanism of Reaching Even One Fourth the Historical High of CO2

Since 1850, all of fossil-fueled civilization has increased the amount of CO2 in the atmosphere from just under 0.03 percent—280 parts per million—to just over 0.04 percent—420 parts per million.

By many estimates the height of CO2 levels was above 6,000 parts per million—almost fifteen times today’s level.[1]

[FIGURE 9.1 OMITTED]

To get to even 1,500 parts per million—one quarter of the high—would require us to continue increasing emissions far into the 2100s—well past the point at which we can expect to have ultra-cost-effective non-carbon nuclear energy.[2]

Thus there is no near-term mechanism of getting anywhere close to even average historical CO2 levels—let alone to far higher levels where life on Earth flourished for millions of years.

Life on Earth Thrived at Far Higher CO2 Levels and Temperatures in the Past

The periods of high CO2 levels and higher temperatures are some of the periods of fastest evolutionary progress and volume of life on the planet.

One obvious reason is the fertilizer effect. The only way dinosaurs could get so large eating plants is if there was enough fertilizer in the atmosphere to create the necessary plant life.

Okay, dinosaurs could live back then—but could anything resembling us?

Yes, our evolutionary ancestors lived back then.

How is this possible? At 25°F warmer, wasn’t it just too hot?

This leads us to a final fact about climate that is criminally underdiscussed.

Planetary Warming Is Concentrated in Colder Parts of the Earth—It Is Not Truly Global

The term global warming gives us the idea that increases in temperature will be evenly distributed around the globe.

Those of us who live in warmer climates hear extreme predictions about its being, say, 4°C (7°F) warmer and think: Wow, that would be terrible in the summer.

But that’s not how warming works.

The warming and cooling of the planet is concentrated in colder places and at colder times.[3]

As the planet warms, it gets warmer

concentrated in the northern polar regions;

in the winter; and

at night.

These are places and times that people generally want more warmth.

A warmer world is a more tropical world; in previous, much-higher-CO2 and higher-temperature eras, palm trees grew in the Arctic and Antarctic.

And human beings are a tropical species.

We evolved in the deep tropics, and our bodies can survive in colder regions only thanks to technologies such as clothing and shelter.

Is a more tropical world going to be unlivable for human beings?

That’s impossible.

Thus when we think of the impact of rising CO2 levels, we must recognize that it will be, to the extent CO2 causes warming, a transition from today’s masterable global climate system to a more tropical, masterable global climate system—not some scorching global desert, as is often portrayed.

This dramatically limits how bad climate impacts can be. The only legitimate concern about human climate impact going forward is not an unlivable planet but rather that the rate of change to a more tropical global climate system would be highly disruptive given our current infrastructure investments—including the location of coastal cities.

This by itself takes away any kind of apocalypse, leaving only the hypothetical possibility of disruptive changes that could be catastrophically costly—such as sea level rises that required large portions of the world to move from current coastlines over some number of decades. That would be very bad, but it would be nothing compared with destroying humanity’s productive ability and therefore the world’s livability by rapidly eliminating fossil fuel use.

**The IPCC concurs.**

Aaron **Krol 23**, Contributor, MIT Climate Portal. Citing: Dr. C. Adam Schlosser, Senior Research Scientist, Center for Global Change Science, Massachusetts Institute of Technology. Deputy Director, Joint Program, Massachusetts Institute of Technology, "Will Climate Change Drive Humans Extinct or Destroy Civilization?" MIT Climate Portal, 10/20/2023, https://climate.mit.edu/ask-mit/will-climate-change-drive-humans-extinct-or-destroy-civilization

First, the good news: climate scientists, as a whole, are not warning us to prepare for the apocalypse. The most recent report of the Intergovernmental Panel on Climate Change (IPCC)—a group of hundreds of scientists working with the United Nations to analyze climate change research from around the world—names many serious risks brought on by the warming of our planet, but human extinction is not among them.1

“If I had to rate odds, I would say the chances of climate change driving us to the point of human extinction are very low, if not zero,” says Adam Schlosser, the Deputy Director of the MIT Joint Program on the Science and Policy of Global Change and a climate scientist who studies future climate change and its impact on human societies.

In some ways, the most recent climate science even shows some encouraging trends. IPCC reports have always spelled out different scenarios for the amount of climate-altering greenhouse gases humans will put into the atmosphere, to show a range of possible climate risks the world may face. The IPCC calls these scenarios “representative concentration pathways” (RCPs), and they range from the relatively mild RCP2.6 scenario all the way up to RCP8.5, whose risks would be calamitous.

But as the world has made progress in recent years on switching to clean energy and controlling our greenhouse gas emissions, it has become clearer that we are not, in fact, headed toward the worst-case scenarios. “RCP8.5 is being viewed more and more as an extreme outcome,” says Schlosser. Even with no further progress on climate action, he says, the less-dire RCP6.0 scenario now looks closest to reality.

On the other hand, RCP6.0 would still be catastrophic to many people in many places. In fact, the latest IPCC report estimates that many climate risks are more serious than previously believed, even in the best case scenarios, based in part on the damage caused by the increased storms, heatwaves and droughts we’ve already seen.2

“Human extinction is not really the main worry,” says Schlosser. “There are going to be some really, really bad regional and local consequences. Consider island nations of the world—the type of warming that we're heading toward, with the expected sea level rise that could force them in many places to retreat or possibly abandon their homeland, is an existential threat to them.”

**And, universal scientific consensus.**

Jack **Elbaum 21**, Hazlitt Writing Fellow at the Foundation for Economic Education, Writing has been Featured in The Wall Street Journal, Newsweek, The New York Post, and the Washington Examiner, "3 Environmental Doomsday Myths, Debunked," Foundation for Economic Education, https://fee.org/articles/3-environmental-doomsday-myths-debunked/

Myth #1: Human Extinction Due To Climate Change Is Imminent

At the source of much anxiety about climate change is the belief that humans are likely to go extinct sometime in the near future due to its effects. But that belief is just not correct.

Even the scientists most concerned about climate change rebuke this assertion. Michael Mann, who is a professor of atmospheric science at Penn State and a superstar of the movement to fight climate change, wrote that "There is no evidence of climate change scenarios that would render human beings extinct."

In Michael Shellenberger’s book, Apocalypse Never, he notes that Stanford University atmospheric scientist Ken Caldeira also said that “climate change does not threaten human extinction.”

Some of the fear about human extinction undoubtedly started after Rep. Alexandria Ocasio-Cortez declared, in 2019, that “The world is going to end in twelve years if we don’t address climate change.” But, as Shellenberger documents in his book, climate scientists from NASA said that “All the time-limited frames are bulls--t,” and a paleoclimate researcher at the University of Wisconsin-Madison said that her statement was a “mischaracterization.”

In short, there are virtually no scientists who believe, and there is no science to support, the idea that humans will go extinct from climate change.

**Even extreme warming won’t cause extinction**

Dr. Toby **Ord 20**, Senior Research Fellow in Philosophy at Oxford University, DPhil in Philosophy from the University of Oxford, The Precipice: Existential Risk and the Future of Humanity, Hachette Books, Kindle Edition, p. 110-112

But the purpose of this chapter is finding and assessing threats that pose a direct existential risk to humanity. Even at such extreme levels of warming, it is difficult to see exactly how climate change could do so. Major effects of climate change include reduced agricultural yields, sea level rises, water scarcity, increased tropical diseases, ocean acidification and the collapse of the Gulf Stream. While extremely important when assessing the overall risks of climate change, none of these threaten extinction or irrevocable collapse.

Crops are very sensitive to reductions in temperature (due to frosts), but less sensitive to increases. By all appearances we would still have food to support civilization.85 Even if sea levels rose hundreds of meters (over centuries), most of the Earth’s land area would remain. Similarly, while some areas might conceivably become uninhabitable due to water scarcity, other areas will have increased rainfall. More areas may become susceptible to tropical diseases, but we need only look to the tropics to see civilization flourish despite this. The main effect of a collapse of the system of Atlantic Ocean currents that includes the Gulf Stream is a 2°C cooling of Europe—something that poses no permanent threat to global civilization.

From an existential risk perspective, a more serious concern is that the high temperatures (and the rapidity of their change) might cause a large loss of biodiversity and subsequent ecosystem collapse. While the pathway is not entirely clear, a large enough collapse of ecosystems across the globe could perhaps threaten human extinction. The idea that climate change could cause widespread extinctions has some good theoretical support.86 Yet the evidence is mixed. For when we look at many of the past cases of extremely high global temperatures or extremely rapid warming we don’t see a corresponding loss of biodiversity.87

[FOOTNOTE]

We don’t see such biodiversity loss in the 12°C warmer climate of the early Eocene, nor the rapid global change of the PETM, nor in rapid regional changes of climate. Willis et al. (2010) state: “We argue that although the underlying mechanisms responsible for these past changes in climate were very different (i.e. natural processes rather than anthropogenic), the rates and magnitude of climate change are similar to those predicted for the future and therefore potentially relevant to understanding future biotic response. What emerges from these past records is evidence for rapid community turnover, migrations, development of novel ecosystems and thresholds from one stable ecosystem state to another, but there is very little evidence for broad-scale extinctions due to a warming world.” There are similar conclusions in Botkin et al. (2007), Dawson et al. (2011), Hof et al. (2011) and Willis & MacDonald (2011). The best evidence of warming causing extinction may be from the end-Permian mass extinction, which may have been associated with large-scale warming (see note 91 to this chapter).

[END FOOTNOTE]

So the most important known effect of climate change from the perspective of direct existential risk is probably the most obvious: heat stress. We need an environment cooler than our body temperature to be able to rid ourselves of waste heat and stay alive. More precisely, we need to be able to lose heat by sweating, which depends on the humidity as well as the temperature.

A landmark paper by Steven Sherwood and Matthew Huber showed that with sufficient warming there would be parts of the world whose temperature and humidity combine to exceed the level where humans could survive without air conditioning.88 With 12°C of warming, a very large land area—where more than half of all people currently live and where much of our food is grown—would exceed this level at some point during a typical year. Sherwood and Huber suggest that such areas would be uninhabitable. This may not quite be true (particularly if air conditioning is possible during the hottest months), but their habitability is at least in question.

However, substantial regions would also remain below this threshold. Even with an extreme 20°C of warming there would be many coastal areas (and some elevated regions) that would have no days above the temperature/humidity threshold.89 So there would remain large areas in which humanity and civilization could continue. A world with 20°C of warming would be an unparalleled human and environmental tragedy, forcing mass migration and perhaps starvation too. This is reason enough to do our utmost to prevent anything like that from ever happening. However, our present task is identifying existential risks to humanity and it is hard to see how any realistic level of heat stress could pose such a risk. So the runaway and moist greenhouse effects remain the only known mechanisms through which climate change could directly cause our extinction or irrevocable collapse.

This doesn’t rule out unknown mechanisms. We are considering large changes to the Earth that may even be unprecedented in size or speed. It wouldn’t be astonishing if that directly led to our permanent ruin. The best argument against such unknown mechanisms is probably that the PETM did not lead to a mass extinction, despite temperatures rapidly rising about 5°C, to reach a level 14°C above pre-industrial temperatures.90 But this is tempered by the imprecision of paleoclimate data, the sparsity of the fossil record, the smaller size of mammals at the time (making them more heat-tolerant), and a reluctance to rely on a single example. Most importantly, anthropogenic warming could be over a hundred times faster than warming during the PETM, and rapid warming has been suggested as a contributing factor in the end-Permian mass extinction, in which 96 percent of species went extinct.91 In the end, we can say little more than that direct existential risk from climate change appears very small, but cannot yet be ruled out.

**Intervening mitigation checks.**

Robert H. **Wade 21**, Professor of Global Political Economy at the London School of Economics, DPhil and MPhil in Social Anthropology from Sussex University, Master's in Economics from Victoria University, BA in Economics from Otago University, "What is the Harm in Forecasting Catastrophe Due to Man-Made Global Warming?" Global Policy Journal, 07/22/2021, https://www.globalpolicyjournal.com/blog/22/07/2021/what-harm-forecasting-catastrophe-due-man-made-global-warming

Conclusion

I have argued that the “plausible” risks of climate change are commonly exaggerated within the climate community. Recall for example, Christiana Figueres, 2020, “The scary thing is that after 2030 it basically doesn’t really matter what humans do”; Kevin Drum, 2019, “[The Green New Deal] would only change the dates for planetary suicide by a decade or so”; Frank Fenner, 2010, “We’re going to become extinct. Whatever we do now is too late.” Many more in the same doomsday vein.

We have seen that the standard global warming models have a powerful built-in bias to exaggerate the rate of future temperature rise, as seen in (most of) them “hindcasting” temperature rises several times faster than actually observed. We have seen that forecasters commonly take “worst-case scenarios” as “likely scenarios in the absence of radical action” (eg reaching net zero carbon emissions by 2050), to the point where Nature recently published a paper sub-titled, “Stop using the worst-case scenario for climate warming as the most likely outcome”.

The dismaying thing is that scientists and advocates have been making catastrophising global warming forecasts of this kind for decades past, normally dated some 10 to 30 years into the future. The due date comes without catastrophe, but never a retrospective holding to account. Rather, on to the next catastrophising forecast another 10 to 30 years ahead. Scientists-writers-activists know the catastrophe forecasts get the attention, the clicks, the research funding. We saw the exaggeration mechanism spelled out by Richard Betts of the BBC, Holman Jenkins of the Wall St Journal, and climate scientist Judith Curry.

**There’s tons of time for it to kick in.**

Ha Tran Nguyen **Phuong 20**, Computer Science Teaching Assistant, Co-lead at Minerva Schools, Asian Youth Climate Network, "The Wreck of The Global Warming Narrative," Data Driven Investor, https://medium.datadriveninvestor.com/will-climate-change-cause-humans-to-go-extinct-341035698193

Why Climate change is (probably) not a existential risk

Firstly, Toby Ord still acknowledges there is a 1 in 1000 chances of climate change being an existential risks, so the odds are not 0. But it is low enough to be negligible.

While Ord did not go indepth in his analysis, in this highly detailed document, researcher John Halstead discusses all the potential ways that a climate change can be an existential risk, and estimate the likelihood of it happening. Using the Equilibrium climate sensitivity and Earth system sensitivity measure, he examines key tipping points, such as the permafrost carbon release and clathrate methane release, effect of mass extinction, ocean acidification, heat stress, water stress, crop reduction and sea level rise.

In all scenarios related to climate system feedback loops and tipping points, especially the ones that are irreversible for millennia, the increase in temperature is actually negligible compared to human sources (for instance, permafrost would cause only an increase in 0.42 degrees Celsius by 2300 at the current rate) or unlikely to happen based on our knowledge of what happens in previous climate eras (eg. although Methane Clathrate could release 50 Gigaton of carbon and cause a 1.75 degree Celsius increase, it would probably take centuries to millennia, during which humans could have enough time to adapt and mitigate the effect).

Other indirect threats for existential threats were also considered, but found to be unlikely. Species have adapted to much higher temperature change in the past, and paleology has suggested that the primary cause of mass extinctions were often due to volcanic eruption rather than only the increase in CO2. Sea level rise will increase by 1 meter by the end of the millennia, which can be managed and adapted. Similarly, heat stress will be more often, but there is already adaptations like air-conditioning, and water stress can be fixed by desalination. Meanwhile, crops yields, which was modeled by the IPCC model at 5 degree of warming, would generally range from -20% to +10% with adaptation. Furthermore, we can expect increase in yield thanks to technology such as gene editing, improvement in storage, logistics and transportations to reduce food waste, and so on.

**Avoidance**

**Democracy Defense---Rule of Law Defense---2NC**

**Rule of law doomed—too many problems for the aff to solve.**

Will **Bordell &** Jon **Robins 18,** Robins is a freelance journalist who writes about the law and justice, runs thejusticegap.com and is the author of Guilty Until Proven Innocent: the crisis in our justice system (Biteback, 2018) and The First Miscarriage of Justice, "'A crisis for human rights': new index reveals global fall in basic justice," 1-31-2018, Guardian, https://www.theguardian.com/inequality/2018/jan/31/human-rights-new-rule-of-law-index-reveals-global-fall-basic-justice

Fundamental human rights are reported to have diminished in almost two-thirds of the 113 countries surveyed for the 2018 Rule of Law Index, amid concerns over a worldwide surge in authoritarian nationalism and a retreat from international legal obligations.

“All signs point to a crisis not just for human rights, but for the human rights movement,” said Professor Samuel Moyn of Yale University. “Within many nations, these fundamental rights are falling prey to the backlash against a globalising economy in which the rich are winning. But human rights movements have not historically set out to name or shame inequality.”

The 2018 index, published by the World Justice Project (WJP), gathers data from more than 110,000 households and 3,000 experts to compare their experiences of legal systems worldwide, by calculating weighted scores across eight separate categories. While Venezuela retains its unwanted position at the bottom of the index – just behind Cambodia and Afghanistan – the Philippines is this year’s biggest faller, dropping 18 places to 88th in the table, on top of a slump of nine places in the 2016 survey.

President Rodrigo Duterte’s administration has put a “palpable strain upon established countervailing institutions of society”, according to Jose Luis Martin Gascon, chairman of the Philippine Commission on Human Rights. He said there had been a “chilling effect” on the country’s opposition in the wake of attacks against personalities who have criticised Duterte’s policies.

Non-discrimination, freedom of expression and religion, the right to privacy and workers’ rights were all taken into account in calculating observance of people’s fundamental rights across the world. Respondents’ belief in the protections afforded by such rights has dropped in 71 of the 113 countries surveyed for the latest index.

“The WJP’s findings provide worrying confirmation that we live in very dangerous times for the rule of law and human rights,” said Murray Hunt, director of the Bingham Centre for the Rule of Law.

“The worldwide resurgence of populism, authoritarian nationalism and the general retreat from international legal obligations are trends which, if not checked, pose an existential threat to the rule of law. Preventing violations of the rule of law and human rights is always better than curing them after the event,” Hunt said.

**Rule of law doesn’t stop abuses of power---history.**

Jordan Von **Manalastas 17**, Cornell JD, writer and human rights activist from Los Angeles, California, "The Rule of Law Won’t Save Us," Jacobin, 4-26-2017, https://www.jacobinmag.com/2017/04/law-constitution-trump-president-abuse-power

Yoo’s op-ed is less interesting as a statement of constitutional theory than as a reminder of something liberals do not like to admit: that the “rule of law” and other bourgeois norms are hardly a good check on presidential mischief. For many decades, presidents were able to exert their worst abuses not despite, but really through, the established rules of our legal order — especially with people like John Yoo on hand to lend them some legitimacy.

So what does it say about our current president when he’s decried by those who turned the country into a land of torturers and snoops? In some ways, Trump’s brand of quasi-authoritarianism is a rupture from past precedents: more vulgar, less crafty, and more cruel. But I can’t help but think back to the dictatorship of Louis-Napoléon, which Marx famously described as being “contained readymade in the [preceding] parliamentary republic. It required only a bayonet thrust for the bubble to burst and the monster to leap forth before our eyes.”

Our constitutional bubble had been filling up for quite some time, bloating with lawless potential. The germ of a Caesar, or a Louis, was swelling up inside it; all it took was a gibbering billionaire to pop it free.

Beating Around the Legal Bush

John Yoo is not the only right-wing scoundrel who’s attempted to save face by disavowing Donald Trump. George W. Bush himself became a liberal darling of sorts when he came out to say he didn’t “like the racism” and “name-calling” you see in Trump’s administration.

On one hand, his point is taken: there is a difference between the cuddly grandpa George, who says “Islam is peace,” and the blithering uncle Donald. But it’s a very low bar indeed if all it takes is to respect the table manners of the ruling elite.

The more you look at it, the more shallow and frivolous their differences become. Trump’s main faux pas is that he breaks the rules of decorum that made otherwise monstrous things sound legitimate.

When Yoo and the Office of Legal Counsel authorized the worldwide torture apparatus, they didn’t quite say that torture would be lawful. They got around it by redefining “torture” nearly out of existence, so that nothing the president ordered would even qualify. By comparison, Trump’s open willingness to say that “torture works” — and his pledge to “bring back a hell of a lot worse than waterboarding” — may seem more alarming. But when it comes to industrialized state violence and abuse, word choice is really a distinction without a difference.

Still, past presidents were usually more circumspect about adhering (or appearing to adhere) to the law. The Bush administration may not have cared that much about legality before they plunged headlong into Iraq, but they did drum up some bad intel to make a spurious case for “preemptive self-defense,” and they did attempt to use some old UN Security Council resolutions (dating to the 1990s) to authorize their invasion.

Likewise, President Obama made creative use of Congress’s 2001 authorization of force against al-Qaeda, which was aimed at states or groups that “planned, authorized, committed or aided” the 9/11 attacks, and stretched it somehow to apply to the Islamic State in Syria.

The Obama administration is perhaps the best example of this legal pussyfooting. As the journalist Charlie Savage described in his book Power Wars, Obama’s lawyers scrambled to provide painstaking legal rationales for all sorts of nasty business: targeted killings, mass surveillance, military intervention, preventive detention. The idea was, in Obama’s words, to “turn the page on the imperial presidency”; the effect was to give it newer and fancier clothes.

So it’s always been there — the recklessness, the cruelty, the power lust, the downright criminality — lurking just beneath the surface. A thin veneer of legal formality made it more presentable, but even then its ugly head would rear from time to time. What sets apart Donald Trump is only his indifference to those norms and rules behind which our rulers’ savagery could hide before.

The Constitutional Dictatorship

“Well, when the president does it,” Richard Nixon famously said back in 1977, “that means that it is not illegal.” What’s impressive about this statement isn’t quite its disregard for the law, but rather its twisted and dangerous interpretation of it. It isn’t the expression of one who wishes to break the law, but of one who thinks the law will let him do it.

The ruling class have always had this strained and two-faced relationship with their own laws. And when they break the rules, so we are told, it’s for our own good. Who can forget Attorney General John Ashcroft’s claim that individual legal rights are “weapons with which to kill Americans”? Power is unleashed, or the rules are relaxed, to protect us from crises real or imagined.

When the penal colony at Guantánamo Bay was opened in 2002, Bush tried very hard to deny his prisoners protection under the black-letter law. He argued that he, as commander-in-chief, had the authority to “suspend” the Geneva Conventions for those dangerous miscreants. Then again, he did say that the United States would be “adhering to the spirit of the Geneva Convention.” But we all know how well that turned out.

It wasn’t simply that our rulers weaseled their way past the law; it’s that they stretched and mangled the law itself to suit their needs. By framing their abuses as lawful expressions of the president’s authority, past administrations embedded their abuse within the framework of the legal order. It wasn’t so much about upholding the “spirit” of the law and breaking the “letter,” as much as twisting the letter in order to break its spirit.

Through generous readings of the law — and often with the help of Congress and the courts — the executive branch consolidated its power, undermining basic human rights and civil liberties along the way. The effect was to build up what Clinton Rossiter called a “constitutional dictatorship”: where dictatorial powers emanate from, and not despite, the legal regime.

That’s because however insincerely, previous presidents were still wedded to the ideal of bourgeois constitutionalism. So even when they strained against the limits of legality, and as their cruelty widened and deepened, they made themselves out to be continuous with the existing legal order. Arguments for the “rule of law” and fidelity to the Constitution were compatible with, and helped to normalize, the constitutional dictator.

Now Donald Trump is sitting at the reins of this leviathan. And yet the looseness of his tongue — when he attacks the judiciary, say, or when he threatens war crimes or invasions — doesn’t sound like it belongs to a man who spends much time on legal theory. Indeed he doesn’t sound like one who cares at all for legal limitations.

It’s no wonder the old guard would be so wary of the new guy. After all the trouble they went through to mutilate the law, Trump comes along and makes it look easy.

The Billionaire Dictator

As early as 1917, Max Weber theorized that every democracy tends toward Caesarism, as parliaments grow dysfunctional and the masses yearn for a charismatic strongman. But it was the Nazi jurist Carl Schmitt who gave a still more helpful account of dictatorship by distinguishing a constitutional (or “commissarial”) dictator from a “sovereign” dictator.

The former is empowered by the existing legal order to break it if required in a crisis or emergency — an authoritarian safety valve, so to speak. A “sovereign” dictator, on the other hand, ruptures the status quo and ushers in a new regime entirely.

What sort of dictator is Donald Trump? It’s clear that he’s inherited the enormous powers of the constitutional dictators who came before him. At the same time, his sheer vulgarity and peurility don’t seem in line with any sense of constitutional fidelity. Just look at his inaugural address, in which he said: “The oath of office I take today is an oath of allegiance to all Americans” — instead of, as it were, to uphold the Constitution. It’s possible he never pondered the significance of that rewording, but it does make one wonder.

Trump has tapped into the dark heart of American anxiety and disillusion at a time when the established order struggles to maintain its credibility and legitimacy. To see a blithering bully who doesn’t fuss around with technicalities and fine print must be refreshing. Trump’s appeal is the appeal of power, unmediated and raw: not the kind that quibbles with definitions of “torture,” but that says of course we’ll torture, because it works.

This is where the fears of a Schmittian sovereign dictator — or even a proper fascist — come in. An authoritarian strongman comes in to shake up the ossified status quo, not simply above the law but entirely outside it. But in Donald Trump’s America, there is no higher authority, no transcendental order, no radical renewal to upend or replace the old. Beneath the bluster and hysterics, there is only the banal, crude logic of a businessman.

He doesn’t even seem especially opposed to the older law: he is in fact extremely litigious, willing to use the law to bludgeon his opponents or to silence them. He thinks of law in terms of use-value, like a business prop or skill.

When faced against a judge who halts his immigration ban, Trump attacks his qualifications: “this so-called judge,” says Trump. “I’d bet a good lawyer could make a great case out of the fact that President Obama was tapping my phones in October.” He tells his followers how to deal with protestors at his rally: “Knock the crap out of them….Just the knock the hell — I promise you, I will pay for the legal fees.”

Trump doesn’t see the law as an object to uphold or to transform, but as an instrument of business, a weapon of the deal. Because beneath the sturm and drang of the new Trump era, there is only the vulgar misrule of a capitalist.

The pathologies of Trumpism were always there, latent and malignant, feeding on the American fetish for maximal power. Trump does what previous rulers had always done, but in a fuller, more open and cavalier way. In that sense, Trump’s America isn’t quite the birth of a brand new order, risen through a putsch or a coup. The real takeover was a kind of coup in slow-motion, of which Trump is the culmination: the long and steady subordination of the law to the whims of capital and empire.

The Gangsterization of America

For many years, conservatives have claimed the country should be run like a business, by a businessman. The presidency of Donald Trump is their wish come true. Is anyone genuinely surprised that he would treat the law as a personal prop, to ignore or to use at whim, in exactly the way a power-tripping businessman would do — what Cornel West’s calls “the full-scale gangsterization of the world”?

In past administrations, the legal order was the medium of power and cruelty, but also their limitation. Trump has peeled back this façade to reveal the ugly, rotten germ of authoritarianism that was latent all along — the impulse for a strongman who gets things done, no matter what. Trumpism is what happens when the best the ruling class can vomit up is the sniveling face of a petty billionaire.

So when a reptile like Yoo expresses their half-assed misgivings about Trump, it calls to mind an important lesson about the American system. There is a through line that extends from previous presidents right to Donald Trump, which no constitution-minded critic has any right to ignore. Despite the alarming ways he might misuse or abuse his power, we shouldn’t harbor any illusions that a return to the “rule of law” will save us.

The thing about the rule of the bourgeoisie is that it is just that — the way the bourgeoisie rule. As an instrument of capital and empire, the law could be read or stretched to allow all sorts of thuggery and mischief. And as the crises of US hegemony grow and magnify, it perpetuates the urge toward more expansive power and brutality. The “rule of law” was nurturing the seeds of its own abuse.

**Legitimacy Thumped – 2NC**

**Court shredded key conditions for legitimacy – overturns bedrock precedents, uses the shadow docket for major decisions, and applies MQD in a hyper-partisan fashion.**

Dahlia **LITHWICK** Senior Editor @ Slate **AND** Mark Joseph **STERN** Senior Writer @ Slate ’**25** https://slate.com/news-and-politics/2025/10/supreme-court-term-analysis-four-key-points.html

In the week leading up to the October 2025 Supreme Court term, the impulse among court watchers will again be to do what we always do just before the first pitch on opening day: focus on a handful of high-octane merits cases as the frame for the court’s upcoming session. Splay out the work product as if it speaks for itself; cover the sausage instead of how it gets made. This habitual stentorian announcement of what the high court will be deciding was once merely myopic, ignoring ethics violations and judicial behavior as it did. But as the court becomes the handmaiden of the Trump administration and the brickbat with which to cudgel lower courts and democracy itself into MAGA compliance, the start-of-term “curtain-raiser” has moved from distraction to collusion. If it’s true that the six members of the ultraconservative Trumpist majority are responsible for the systematized shredding of the independence of federal agencies, the kneecapping of district court judges, and the abuse of the shadow docket as Trump’s get-out-of-jail-free card for constitutional limitations on autocrats, why cover everything but that as the preview of the impending term?

Maybe a more useful and illuminating way to think about the cases already docketed for review in the coming months is to ask whether a high court that was behaving like an actual court would even be hearing most of them. In other words, why choose to scrutinize a fistful of merits cases and their supposed legal underpinnings, i.e., what the court wants us to focus on, in service of its claims to immutable legitimacy, rather than to ask questions about the legitimacy of the entire enterprise itself? If we can stipulate to the fact that legitimate courts hew to certain hallmarks of judicial legitimacy—including respect for precedent (stare decisis), showing your work, institutional humility, and treating like cases alike—then many if not most of the cases on the schedule for the term that opens this week shouldn’t be there in the first place. Consider these ordinary factors, which all lawyers learn after one week of law school and all federal judges profess to abide by the week of their confirmation hearings, and contemplate how the Supreme Court has in recent sessions obliterated them to dust—and will do so again this term.

1) Precedent. There’s not a great deal of dispute that the U.S. Supreme Court must do certain things in order to appear to be operating as a court, as opposed to a reckless super-legislature. Stare decisis, or respect for precedent, is foremost among them. As Justices Stephen Breyer, Elena Kagan, and Sonia Sotomayor put it in their dissenting opinion in Dobbs, “Stare decisis is the Latin phrase for a foundation stone of the rule of law: that things decided should stay decided unless there is a very good reason for change. It is a doctrine of judicial modesty and humility.” They added that respect for existing precedent “contributes to the actual and perceived integrity of the judicial process” by ensuring that decisions are “founded in the law rather than in the proclivities of individuals.” Stare decisis provides that the high court may not overrule a decision, even a constitutional one, without a “special justification” and that it “must have a good reason to do so over and above the belief that the precedent was wrongly decided.”

In Dobbs, the majority steamrolled those special justifications, and in subsequent terms we have seen case after case overturned without looking back. From affirmative action to the power of federal agencies to abortion and the composition of independent agencies, the Roberts court has no compunctions about discarding precedent. As Clarence Thomas reportedly told an audience at Catholic University last week, he feels no obligation to follow precedent “if I find it doesn’t make any sense” and that if it’s “totally stupid, and that’s what they’ve decided, you don’t go along with it just because it’s decided.”

So instead of breathlessly reciting names of cases coming before the court in the upcoming term, we should perhaps just reference the bedrock precedents each one is poised to overturn: In the first days of the session, the justices will consider, in Louisiana v. Callais, whether the state somehow violated the Constitution by drawing a map that complies with the Voting Rights Act, as interpreted by a Supreme Court decision that’s barely 3 years old. The court will also hear National Republican Senatorial Committee v. FEC, which seeks to overturn a 24-year-old precedent preserving what remains of campaign finance law. Trump v. Slaughter, to be heard in December, seeks to reverse the 90-year-old Humphrey’s Executor precedent protecting independent agencies. Soon after, it will decide whether to let Trump fire Lisa Cook, a member of the Federal Reserve’s board of governors, over dubious allegations of mortgage fraud; the case could upend the principle of central bank independence, a standard that reaches back centuries.

Given this set of hors d’oeuvres, is it any wonder that former Kentucky court clerk Kim Davis is openly asking that the court overturn its 2015 decision in Obergefell v. Hodges, which recognized a constitutional right to same-sex marriage? The Republican-appointed justices have already declared open season on precedent they hate. Why not shoot your shot?

2) Showing Your Work. Another crucial component of a legitimate judiciary lies in its ability to support decisions with reasoning and logic, to allow future judges to apply like facts to like facts and to extend the reasoning of a given opinion to similarly situated disputes. But with alarming and increasing frequency, the high court delivers swaths of its most consequential decisionmaking on the shadow docket, without briefing or argument or even reasoned opinion writing. As of this writing, the high court has sided with the Trump administration in 84 percent of shadow-docket cases. And that Trump administration has rushed more cases to the emergency docket in nine months than the Biden administration did in four years. We also now know that these unexplained opinions are meant to (we think?) serve as precedent, demanding that lower-court judges make their best guess about what future law may hold.

3) Judicial Humility. Supreme Court justices are not scientists, or physicians, or geologists, or experts on air pollution. They are not even intended to be the triers of facts, as that is the task of the lower courts. They are meant to know what they don’t know, and to understand what the institutional role demands of them. Yet in recent years we have seen justices make pronouncements about how medicine works, about how water and air pollution work, and about wholly invented facts in cases. In a worrying new turn, some of the justices now criticize lower courts for failing to love honor and obey the justices’ directives, even if those directives arrive without reasoning or explanation.

4) Treating Like Cases Alike. For four years, the conservative justices cheerfully struck down Biden administration policies on the theory that they raised questions of “vast economic and political significance” that could not be decided absent congressional authorization. This so-called major-questions doctrine functioned as a free-floating veto over any Biden policies the majority disliked. Now, in Learning Resources v. Trump, the court will have to decide whether Trump’s will-he-won’t-he tariffs—ostensibly justified by a federal emergency statute that emphatically does not empower the president to impose tariffs as he sees fit—also raise questions of “vast economic and political significance.” If the court allows the tariffs to stand despite their utter lack of congressional approval, it will be clear that the major-questions doctrine applies only to major Democratic presidents.

There will be a hundred pieces this week attempting to pick through the “big cases” to be decided in the approaching term—although, to be sure, most of the big cases will be added in the months to come. But focusing on a handful of “big cases” relies on your predicate agreement as a reader that the court that will decide them, with all the oyez and the gravitas, is still behaving, in the main, like a court. The challenge will be to seek out that which the court is obscuring in this performance of business as usual this term, and to understand that the red curtains and the black robes have very rapidly come to serve as props in a performance of judicial legitimacy that is no longer worth the price of admission.

**Polycrisis Defense---2NC**

**Interactions are exaggerated and self-correcting.**

Daniel **Drezner 23**, professor of international politics at the Fletcher School of Law and Diplomacy at Tufts University and a nonresident senior fellow at the Chicago Council on Global Affairs, “Are we headed toward a “polycrisis”? The buzzword of the moment, explained.,” Vox, 1/28/23, https://www.vox.com/23572710/polycrisis-davos-history-climate-russia-ukraine-inflation

There is nothing that Davos loves more than a good buzzword, and in 2023 that buzzword was “polycrisis.”

The folks at this year’s World Economic Forum adopted the term after historian Adam Tooze popularized it in his inaugural Financial Times column last year. At its annual meeting last week, the WEF released its “Global Risks Report 2023,” warning that “eroding geopolitical cooperation will have ripple effects across the global risks landscape over the medium term, including contributing to a potential polycrisis of interrelated environmental, geopolitical and socioeconomic risks relating to the supply of and demand for natural resources.”

This warning generated a lot of hand-wringing on the narrow streets of Davos. Little wonder — a “polycrisis” sounds pretty bad! But it also sounds to some like a confusing and redundant neologism. In the opening Davos panel, historian Niall Ferguson rejected the term, explaining it as “just history happening.” In a bit of hot FT-on-FT action, columnist Gideon Rachman characterized polycrisis as one of his least favorite terms, asking, “Does it actually mean anything?”

As someone who has written a book about zombie apocalypses and taught a course about the end of the world, I have a smidgen more sympathy for the polycrisis concept. I think its proponents are trying to get at something more than just history happening. They are putting a name to the belief that a more interconnected, complex world is vulnerable to an interconnected, complex global catastrophe.

That is a legitimate concern. Just because the concept of a polycrisis is real, however, does not mean that the logic behind a polycrisis is ironclad. Some of it echoes 1970s concerns about resource depletion combined with an increasing population — in other words, neo-Malthusianism gussied up to sound fancy. A lot more of it can be reduced to concerns about climate change, which are real but not poly-anything. Those warnings about a polycrisis might be well-intentioned, but they also assume the existence of powerful negative feedback effects that may not actually exist.

The future will not be crisis-free by any stretch of the imagination — but the notion of a polycrisis might do more harm than good in attempting to get a grip on the systemic risks that threaten humanity.

The history of the idea of the polycrisis

As with many buzzwords foretelling despair, the origins of polycrisis can be blamed on the French.

In their 1999 book Homeland Earth: A Manifesto for the New Millennium, French complexity theorist Edgar Morin and his co-author Anne Brigitte Kern warned of the “complex intersolidarity of problems, antagonisms, crises, uncontrollable processes, and the general crisis of the planet.” Other academics began using the term in a similar way. European Commission President Jean-Claude Juncker adopted the term to characterize the cluster of negative shocks triggered by the 2008 financial crisis.

So far, so redundant — none of these initial references really seem to mean much beyond “A Big, Bad Catastrophe.” Tooze’s initial column and Substack post, however, referenced the work of political scientists Michael Lawrence, Scott Janzwood, and Thomas Homer-Dixon. They work at the Cascade Institute, a Canadian research center focusing on emergent and systemic risks. In a 2022 working paper, they provide the fullest etymology of “polycrisis” and what they mean by it.

So what the hell is a polycrisis? The quick-and-dirty answer is that it’s the concatenation of shocks that generate crises that trigger crises in other systems that, in turn, worsen the initial crises, making the combined effect far, far worse than the sum of its parts.

The longer answer requires some familiarity with how complex systems work. Complex systems can range from a nuclear power plant to Earth’s ecosystem. In tightly wound and complex systems, not even experts can be entirely sure how the inner workings of the system will respond to stresses and shocks. Those who study systemic and catastrophic risks have long been aware that crises in these systems are often endogenous — i.e., they often bubble up from within the system’s inscrutable internal workings.

For example, when Lehman Brothers declared Chapter 11 in September 2008, few observers understood that Lehman’s bankruptcy would cause panic in money market funds. That was a relatively risk-free asset class seemingly far removed from the subprime mortgage debt that felled Lehman.

Except the Reserve Primary Fund, the oldest money market fund in the country, had invested some of its assets at Lehman, which had enabled it to offer a slightly higher rate of return. With those investments frozen by Lehman’s bankruptcy, the Reserve Primary Fund had to “break the buck” and price its fund below a dollar — hitherto unthinkable for a fund that was seen as pretty secure. That caused credit markets everywhere to seize up, and the Great Recession unfolded. The crisis cascaded so quickly that it was impossible for regulators and central banks to get out in front of the disaster wave.

The folks who warn about a polycrisis argue that it is not just components within a single system that are tightly interconnected. It is the systems themselves — health, geopolitics, the environment — that are increasingly interacting and tightly coupled. Therefore, if one system malfunctions, the crisis might trigger other systems to fail, leading to catastrophic negative feedback effects across multiple systems and affecting the entire world. Or, as Lawrence, Janzwood, and Homer-Dixon put it in their paper:

The core concern of the concept is that a crisis in one global system has knock-on effects that cascade (or spill over) into other global systems, creating or worsening crises there. Global crises happen less and less in isolation; they interact with one another so that one crisis makes a second more likely and deepens their overall harms. The polycrisis concept thus highlights the causal interaction of crises across global systems.

Think of rising commodity prices triggering the Arab Spring in 2010. Or think of the vicissitudes of the Covid-19 pandemic helping to trigger both the stresses in global supply chains and social dysfunction. These are examples of one systemic crisis generating another systemic crisis. Imagine all the myriad crises that climate change can trigger — from food scarcity to new pandemics to a surge in migration. The Cascade Institute paper defines a polycrisis as when three or more systems wind up being in crisis at the same time.

Given all the interconnections in the current moment, a polycrisis is not hard to conceive. To contemplate it is to be overwhelmed by catastrophic possibilities. Here, look at Tooze’s chart:

Or look at the World Economic Forum’s similar chart:

Or, if you prefer sci-fi narratives as a means to better comprehension, watch this clip from Amazon Prime’s The Peripheral, which talks about a cluster of events called “The Jackpot” in a way that sounds awfully similar to a polycrisis.

How real is the polycrisis?

Take a second now and consider all the shocks that have buffeted you, dear reader, in the past few years alone.

There is the largest land war in Europe in recent memory, a devastating pandemic, the surge in refugee flows, high inflation, fragile global governance, and the leading democracies turning inward as they face populist challenges at home. It seems easy — and enervating — to believe that the polycrisis is upon us.

The thing about the previous paragraph is that it does not just describe the current moment; it also captures the global situation almost exactly a century ago. The First World War devastated Europe. The war also helped to facilitate the spread of the influenza pandemic through troop movements and information censorship. The costs of both the war and the pandemic badly weakened the postwar order, leading to spikes in hyperinflation, illiberal ideologies, and democracies that turned inward. All of that transpired during the start of the Roaring ’20s; the world turned much darker a decade later.

So maybe Niall Ferguson has a point; what some are calling a polycrisis could just be history rhyming with itself.

Those warning about a polycrisis vigorously dispute this. They argue that the growing synchronization and interconnectivity of systemic risks increases the chance of a polycrisis. As one recent New York Times op-ed co-authored by Homer-Dixon explained, “complex and largely unrecognized causal links among the world’s economic, social and ecological systems may be causing many risks to go critical at nearly the same time.”

These concerns are borderline Malthusian. Thomas Malthus famously warned that the human population would exponentially outstrip mankind’s capacity to grow food. This proved to be spectacularly wrong, but the power of Malthusian logic remains. Neo-Malthusians are less concerned about food specifically and more about human civilization outstripping other necessary resources.

In the same op-ed, Homer-Dixon and co-author Johan Rockström worry that “the magnitude of humanity’s resource consumption and pollution output is weakening the resilience of natural systems.” The WEF report ranked a “cost-of-living crisis” as the most severe global risk over the next two years.

Concerns about climate change should not be minimized. At the same time, there are ways in which the notion of a polycrisis obfuscates more than it reveals.

Looking at the charts above makes it seem as though little can be done to prevent a polycrisis. Indeed, the Cascade Institute paper is written as though the polycrisis has already happened.

This sort of framing is bound to generate a sense of helplessness in the face of overwhelming complexity and crisis. In The Rhetoric of Reaction, Albert Hirschman warned about the “futility thesis” — the rejection of preventive action due to a fatalistic belief that it is simply too late.

It is far from obvious that there will be a polycrisis (let alone that we’re already in one). As the economist Noah Smith pointed out in his rejoinder to Tooze, its proponents underestimate how much “the global economy and political system are full of mechanisms that push back against shocks.” Indeed, for all the concerns that have been voiced over the past two years about global supply chain stresses and rampant inflation, both of those trends appear to have reversed themselves quite nicely. Complaints about scarce container ships and computer chips that dominated 2021 have turned into stories about gluts in both markets.

On the sociopolitical side of the ledger, it is noteworthy that as societies emerge from the pandemic, indicators of social dysfunction might start to subside. Political populism has actually been trending downward for the past year or so. Even skeptics of democracy have noticed that autocracies have been facing greater challenges as of late than democracies.

Malthusian arguments rest on producers being unable to keep pace with growing demand, and modern history suggests that the Malthusian logic has been proven wrong time and again. Homer-Dixon in particular has been a strong proponent of neo-Malthusian arguments, positing for decades that resource scarcity would lead to greater international violence. So far, the scholarly research testing his claim has found little empirical support for the hypothesis.

Predicting the unpredictable

The deeper flaw in the polycrisis logic is the presumption that one systemic crisis will inexorably lead to negative feedback effects that cause other systems to tip into crisis.

If this assumption does not hold, then the whole logic of a single polycrisis falls apart. To their credit, the Cascade Institute authors acknowledge that this might not happen, but they posit: “it seems more likely that causal interactions between systemic crises will worsen, rather than diminish, the overall emergent impacts.”

At first glance, this seems like a plausible assumption to make. Remember, however, that the proponents of a polycrisis also assert that the systems under stress are highly complex, leading to unpredictable cause-and-effect relationships. If that is true, then presuming that one systemic crisis would automatically exacerbate stresses in other systems seems premature at best and skewed at worst.

Indeed, over the last year there have been at least two examples of one systemic crisis actually lessening stress on another system.

China’s increasingly centralized autocracy generated a socioeconomic disaster in the form of “zero Covid” lockdowns. Xi Jinping kept that policy in place long after it made any sense, accidentally throttling China’s economy. The timing of China’s lockdown was fortuitous, however, as stagnant Chinese demand helped prevent an inflationary spiral from getting any worse. China’s exit from zero-Covid will likely also be countercyclical, jump-starting economic growth at a time when other regions tip into recession.

Another weird, fortuitous interaction has been the one between climate change and Russia’s invasion of Ukraine. As Europe aided Ukraine and resisted Russia’s blatant, illegal actions, Russia retaliated by cutting off energy exports. Many were concerned that Russia’s counter-sanctions would make this winter extremely hard and expensive for Europe.

Climate change may have provided a weird geopolitical assist to Europe, however. The warming climate is likely connected to Europe’s extremely temperate fall and winter. That, in turn, has required less electricity for heating, leaving the continent with plenty of energy reserves to last the winter. Russia’s ability to wreak havoc on the European economy has been circumscribed.

None of this is to say that systemic crises cannot exacerbate each other. Just because a polycrisis has not happened yet does not mean one is not on the horizon. Just as one buys insurance to guard against low-probability, high-impact outcomes, policymakers and elements of civil society need to guard against worst-case scenarios.

As a term of art, however, “polycrisis” distracts more than it adds. It mostly seems like a device to make people care about the Really Bad Things that climate change can do, without turning people off by warning them yet again about the hazards of climate change.

**There is nothing new or interesting about the polycrisis.**

Dan **Gardner 23**, columnist and senior writer for the Ottawa Citizen, specializing in criminal justice and other investigative issues, worked as a senior policy adviser to the premier and the minister of education, “Beware The "Polycrisis",” PastPresentFuture, 1/22/23, https://dgardner.substack.com/p/beware-the-polycrisis

For those whose invitations were, like mine, lost in the mail, “polycrisis” is the idea that the world is embroiled in multiple crises that are interdependent. This entanglement makes coping with the crises more difficult. Hence, what may look like a set of separate crises is more like a single crisis made of many crises. A “polycrisis,” if you will.

Writing about the polycrisis recently, the economist Nouriel Roubini rattled off the component crises as he saw them: Stagflation. Globalization retreating. Cold War with China. The risk of more hot wars that could go nuclear or full World. Worsening climate change. “Pandemics, too, are likely to become more frequent, virulent, and costly. Advances in artificial intelligence, machine learning, robotics, and automation are threatening to produce more inequality, permanent technological unemployment, and deadlier weapons with which to prosecute unconventional wars. All these problems are fuelling a backlash against democratic capitalism, and empowering populist, authoritarian, and militaristic extremists on the right and the left.”

The man isn’t called Dr. Doom for nothing.

If you haven’t yet stopped reading and run to your bunker, let me assure you that Roubini is a classic one-armed economist — piling up reasons to tremble but seldom acknowledging countervailing facts. (Old Harry Truman joke: “I want to hear from a one-armed economist because I’m sick of hearing ‘on the one hand, but on the other hand…’”) And his reasoning is occasionally eye-rollingly tendentious. Globalization is retreating, is it? A remarkable array of data says otherwise. Or consider the claim that the threat of “permanent technological unemployment” has contributed to the rise of “populist, authoritarian, and militaristic extremists.” Seems entirely speculative to me. But if you are going to mention it, surely you also need to note that unemployment is extremely low in the United States, Canada, and a number of other countries, and has been for years (aside from the brief surge when Covid hit). But, no. The man has only one arm.

There’s a more basic problem with Roubini’s list. Or any list of crises. As historian Niall Ferguson laconically remarked in a panel discussion at Davos: “That’s just history happening.”

Bad things happen. Bad things threaten to happen. Always.

Name the decade and I will show you smart and accomplished people who got a lot of attention by compiling lists like Roubini’s while hyperventilating into a paper bag. My favourite is the economist Robert Heilbroner. His writings in the 1970s make Roubini sound like a teenager huffing laughing gas.

Heilbroner, needless to say, did not identify the turmoil of his time as a “polycrisis” — a logism that hadn’t yet been neo’d — but he could well have because the crises he identified were often highly interdependent. In fact, he emphasized their interdependence. Many of the specific crises he identified (hot war, Cold War, the threat of nuclear war, the decline of democracy, the rise of authoritarianism, environmental degradation, stagflation) even sound familiar today.

So does “polycrisis” mean anything more than “bad stuff linked to other bad stuff, as usual?”

To test this, we need to look to the writing of the economic historian Adam Tooze, who popularized the term. He’s a serious and respected thinker, one reason why “polycrisis” has caught on while Roubini’s preferred neologism – “megathreats” – has languished.

“A problem becomes a crisis when it challenges our ability to cope and thus threatens our identity,” Tooze wrote recently. “In the polycrisis the shocks are disparate, but they interact so that the whole is even more overwhelming than the sum of the parts…. Things that would once have seemed fanciful are now facts.”

That is a true and accurate summary of the state of the world right now. But how is it new? I can’t think of any decade between now and the late 19th century when Tooze’s description wouldn’t apply. And I only stop at the late 19th century because that’s where my knowledge grows thin.

Tooze is too smart to miss this objection. He raises it himself.

But how new is it really? Think back to 2008-2009. Vladimir Putin invaded Georgia. John McCain chose Sarah Palin as his running mate. The banks were toppling. The Doha World Trade Organization round came to grief, as did the climate talks in Copenhagen the following year. And, to top it all, swine flu was on the loose.

“Former European Commission president Jean-Claude Juncker, to whom we owe the currency of the term polycrisis, borrowed it in 2016 from the French theorist of complexity Edgar Morin, who first used it in the 1990s. As Morin himself insisted, it was with the ecological alert of the early 1970s that a new sense of overarching global risk entered public consciousness.

It’s hard to argue with any of that. But this would seem to suggest that polycrisis is, far from some scary new condition, nothing more than a truism for more than half a century.

Tooze himself seems to concede the point.

So have we been living in a polycrisis all along? We should beware complacency.

The scary new buzzword describes a condition the world has been in for at least as long as I have been alive? That makes it a lot less scary. And I don’t think it’s complacent to say so.

But then Tooze argues that things have indeed changed in important ways more recently.

In the 1970s, whether you were a Eurocommunist, an ecologist or an angst-ridden conservative, you could still attribute your worries to a single cause — late capitalism, too much or too little economic growth, or an excess of entitlement. A single cause also meant that one could imagine a sweeping solution, be it social revolution or neoliberalism.

What makes the crises of the past 15 years so disorientating is that it no longer seems plausible to point to a single cause and, by implication, a single fix. Whereas in the 1980s you might still have believed that “the market” would efficiently steer the economy, deliver growth, defuse contentious political issues and win the cold war, who would make the same claim today? It turns out that democracy is fragile. Sustainable development will require contentious industrial policy. And the new cold war between Beijing and Washington is only just getting going.

I hesitate to say this about the words of a globally respected historian, but this feels an awful lot like hindsight bias.

Yes, ideologues in the 1970s and 1980s had handy ways of seeing various crises as manifestations of a single cause. But that was more a reflection of their own mental models than reality.

Complexity theory started to come into its own in the 1980s and it explained something that had only occasionally been intuited before — that complex, interdependent systems exhibit weirdly non-linear behaviour, such that apparently stable systems can suddenly collapse in disorder, or small changes can mushroom into big effects, making longer-term prediction difficult when it’s not impossible. And if complex systems are entangled with other complex systems…. The days of seeing single causes, linear effects, and simple solutions were over. (Which is why the 1970s was the last hurrah for long-term “strategic planning,” as Henry Mintzberg described in The Rise and Fall of Strategic Planning.)

But complexity theory described the world, it didn’t change it. The 1970s were plenty complex, non-linear, and unpredictable. Consider that in 1973 and 1974 it was widely believed that the Japanese economic miracle was fatally wounded. By what? By something seemingly so remote from Japan as to seemingly have no connection: Arab-Israeli politics (which contributed to the OPEC oil embargo that strangled the Japanese economy.) To those living in that moment, that was surely as bewildering as anything we face today. What complexity! What interdependence! In a world like that, the idea that the crises of the decade could reasonably be seen – that is, seen by non-ideologues -- as having a single cause and a single fix is, well, “a stretch” would be a polite description.

Tooze further argues that the present is different from the past in this way:

Meanwhile, the diversity of problems is compounded by the growing anxiety that economic and social development are hurtling us towards catastrophic ecological tipping points.

Again, true. But that sentence could have been written any time in the last half century. It would not even be surprising to find it in the pages of two highly influential books -- William Vogt’s Road To Survival and Fairfield Osborn’s Our Plundered Planet – published in 1948.

Finally, Tooze sums up:

Modern history appears as a tale of progress by way of improvisation, innovation, reform and crisis-management. We have dodged several great depressions, devised vaccines to stop disease and avoided nuclear war. Perhaps innovation will also allow us to master the environmental crises looming ahead. Perhaps. But it is an unrelenting foot race, because what crisis-fighting and technological fixes all too rarely do is address the underlying trends. The more successful we are at coping, the more the tension builds. If you have found the past few years stressful and disorientating, if your life has already been disrupted, it is time to brace. Our tightrope walk with no end is only going to become more precarious and nerve-racking.

When did global affairs not involve “improvisation, innovation, reform and crisis-management”? When were we not trying to dodge catastrophes? When did people not find “the past few years stressful and disorientating?”

In all the talk of “polycrisis,” I have seen precisely no one mention that hindsight bias all but ensures that the present will feel more precarious than the past no matter what the objective reality is: The past is a movie we have seen. We know how it ends. The present is unmistakably uncertain. And uncertainty is unsettling.

**There’s nothing new about the polycrisis---it’s not existential.**

Andreas **Kluth 23**, columnist for Bloomberg Opinion, was previously editor in chief of Handelsblatt Global and a writer for the Economist, “So we’re in a polycrisis. Is that even a thing?,” Washington Post, 1/23/23, https://www.tbsnews.net/features/panorama/so-were-polycrisis-even-thing-572374

A lot of the folks trying to sound profound in the hallways at the World Economic Forum in Davos this week had just the word: "Polycrisis." That's what we're in, apparently.

If so, this polycrisis presumably replaces the "tripledemic" we recently survived, and may yet blend into the "permacrisis" (Collins Dictionary Word of the Year in 2022). It could also join the "megathreats" out there. Or it may revert to being a good old-fashioned "perfect storm."

Mind you, I'm not a categorical enemy of buzzwords, as long as they actually capture a phenomenon. For example, Zeitenwende does seem to describe the historical turning point marked by Russia's invasion of Ukraine — and also has the requisite Teutonic oomph.

And at a linguistic level "polycrisis" is surely preferable to "permacrisis" — or even yuckier possibilities such as "multicrisis." I've always agreed with the purist who, a century ago, rejected "television" on the grounds that it's "half Greek, half Latin: No good can come of it." Call me a pedant.

So at least polycrisis is all Greek. "Poly" means "many" and "crisis" means…. Ah, here it gets iffy again. Originally, krisis meant something like "decision," especially the moment when a patient with a fever either lives or dies. (Permacrisis, therefore, is actually an oxymoron.) These days, however, crisis has come to mean almost any difficult situation that needs seeing to.

The question is whether polycrisis — as a concept rather than a portmanteau — is useful or banal. To have meaning, it would have to encapsulate more than the obvious: that we have an awful lot of problems nowadays, and that many of them are connected.

Here's a partial map. We've long worried about climate change and inequality. Those two are connected because global warming hurts the poor — both people and countries — more than the rich. Both in turn also cause wars, hunger and mass migrations, and therefore "refugee crises" such as the one of 2015. Via "zoonotic spillover," climate change even accelerates the emergence of new superbugs and pandemics.

Global warming didn't directly cause SARS-CoV-2, but that virus interacted with all those pre-existing problems. It devastated economies, again hitting the poor worse than the rich. And it caused supply-chain stoppages that, from 2021, caused certain prices to rise. This primed our economies for inflation, and thereby hooked into the adjacent fiscal and monetary crises of excessive debt and money supply.

All the while, these upheavals stoked cynicism, escapism, mendacity, denial and sheer idiocy within electorates and political elites. This contributed to a decline in the quality of democracy and a corresponding spread of populism and conspiracy theories. That led to all sorts of distractions — from Brexit to anti-vax hysteria — and a widespread rejection of rationality in dealing with the actual problems.

Then Russian President Vladimir Putin decided to throw a bomb into this mix, by launching an old-style war of imperialist and genocidal aggression. That disrupted the flows of Russian gas and oil, causing an acute energy crisis, a food emergency (because Putin didn't allow grain to leave Ukrainian ports for much of last year) and even higher inflation, necessitating higher interest rates too. Putin also added yet another refugee crisis and distracted us from the necessary green transition.

On it goes. So there's no question that the world is in the throes of many interlocking crises. The question is whether that amounts to something qualitatively new, deserving its own neologism. That was the implication of Edgar Morin, a French philosopher who first used the term "polycrisis" in 1999. Other intellectuals, notably the economist Adam Tooze, have since popularised it.

The new aspect, as one research institute attempts to nail it down, could be that the interaction of the various crises causes "a cascading, runaway failure of Earth's natural and social systems." The hallmarks of the polycrisis, then, are "extreme complexity, high nonlinearity, transboundary causality, and deep uncertainty [and also] causal synchronisation." As Tooze puts it, "the shocks are disparate, but they interact so that the whole is even more overwhelming than the sum of the parts."

Forgive me, but I'm still wondering what's new. We've long known about such dynamics in other contexts, under more familiar labels such as feedback loops, tipping points, emergent properties, chaos theory and the butterfly effect (so named because a butterfly flapping its wings on one side of the world can allegedly affect the weather on the other).

Similarly, myriad (Greek for "ten thousand") factors interlocked to cause, say, the fall of the Western Roman empire in late antiquity, or pretty much any development in history. So complexity, the interaction of factors and nonlinear consequences are old hat.

The difference, if there is one, is that human beings in the past had even less of a clue about this bewildering reality, and, being human, feigned more confidence in attributing any given phenomenon to whichever explanation they preferred. If Rome fell, it must have been because the Romans lost their "virtue," or because of those pesky Goths.

Tooze seems to be almost nostalgic about this. "In the 1970s," he writes, "whether you were a Eurocommunist, an ecologist or an angst-ridden conservative, you could still attribute your worries to a single cause — late capitalism, too much or too little economic growth, or an excess of entitlement. A single cause also meant that one could imagine a sweeping solution, be it social revolution or neoliberalism."

Well, thank heavens we're over all that nonsense — single causes, sweeping solutions and messianic hubris in general. These days, the only people with the simplistic answers are the populists.

So what's new is not that humanity suddenly has uncountable problems that are all linked — that's always been true — but that it's finally dawning on us how little we understand about the mess we're in. And we hate, hate, hate that feeling. This apocalyptic angst — we don't comprehend what's going on but it'll end badly — is what the highfalutin word polycrisis expresses.

My practical advice is to stop coining Greek neologisms and attack complexity with simple words. We have problems, emergencies and catastrophes, but we also have solutions — from mRNA vaccines to, who knows, maybe fusion energy one day. I suggest the Davos honchos boarding their return flights, and the rest of us, just pick whichever crisis they know something about, and get back to work solving it.

**‘Polycrisis’ has been happening since the dawn of time.**

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Everything’s inflating these days—including thought leadership. A mere “debacle” is no longer enough; the word in the wind is “polycrisis,” fanned to a fever-heat popularity by the historian-turned-pundit Adam Tooze.

No doubt you’re running into the term everywhere: the headlines in the pink papers, the briefings of important policymakers, Twitter, book titles, climate change agendas (pdf). The notion behind “polycrisis” is that humanity’s problems—economic uncertainty and inequality, political instability, and especially the threat of climate change—need to be understood through their interactions with each other.

And that’s not a bad frame. But is it a novel one? Does it help diagnose our problems better, let alone address them?

Tooze, at least, says yes, because “it no longer seems plausible to point to a single cause and, by implication, a single fix,” to the world’s problems, as it might have in the past. But that was never plausible. The ills of the 1980s could no more be solved by the market alone—or the state alone, or civil society, or your fix of choice—than they can be today (or ever, for that matter). And when champions of the term insist that this polycrisis is the first multi-causal crisis in history, it sounds, well, ahistorical (see below).

The other novelty in Tooze’s analysis is how global development and climate change raise the stakes of our economic and political difficulties. The increase in climate-related disasters is new, even if it is a path we set off on 200 years ago. But if potential global self-destruction is the underlying requirement of a polycrisis, we’ve been there since Hiroshima.

Other definitions offer more specificity, focusing on multiple sources of systemic risk amplifying each other and breaking down a shared understanding of the problems—what Tooze calls a “flailing inability to grasp our situation.” You might call that the human condition.

Arguably, we’ve never had more clarity about humanity’s threats and how to respond to them. We developed vaccines to the covid-19 pandemic on the fly, which wasn’t possible a century ago during the Spanish Flu epidemic. Economic policy is far from perfect, but recession-fighting and safety nets have come a long way since the Great Depression. Climate change (and what must be done to fight it) is better understood today than ever.

If anything, our chief crisis is a social one—a paralysis that fails to push solutions forward thoroughly in the face of knotty problems. Giving that complexity a name is only a start. Businesses and governments know already that there isn’t a single fix to our problems. But a better diagnostic concept would help them understand where to start.

The job of an intellectual in a complex world is to clarify, and it’s not clear that “polycrisis” means anything more than its Greek roots: We’ve got a lot of problems.

GREAT POLYCRISES IN HISTORY

Is the polycrisis new? Well...

💀 World War I, 1914-1918. The global conflict that kicked off modernity involved a technological arms race, geopolitical competition, and new political ideas about self-government. But it also took place during a global cold snap that increased mortality and set the stage for the spread of the Spanish Flu around the world, which is thought to have killed one out of every 100 people on the planet.

💀 The Great Famine in India, 1876-1877. The Madras famine, which killed between 6 and 10 million people in India, was part of a larger weather phenomenon that ruined harvests across the global South. Its effects were accelerated by the British East India Company, which continued economic exploitation and blocked relief efforts.

💀 Thirty Years War, 1618-1648. This wasn’t just a religious conflict between Protestants and Catholics. The wars that laid waste to central Europe were chaotically overlaid on dynastic disputes, new forms of political propaganda, and the rise of absolutism, while the Little Ice Age wreaked havoc with harvests. Oh, and there were plagues.

💀 The Native American Genocide, 1491-present. European colonialism emerged from political, economic, and religious motivations, and was driven by technological leaps. But the polycrisis for indigenous people also included infectious diseases to which they had no immunity, and ecological catastrophes driven by the resultant population collapse.

THE BIRTH OF A WORD

Tooze heard the term “polycrisis” from Jean-Claude Juncker, the former European Commission president who, in 2018, used the p-word to refer to the EU’s challenges of migration, climate change, debt and economic growth—although he also said that Europe had “surely turned the page from this so-called ‘polycrisis.’” So much for that.

Juncker, in turn, borrowed “polycrisis” from the French theorist Edgar Morin, who co-authored a 1999 book that introduced the idea. Morin, who fought with the French Resistance during World War II, did much of his subsequent intellectual work on complex systems across different disciplines.

Per Google’s corpus of English language publications, the term was briefly in vogue at the turn of the century (perhaps a Y2K vibe) but really took off following the 2008 financial crisis.

**Administrative State Defense---2NC**

**Governance is doomed to fail.**

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In many ways, the first month of the second Trump administration has been shocking. The President has quickly and emphatically demonstrated his contempt for the Constitution, for Congress and the courts, and for federal workers and foreign allies alike. But if some of the particulars have come as surprises, the basic outlines of the administration’s plan to decimate the regulatory and service-providing portions of government while consolidating and building executive enforcement capacity were long evident—and long preceded Trump’s presidency.

Shortly after his election, Trump announced that Elon Musk would “pave the way for my Administration to dismantle Government Bureaucracy, slash excess regulations, cut wasteful expenditures, and restructure Federal Agencies.” The America First Policy Institute, the Heritage Foundation, and Project 2025 joined the call for “dismantling the administrative state.” Over the last month, Musk and his acolytes have indeed rampaged through many federal agencies, firing employees and slashing domestic spending and foreign aid. Trump’s own flood of executive orders targets independent agencies and civil servants, among others.

At the same time as it strikes at regulatory agencies, the Trump administration has been arrogating agency resources for a mass deportation plan that Stephen Miller calls “an undertaking every bit as . . . ambitious as building the Panama Canal.” Even as it attempts to purge FBI agents seen as insufficiently loyal, the administration has detailed FBI and DEA officers and U.S. Marshals to interior enforcement work. It has used military planes for removals and the Guantanamo military base for immigration detention, and it is actively “ramping up plans to detain undocumented immigrants at military sites across the United States.” As they look on, the very same actors calling to tame the administrative state argue for expanding U.S. military capacity, increasing the number and authority of ICE officers, and devolving power to law enforcement field offices.

Recent Supreme Court decisions have greased the wheels of this agenda, undermining agency regulation while championing executive enforcement. This past summer, the Court overruled Chevron. It limited the reach of agency adjudication. It eased challenges to agency rules based on cherry-picked comments in the record and allowed suits many years after a rule’s promulgation. The Court has also been developing an appointment and removal doctrine that insists on presidential control, and it has begun to question long-standing principles concerning congressional delegation of authority to agencies. Despite this anti-administrative turn, however, many agencies have grown more powerful, and less constrained, than ever. Law enforcement, corrections, and intelligence agencies’ work has gone untouched by both the Supreme Court’s holdings and political calls to dismantle the administrative state.

This asymmetry is long-standing. Although we talk about “the administrative state,” a closer look reveals two very different faces: one turned toward benefits and regulation, and one turned toward physical force and surveillance. The administrative state’s first face, comprising agencies that engage in regulation and distribute benefits, claims the attention of the administrative law scholars and practitioners. The familiar law that governs agencies like the Environmental Protection Agency, the Department of Health and Human Services, and the Consumer Financial Protection Board expects them to derive authority from legislative delegation, to process information transparently based on expertise, and to exercise power in collaboration with the people. The law governing second-face agencies like ICE, the Defense Department, and the CIA is very different. It allows them to operate without a clear delegation of power, to process knowledge in secret to identify threats, and to exercise control over populations.

Our forthcoming article, “The Administrative State’s Second Face,” seeks to bring new attention to the second face and the law that governs it. This face includes the Defense Department, agencies of the Department of Homeland Security and Department of Justice that engage in law enforcement or carceral work, and the intelligence community. We treat these agencies as a coherent set because personnel, facilities, and material resources circulate among them, they carry out similar activities of law enforcement and execution, and their operations raise related legal questions. Indeed, pooling these agencies’ capacities is the key to the Trump administration’s plan to deport millions of immigrants. Even as excellent scholarship has described and analyzed particular second-face agencies, less attention has been paid to them as an interrelated group.

Attending to the second face reveals that the much-discussed attack on the administrative state is really an attack on only one half of it. Critics challenge broad grants of authority from Congress to administrative agencies and insist on tighter presidential control. They lambast judicial deference to agency statutory interpretation and policymaking. Even defenders of the administrative state propose reforms to reconcile agencies’ work with democratic values; they advocate greater public engagement in notice-and-comment rulemaking, for example, as well as disclosure requirements to facilitate public monitoring.

These arguments about delegation, deference, and democracy concern the administrative state’s first face. But first-face agencies are already quite constrained in relevant respects. It is second-face agencies that enjoy expansive delegations, sweeping judicial deference, and near-complete exemptions from public accountability mechanisms. These agencies act without specific statutory warrant, as claims about presidential authority empower a cadre of low-level agency officials. They receive deference from invocations of plenary power and other permissive frameworks. And they largely set policy without either the front-end engagement provided by notice-and-comment rulemaking or the back-end monitoring envisioned by transparency statutes.

Consider, for example, a basic question of administrative law: how agencies relate to Congress and the president. Courts have insisted that first-face agency activity must be closely tied to both actors. In nondelegation challenges and the subconstitutional realm of major questions and clear statement rules, the judiciary has required specific statutory authorization of agency action. Invoking unitary conceptions of executive power, courts have also increasingly demanded that agencies perform their work subject to presidential control.

For second-face agencies, these concerns about constitutional structure largely disappear. Courts routinely bless exercises of second-face agency power that are not congressionally authorized. And while unitary executive theory has gained force for the first face, courts tend not to inquire into presidential control in the second face. To the contrary, they have invoked presidential authority over national security and law enforcement to empower bureaucratic actors. In Trump v. Hawaii, to pick a prominent example, the Supreme Court cited presidential power over national security to read a provision of the Immigration and Nationality Act as a “comprehensive delegation” to the president. In upholding the proclamation, however, the Court refused to consider the president’s discriminatory statements because the proclamation reflected a multiagency process.

The differential treatment of the administrative state’s first and second faces also extends to deference. The overruling of Chevron was in many ways a watershed moment. But Chevron deference, which applied almost exclusively to rulemaking and adjudication by first-face agencies, was far from the most deferential form of judicial review. In the second face, distinctive doctrines for national security, immigration, and prison administration have provided much more sweeping deference, and these doctrines have been insulated from the current wave of attacks.

The democratic critique of the administrative state likewise targets the first face while leaving the second face largely untouched. For example, a body of recent work has advocated more meaningful public engagement with agency action, especially rulemaking. But precisely because second-face agencies do not set policy through public-facing processes, popular engagement in their work is not only unexpected but often unthinkable. The same is true of transparency laws that seek to provide accountability on the back end. Statutes like the Freedom of Information Act (FOIA) govern, and often impede the work of, first-face agencies while leaving second-face agencies mostly outside their disclosure requirements.

The gap between the administrative state’s first face and second face is growing. As judicial and political actors alike insist on a slimmed-down administrative state under the control of a unitary executive when it comes to the first face, they celebrate a muscular, diffuse second face. Calls to “dismantle” the administrative state don’t touch second-face agencies—other than to shift resources and capacity to them.