# 1NC---Round 5---DRR

## OFF

### 1NC

#### Cap K.

#### Bankruptcy reform renders the contradictions of capitalism ‘accidental,’ making worker immiseration inevitable.

Laurie O’Connel 23. Writer for The Communist. “Capitalism’s debt crisis: Expropriate the billionaires!” 6-21-2023. The Communist. https://communist.red/capitalisms-debt-crisis-expropriate-the-billionaires/

Countries, businesses, and households across the world are drowning in debt. As interest rates rise, the danger of default looms. To avoid a catastrophe, calls for debt cancellation are not enough. Instead, we must fight for revolution.

“The modern theory of the perpetuation of debt”, wrote US founding father Thomas Jefferson, “has drenched the earth with blood, and crushed its inhabitants under burdens ever accumulating”.s

The whole world is buried in debt. Deficit financing puts governments in the red by tens of billions per year. UK public debt is now over 100% of GDP. In the USA, Republicans and Democrats have been playing a dangerous game of chicken over the country’s debt ceiling, posing the threat of default in the world’s biggest economy.

And this is not even to mention low-income countries in Africa and elsewhere: trapped by immense debt burdens and spiralling repayments, and at the mercy of international finance capital.

With central banks raising interest rates in an effort to tame inflation, the question of what to do with all this debt is being posed ever-more sharply. The ruling class is even split over this question, as the recent standoff in Congress demonstrates.

But they all agree on one thing. From the bailouts of the banks, to the costs of COVID spending: the working class must be made to foot the bill.

On the left, meanwhile, there are many different ideas floating around: from the idea of a biblical-style ‘debt jubilee’, or mass cancellation; to governments printing their way out of trouble, as advocated by neo-Keynesian proponents of Modern Monetary Theory (MMT).

How do we make sense of this situation, where world debt stands at over 360% of global GDP? This is no mere con-trick by the capitalist class.

In truth, it is not “the modern theory of debt” that has drenched the world in blood, as Jefferson suggests, but modern capitalism, which is “dripping with blood from every pore”, to use Marx’s expression.

Under capitalism we are all, it appears, free to work wherever we choose: to buy and sell; beg and borrow. It appears purely accidental that as a product of these ‘free’ interactions, the worker is always immiserated while the capitalist is enriched.

But this is the inevitable outcome of capitalism, a system based on exploitation and profit, where the worker is never paid the full value of what they produce.

In other words, the exploitation of the majority by a tiny elite is disguised as freedom. The same is true for debt, with debtors said to be ‘voluntarily’ taking out loans. It is only ‘moral’, then, that they should repay these.

But the dominated nation, or struggling family, does not choose to be indebted, any more than the working class chooses to be exploited.

This is not a question of morals. Just as the poverty and inequality created by the capitalist system is not simply due to greed, poor policy, or free choice, neither are society’s immense debts.

The fact is that capitalism’s contradictions and crises, including the dynamite foundations of debt upon which the world economy now sits, cannot be avoided through regulation and reform. To solve the question of debt, we need a revolution.

#### Capitalism’s unsustainable, ensuring extinction.

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One response to the current world in disorder is the revival of geopolitics to pursue partial interests and regain control in a world of limits and crises (Ioannides 2022). Shifting the coordinates of world politics towards confrontation resembles 20th century territorial conceptions of geopolitics, like territorial claims, control of national borders and resources, artillery and tank warfare. The world is in a transition phase (or interspace) between the old and a new world order, reminiscent of the destabilisation of the colonial world order a hundred years ago, when World War I erupted in a spiral of violence, followed by other crises such as the Spanish flu, the Great Depression and fascism, which led to the catastrophe of World War II (Scheffran 2009, 2014). Today it is about the crises of the fossil and neoliberal variants of globalized capitalism, which drive humanity down a path if it does not make a fundamental turnaround.

8.6.2 Power Shifts and Crisis in the Liberal World Order

The idea of a ’victory’ of the liberal democracies in the Cold War shaped thinking and action in parts of the West after 1990. This corresponded with the assumption that Western values, models and claims for power could be brought to a worldwide breakthrough. Thus, the West continued its century-long history of expansion, driven by a combination of economic growth, political power and military force (Scheffran 1996), reinforced by scientific and technological innovation, prosperity, and Western values. This was fuelled by the expectation that the West could solve the world’s problems in its own way: Enforcement of human rights, overthrowing dictatorships, democratic regime change and nation building, coping with climate change and other global problems. Following the 1992 Rio Summit, the issue of war and peace was neglected, although in a crowded, interconnected and multipolar world, armament and war can multiply insecurity and instability with other crisis drivers, such as globalisation and climate change.

Instead of ushering into a peaceful world order and using the peace dividend to tackle global problems, the U.S. and its allies used money and diplomacy as well as weapons procurement and military interventions to secure the liberal world order and further expand their lead. The justification by universal values was mixed with the assertion of own interests, which were usually prioritised. Since the terrorist attacks of September 11, 2001, and the economic crisis of 2008, the chain of crises also affected the West and contributed to its destabilisation. Thus, the world today is more concerned with crisis management than with shaping the future, which would be more urgent than ever in view of interconnected problems, described earlier.

There are many reasons why the crisis of the liberal world order (Rupnik 2015) is now following the epochal upheavals three decades ago. Among them are inherent contradictions and limits of Western expansionism. Globalised capitalism produces not only winners but also losers, creates suffering and inequality, fractures and turbulences, neglect of social needs and identities that work against a stable order (Klein 2007). While Fukuyama (1989) translated the Western supremacy into the end of history, Huntington (1996) opposed the democratic-capitalist alignment with a ‘clash of civilizations’, with asymmetric conflicts and authoritarian politics. The spiral of violence continued, with hundreds of thousands of casualties and trillions of dollars for military budgets. NATO remained a military alliance rather than converting into a system of collective and common security. Military interventions showed the limits of high-tech warfare (Neuneck/Scheffran 2000b), leaving many problems unsolved, most clearly in the Afghanistan mission (2001–2021), which failed to achieve its objectives but resulted in enormous losses.

Although the nuclear arsenals are lower than in the Cold War, nuclear deterrence and the nuclear arms race continues. With nearly 13,000 nuclear weapons, there is a risk of their use in crises, wars and terrorist attacks. This is complicated by the ‘Revolution in Military Affairs’, which involves all areas of high technology, including missile defence, space armament and cyberwar (Neuneck/Scheffran 2000a). After the U.S. abandoned or did not ratify arms control agreements (ABM, INF, Open Skies, CTBT), the nuclear arms race became less regulated. Opportunities for comprehensive nuclear disarmament and supporting the 2017 Treaty on the Prohibition of Nuclear Weapons (TPNW) were missed. Militarisation extends to missiles and missile defense systems, outer space and cyberspace, drone and hybrid warfare, vulnerability of military and civilian infrastructures, fake news and hate speech on social media, where the lines between war and peace are blurred (Scheffran 2018a, 2019b).

Global military spending rose to more than two trillion USD for the first time in 2021 (SIPRI 2022), and even more in 2022. The U.S. alone invested about $800 billion, as much as the following ten countries combined, about 2.7 as much as China ($293 billion), more than ten times as much as India ($76.6 billion), and twelve times as much as Russia ($65.9 billion). In addition came the military spending of other NATO countries, including the United Kingdom at $68.4 billion, and the sharp increase in German military spending (about $56 billion) which still missed NATO’s two percent target (SIPRI 2022). Together with growing arms exports, this creates a direct link between economic and military growth. Global military spending reached record levels when the Russian-Ukraine war triggered a drastic increase in 2022, reaching USD 2240 billion (SIPRI 2023). Other crisis indicators also increased substantially in recent years, such as violent conflict and forced displacement.

The more the expansive growth model encounters limits, the more evident are marginal costs and risks in a world facing intertwined multiple crises, conflicts and catastrophes that appear as wicked problems in complex crisis landscapes (Rittel/Webber 1973; Scheffran 2008). The compounding problems reinforce the erosion of the rule-based international order and loss of control by the Western hegemony (Brzoska et al. 2019; Taylor et al. 2020). The world of 1990 has given way to a confusing situation in complex crisis landscapes, fractures of globalisation and systemic turbulence. One explanation is that we are experiencing a world in transition, an interim period in which the old order is challenged by existential problems that can no longer be solved within the existing framework before a new order is found (Schröder 2022).Footnote6 Possible futures include global power shifts and geopolitical conflicts, especially between China and the United States, as well as multipolar power constellations with multiple competing orders where the liberal order could persist with limited scope (Flockhart 2016). Whether the limits to the Anthropocene are largely limits to the expansion of the Western world order or limits to humanity as a whole, depends on the policies pursued and their impacts on power structures. New solution pathways are required addressing the complexity of the challenges The chain of crises is reminiscent of the situation a hundred years ago, with World War I, the Spanish flu, the world economic crisis and fascism, which led to World War II. In today’s world political, security, environmental and social crises converge (Spangenberg/Kurz 2023), densifying and intensifying long-term trends and short-term events to an epochal turn (Zeitenwende) (Scheffran 2021a, b).

8.6.3 Geopolitics and Zeitenwende Between National Borders and Planetary Boundaries

At the turn of the millennium, the rift between the West and its former partner Russia became entrenched, creating the basis for today’s situation, reminiscent of the Cold War (Scheffran 2000a, b). Russia attempted to regain a voice in the international arena after a decade of weakness and ignorance of Russian security interests by the West in NATO expansion, Kosovo war, missile defence and arms control. Against this background, Russia increasingly pursued a more confrontational policy toward the West, through nuclear arms build-ups, hybrid wars and military interventions. Apparently the large Western dominance over Russia could neither guarantee security nor prevent Putin’s attack on Ukraine, perhaps even incited it by raising Russian threat perceptions. Accordingly, Russia is pushing great power claims, not only in areas of the former Soviet Union, but also in the Middle East, Africa and the Arctic. Attempts to include Ukraine into the Western sphere of influence and expand it to the Russian frontier led to violent reactions and a hardening of authoritarian structures in Russia, from the annexation of Crimea in 2014 to the illegal war against Ukraine since February 24, 2022. The West adopted massive sanctions against Russia and provided arms exports to Ukraine. On 27 February 2022 Chancellor Olaf Scholz switched into crisis mode and in his speech to the German Parliament declared a response to the supposed Zeitenwende (epochal turn) induced by Russia’s attack, providing 100 billion Euros in special funds for the German Armed Forces (Scholz 2023). It is questionable whether such a military-oriented turn can meet planetary security needs or rather feeds the arms race.

In Russia’s attack on Ukraine old and new geopolitics interfere in complex ways (Scheffran 2023a, b). The revival of old geopolitical strategies of confrontation, militarisation, arms race, violence, hot and cold war activate multipolar power shifts and rivalries, between the European Union and Russia, China and the United States, Global North and South. Europe is facing geopolitical challenges in all geographic directions: in the East by Russian threats and Putin’s power games, in the West by US nationalism and hegemony, in the South by the destabilisation of the Mediterranean region, and in the North by climate change, resource competition and rivalries in the Arctic. China is trying to reshape the international order and expand its global political influence. With the ‘New Silk Road’ on land and sea, a network of infrastructures is being created from East Asia to Europe and Africa. China challenges the West in key technologies and is preparing for military confrontation, especially in the South China Sea. The U.S., under President Joe Biden, is struggling to maintain its hegemony and forging alliances in the Indo-Pacific which is becoming increasingly armed (Brands/Gaddis 2021).

While the Ukraine war is a burning glass of old geopolitics, it also serves as a new geopolitical framing of emerging security issues, such as cyber and hybrid war, drone and space warfare, anti-globalisation and energy transition, environmental and climate change. The mindset of geopolitics is increasingly spreading in technically constructed spaces. New terrain is claimed not only in distant regions of the world or in outer space, but also in cyberspace of information war and in the nanoworld connecting physical, chemical and biological innovations at smallest scales (Ruhl et al. 2020). While distances are compressed in the micro-world of genomes and brains, the macro view of satellites and geographic information systems connects all areas globally. In the networks of social media internal and external worlds are bridged by interfaces potentially connecting and controlling humans (Zuboff 2019; Scheffran 2023b).

Corresponding to the declining relevance of national borders and shrinking spatial distances in a highly connected world society, the geo-economics of markets and geopolitical fault lines have gained relevance. Facing the limits of the Anthropocene the exploitation of natural resources, global warming and renewable energy are becoming new areas of geopolitics, giving territoriality a new meaning (Burles 2021; Scheffran 2023a, b). Climate change is drawing geographical maps of regional hot spots with high vulnerability and risk, while the quest for a green economy is selecting suitable places with high solar radiation and biomass productivity, strong flows of water, wind, geothermal, tidal, and ocean currents as well as related strategic materials. Driven by the social-ecological transformation new energy landscapes integrate natural and societal interactions in complex geopolitical frames of control, resistance and conflict, connecting local and global levels (Link et al. 2018). When natural limits are reached, efforts to adjust to the risk of these limits also grow, such as geoengineering to keep the climate system within boundaries which can create new side effects (Link et al. 2013; Maas/Scheffran 2012).

Critical approaches to geopolitics doubt that human behaviour is determined by geographical factors and criticise that borders, boundaries and barriers are used for political discrimination and exclusion, for example against poor, female, ethnic, religious or migrant groups (Scheffran 2023b). From a feminist and racial perspective, geopolitics serves to enforce patriarchal structures and white supremacy (Tilley 2014). In local contexts, participatory approaches and resistance can create spaces free of established power structures and help evolving alternative forms of Anthropocene Geopolitics (Dalby 2020). Integrative geography opens the possibility of developing interfaces with other disciplines and their interdisciplinary fusion. A key question is whether nation-states are able to manage today’s global challenges and interconnected crises. Nationalism provokes geopolitical conflicts which are major obstacles to effective and coordinated global strategies and solutions against climate change and other crises (Conversi/Posocco 2022). The propagated ideological ‘battle between democracy and autocracy’ is dividing the world into ‘good’ and ‘bad’ according to Western standards which found a geopolitical representation in the Russian-Ukrainian border as a frontier between the transatlantic Western world and the Eastern Eurasian land mass. Such a rift is constructing and justifying a new Cold War narrative and its proxy wars (Scheffran 2000a, b, 2023a, b).

The Ukraine war follows a similar logic as other wars which mobilise the means of violence of collective agents which are polarised into friend and foe, good and evil, mutually justify increasing threats that trigger a spiral of violence, move up the escalation ladder until the limits are reached in total war or further acts of war do not seem reasonable because of the costs and risks involved (Scheffran 2023c). Different from moral justifications, realist thinking explains the mechanisms of escalation and how to prevent them (Mearsheimer 2014; Kissinger 2022). The consequences are obvious: massive destruction of cities and vital infrastructure, numerous dead and wounded people, millions of refugees and existential hardships, accusations of genocide and ecocide, attacks on nuclear facilities, spirals of escalation on the threshold of world or even nuclear war. While Russia and Ukraine deployed massive military force, the West supplied heavy weapons and imposed tough sanctions and other means of economic warfare, which increased inflation and supply chain disruptions, volatility of food and energy prices as well as increased military spending, hitting a global economy battered by the Corona pandemic, with the most vulnerable suffering most. The war distracts attention and resources away from planetary security and constrains solutions to the environmental and social crises, as well as the willingness to cooperate, further fuelling the crisis (Scheffran 2022a, d).

This war ignores historical experiences of previous wars, revives geopolitical power struggles, rearmament and other violent conflicts. The continuing logic of war destroys the conditions for a sustainable peace order, consumes enormous funds and resources that are lacking to solve urgent problems, and pollutes climate and the environment. Instead of overcoming crises, it multiplies them into a permanent crisis and a perpetual war (‘sustained war’), which former U.S. President George W. Bush propagated two decades ago in Iraq and Afghanistan. Instead of getting used to crisis mode or fighting the consequences, it is more reasonable to prevent the origins and drivers. Without a self-critical analysis, the war could deepen the crisis of the Western world order (Neumann 2022; Koschorke 2023). The fossil war and the climate crisis confirm the conflict-prone nature of the fossil-nuclear energy system, re-enforcing the urgency to develop an alternative energy system that is less conflictive (Scheffran 2022a).

The negative nexus of environmental destruction, underdevelopment and violence could drive the world into a self-reinforcing vicious circle of interconnected crises which undermine the conditions for peace and sustainable development (Scheffran et al. 2014; Buhaug/von Uexkull 2021). Climate and environmental change impact human needs, critical resources and infrastructures that are essential for the provision of human security and societal stability. On the other hand, climate change could set the course for a dynamic and globally coordinated climate policy, strengthened by risk reduction and conflict management. Whether conflict or cooperation prevails depends on the social and political conditions as well as human responses and societal interventions. While reactive measures to avert disaster risk can increase conflict risk, cooperative and preventive strategies that strengthen institution building and collaboration in environmental peacebuilding tend to diminish conflict risk.

Conflict generally refers to social or political incompatibilities of actors who fail to reduce their differences and tensions to tolerable levels and undertake actions to enforce or articulate their interests, including violence, protests, riots and other forms of resistance (Ide et al. 2016). If different interests and tensions cannot be overcome or mediated, conflicting actions may undercut each other’s values and provoke escalating and extreme responses (Scheffran et al. 2014). Conflict risks combine the intensity and probability of harmful consequences, ranging from social disruption and small-scale communal violence to civil and interstate wars. The types of conflict vary with respect to the number of actors, casualties and the degree of violence. Collective violence consumes considerable resources and contains the risk of escalation.

Climate change is potentially associated with a wide range of conflictive issues, from disputes over scientific predictions, impacts und uncertainties of climate change to violent conflicts fuelled by the security risks of climate change. Most studies on climate-conflict linkages discuss the effects of various climate phenomena (e.g. change of temperature and precipitation, resource availability, weather extremes, sea-level change) on different phases of conflict (onset, initiation, prevention, escalation, prolongation, termination). In addition, measures to prevent and address climate risks can also become issues of conflict, in particular tensions over mitigation and adaptation, disaster management and damage limitation, climate geoengineering or the fair distribution of costs, risks, and benefits of climate change. Conflict parties can be nations, individuals, parties, companies, trade unions, activist groups and generations, among others. Most studies refer to armed conflict, in which actors use military force to achieve aims.

The concept of security has been expanded to include ecological dimensions and the availability of natural resources (Brauch et al. 2008, 2009, 2011). Environmental conflicts concern the use and degradation of exhaustible as well as renewable resources, regenerated in metabolic cycles, depending on the functioning and stability of ecosystems, which in turn are affected by conflicts. The unresolved problems of sufficient, equitable and future-oriented resource use can lead to significant conflicts. If it is not possible to achieve a lasting balance between human demands and usable resources, different resource conflict types are considered.

Conflict-relevant factors are the quantity of available resources, their benefits and risks, as well as their distribution and needs formulated by the actors involved. Depending on these factors, different types of conflict can be distinguished. (Scheffran 1998, 2020a).

Conflicts over resource scarcity and abundance: Since the 1990s, there has been an extensive scientific debate on how the scarcity of natural resources such as minerals, water, energy, fish, and land affects violence and armed conflict (Homer-Dixon 1994; Bächler 1998). While many case studies suggest that environmental degradation and resource scarcity undermine human well-being, the effect on violent conflict “appears to be contingent on a set of intervening economic and political factors that determine adaptation capacity” (Bernauer et al. 2012: 1). Population growth, increased demand, and unequal distribution can affect the availability of natural resources, as can overexploitation or pollution of resources and degradation of ecosystem services. Resource scarcity can weaken social and economic systems or undermine political agency and authority of governments. Associated restrictions on wealth, quality of life and basic needs, loss of identity and livelihood, economic stagnation and social disadvantage can increase the potential for conflict. Manifest conflict arises when people use means of conflict including violence to address scarcity. Often, it is not the scarcity of natural resources that drives conflict, but their abundance, which can result in a ‘resource curse’, for example when revenues from the extraction of valuable raw materials (diamonds, coltan, rare earths) are unequally distributed or are used to procure means of conflict (weapons, soldiers, equipment) by rebel groups or private security services.

Resource availability, distribution and equity conflicts: The distribution, access to and financing of resources are contested power factors on a national, regional or global scale. Conflicts are fought to increase or defend one’s share of resources, or because of injustice in resource distribution – especially in the North-South context, where one fifth of humanity claims four fifths of the wealth and thus of natural resources. Ecological marginalisation and unequal resource distribution contribute to underdevelopment and impoverishment of populations, and the loss of vital resources (for example, agricultural land) leads to economic decline, weakens institutions, and provokes conflict tensions. While wealthy residents of industrialised nations currently live quite well at the expense of people who are spatially and temporally distant, people in developing countries currently fare poorly not so much because of natural limitations as because of unequal distribution. Who gets which share of the resource pie depends on power structures and institutional distribution and negotiation processes. Examples include the allocation of usage quotas, for example in fisheries or emissions trading. The extent to which environmental and resource problems contribute to violent conflict has been subject of scholarly debate for three decades. Studies examine the impact of climate change on conflict, from international tensions to intra-societal disputes.

Conflicts arising from the risk of resource use: Anthropogenic disruption of natural systems and risks arising from resource use can lead to security risks and political tensions, become conflict multipliers, e.g. security risks from dams, proliferation of nuclear weapons, nuclear accidents, resource depletion (oil, uranium, strategic metals), pollution of air, water and soil, or global warming, contributing to the global risk society (Beck 1992). The worst consequences can induce a collapse of resource production and damage to people and society, for example through overfishing, destruction of rainforests and biodiversity loss, in particular when carrying capacity limits are exceeded. Disruptions of natural systems have triggered political disputes, e.g. on pollution and waste disposal, construction of dams, chemical and nuclear plants, but have also triggered cooperative solutions and relief efforts. Environmental disasters can affect aid and resolution capacities, but they can also trigger cooperative solutions and relief efforts.

Conflicting policy goals, strategies and actions: Various conflicts arise over conflicting values and goals of actors in environmental policy, and the decision on actions taken to influence natural or social systems. These include differences between human resource claims and ecological regeneration, the enforcement of guiding principles (well-being, peace, sustainable development) or protests against measures in environmental, energy or climate policy.

In real conflict situations, different conflict types can influence each other. The extent to which environmental risks lead to conflict depends on societal conditions, in particular conflict history, group identities, income, institutions, organisation and equipment of conflict parties, and the importance of resources for group interests. How conflicts are fought and resolved is based on the willingness to use conflict resources: Conflicts tend to escalate when actors mutually harm each other, triggering violence and exhaustion. Although environmental crises rarely lead to violent conflict between countries, they can have indirect effects on the international community, especially when they affect vulnerable countries with a lack of water, forests and fertile land. Where institutionalised conflict-regulation mechanisms are underdeveloped, environmental conflicts carry the risk of violent conflict. Often, environmental conflicts appear as ethnic conflicts, centre-periphery conflicts, or long-distance conflicts due to transboundary risk factors such as climate change, natural disasters, epidemics, radioactive pollutants, or rising resource prices. When large numbers of people migrate to ecologically fragile and conflict-affected regions, this can amplify conflict, especially in the absence of institutionalised conflict regulation. In some cases, however, environmental problems also lead to greater cooperation, for example in agreements on water use (Ide 2023).

The complex influences of environmental change are evident in conflicts over strategic raw materials, e.g. natural gas and oil exploitation in the Arctic and Gulf regions, conflict diamonds in Sierra Leone and Angola, coltan and tin mines in Congo, Rwanda and Uganda, uranium mining in indigenous peoples’ territories, rare earth mining in China or lithium in Bolivia, Chile and Argentina. Conflict potentials around renewable resources concern water scarcity in the Middle East and Central Asia, land use in Africa, bioenergy in North and South America, dams in South and East Asia; flooding and soil erosion in South Asia, deforestation in Haiti and Brazil, drug cultivation in Afghanistan and Colombia or fisheries in the North Atlantic.

Without strong reductions in CO2 emissions and temperature limitations of 1.5–2 °C by the end of the 21st century (one of the planetary boundaries), anthropogenic climate change continues and has serious consequences around the world. Growing energy demand leads to shortages, environmental pollution and global warming through the greenhouse effect. Severe impacts on ecological and social systems are expected by climate change which undermines economic development and human security, especially for poor countries and populations. Risks include sea-level rise, storms, floods, droughts, wildfires, and other weather extremes which affects the lives of millions of people. Global warming is exacerbating environmental problems such as water scarcity, weather extremes and species extinction, threatening agricultural production and degrading the livelihoods of people worldwide. It can increase tensions and, together with other causes, become a driver of forced displacement.

Natural and social systems are exposed to climate-related hazards “that may cause loss of life, injury or other health impacts, as well as damage and loss to property, infrastructure, livelihoods, service provision, ecosystems and environmental resources” (definitions here are from the glossary of IPCC 2022a, b). The effect depends on their vulnerability which is the “propensity or predisposition to be adversely affected. Vulnerability encompasses a variety of concepts and elements including sensitivity or susceptibility to harm and lack of capacity to cope and adapt”. While impacts are the consequences of interactions between hazards, exposure and vulnerability, risk is the “potential for adverse consequences for human or ecological systems, recognising the diversity of values and objectives associated with such systems” (IPCC 2022a, b). Adaptation is “the process of adjustment to actual or expected climate and its effects, in order to moderate harm or exploit beneficial opportunities” (IPCC 2022a, b). While hazard exposure can be considered less conflict related, vulnerability, impact and risk cannot, suggesting that the climate-conflict link is not a one-way road. Systems vulnerable to climate change experience risks to human life, income, well-being, health, migration and security and on societal infrastructures, assets, networks, stability and conflict. Vulnerability connects environmental risks with social conflict.

Serving as arisk amplifier or threat multiplier, climate change accelerates and combines different factors of social vulnerability (IPCC 2014), in particular for countries with primarily agrarian societies and a high economic dependence on natural resource markets. If tipping points are crossed, cascading effects can destabilise the Earth’s climate (Steffen et al. 2018) and lead to global catastrophe (Kemp et al. 2022). Conflict-relevant mechanisms include lack of water and food, natural disasters, or environmentally induced migration. The combined effect of environmental change and social conflict can exceed adaptive and coping capacities of the affected systems which aim to maintain identity and resilience of affected units. Different geographical entities have diverse identities representing different nations, cultures and religions, levels of development and urbanisation which are interconnected. Interactions can be conflicting, cooperative and mutually adaptive, affecting societal stability in ambiguous ways.

#### The alternative is an economic commitment to a planned economy. It’s mutually exclusive.

Maxi Nieto 22. Professor & Researcher, Miguel Hernández University. “Market Socialism: The Impossible Socialism.” Science & Society, Volume 86, Issue 1.

4.1. The capitalist mode of production as an “organic system.” Faced with the superficial conceptions of conventional economics and market socialists, which did not address theoretically the constitutive structure of bourgeois society, Marx understood the capitalist mode of production as an “organic system” (Grundrisse) in which the different elements that compose it implicate and presuppose each other, forming a whole that is not simply the sum of its own parts, but an articulated totality with a specific operating logic that establishes the necessary conditions for its continuous self-reproduction and development. The process of exposition followed by Marx — clearly differentiated from the process of research — takes the form of a conceptual development by which categories are derived from one another in a logical sequence, beginning with the simplest and most abstract notions and advancing to the most complex and concrete. From this theoretical-methodological perspective, Marx shows that the market and capital are two organically connected instances that presuppose one another, so that they cannot exist separately. Understood as the universal circulation of commodities, the market is the form of manifestation of an atomized production structure where autonomous business units compete with one another seeking to maximize their profits (which is to say seeking to valorize their investments as capital, the final goal of all production).

Indeed, Marx demonstrates in Capital that the “simple circulation of commodities” (colloquially, “the market”) does not constitute an isolated or autonomous sphere of social reality, and much less does it refer to some form of precapitalist organization, a system of independent producers that never really existed. On the contrary, it represents a certain dimension or particular moment of an organic totality, such as the capitalist mode of production (unity of production, distribution, exchange, and consumption), which has its own operating logic and specific laws of motion. In Marx’s analysis, the sphere of commodity circulation appears as immediately visible on the surface of capitalist society itself, therefore presupposing it to be a structural totality. Only on the basis of fully developed capitalist production does the exchange of products become a truly universal phenomenon (as opposed to the restricted character it experienced in all previous societies). Thus, Marx’s research begins from a specific aspect of bourgeois society — such as exchange relations, but abstracted for methodological reasons from the existence of capital, which appears in a second phase of theoretical construction.

In the chain of logical-theoretical implications that leads to the notion of capital in Marx, there are two fundamental steps that occupy the first two sections of Volume I. First, it is established that the general circulation of commodities requires the category of money as a universally equivalent and autonomous form of value. Then it is shown that money can only become a truly autonomous form of value if it functions as capital (that is, as “self-valorizing value”), increasing throughout its circulation thanks to the generation of surplus value in production.

Marx thus derives the category of “capital” from the simple circulation of commodities, as an ulterior development of the determinations of the category of “money” and the functions recognized in that sphere. He offers this deduction as a transit from the “C–M–C circuit,” representing simple circulation, to the “M–C–M’ circuit,” which describes the circulation of money as capital. In the first circuit, money is only an intermediary in a process whose final goal is beyond mere circulation, in the consumption of commodities and therefore the satisfaction of needs. Money loses its autonomous existence the moment it is transformed into commodities, and its circulation is interrupted. From here it follows that money can only be an autonomous form of value if it never leaves circulation, and this happens only if it becomes the very aim of circulation, as in the M–C–M’ process. This second circuit requires a transit from the sphere of circulation, in which changes are registered in the form of value (between C and M), to that of production, the only terrain where surplus value can arise — a quantitative difference between the initial and final magnitude of value.

Thus, in its most abstract and essential determination (called the “general formula” by Marx), capital is a continuous process or movement: that of the “valorization of value” or “value in process,” and as such it constitutes an end in itself, an automatic process devoid of term or limit, to which individuals and their needs are subjected. It can then be said that the subject of the economic process is not people or social agents but capital itself, which must expand indefinitely, at an ever-increasing scale, leading Marx to speak of the valorization process as an “automatic subject.” Economic life is therefore governed by an abstract, impersonal, and ~~blind~~ power that imposes its need for self-reproduction on the will and needs of people. For Marx, this automatism alien to human consideration is most characteristic of the market process, and an essential reason behind his understanding that the market can never provide a basis for the construction of socialism, which is a project of social emancipation consisting precisely of conscious and democratic control of the economic process by a population seeking the satisfaction of its needs.

Universal exchange of commodities and capital would thus be internally and necessarily connected, presupposing each other within the same structural unit. The cycle of capital — the process of expanding an initial sum of value expressed in money — includes within a general economic interrelation both the phases of circulation (buying and selling) and of production (organization of work and generation of surplus). For this reason, circulation cannot be an autonomous sphere of the economic process but the expression of a particular aspect or moment of itself. Market relations are the necessary form of articulation of an atomized production system in which labors are carried out independently of each other, without submitting to any consideration or overall plan, and whose immanent purpose is expansion of value. In short, circulation (markets) and production (capital) make up two faces or spheres of a single economic structure. It should also be noted that this competitive framework, inherent in the fragmentation of social labor into private units, not only requires profit-seeking as an end in itself but also induces compulsive accumulation, and the need for constant productive reinvestment, which determines the ungovernable and turbulent functioning of the regime of market production.

Note that in this general characterization of capital as “value in process,” “self-valorizing value,” or “automatic subject,” labor-power as a commodity has not made an appearance, and therefore neither does the social relationship between the wage laborer and the owner of the means of production — which is what market socialists consider the essential characteristic of capitalist production. From the point of view of the essential determination that we are examining, the concrete agent in which valorization can be embodied is in fact entirely secondary. Hence, Marx conceived the figure of the capitalist owner as a mere “personification of an economic category,” “capital personified,” not as a true protagonist or subject of the economic process. In this sense, the capitalist will be “merely a cog” (Marx, 1976, 739) who executes the abstract logic of capital.

Although what has historically fueled this valorization process has been, of course, the exploitation of wage labor, this could also be accomplished by different sources: for example, by cooperative workers who must supply more work than its cost of reproduction to a process they do not control, which coercively imposes upon them the blind and external force of competition. Neither the legal status of the companies nor the type of social relations (vertical or horizontal) established within them will alter in any way this market logic or the general economic dynamics that derive from it. As long as the economy continues to be based on markets, production cannot be oriented toward satisfying social needs but must be directed to the valuation of investments.

Thus, at the level of abstraction considered here, the true presupposition of capital is not labor-power (or a free worker) as a commodity, but rather competition, which “subordinates every individual capitalist to the immanent laws of capitalist production, as external and coercive laws” (Marx, 1867, 739). This leads to the tendency to lower costs, to lengthen the working day, and to accumulate or extend markets. It is competition, in short, that forces production units to extract surplus labor from the producers (whether salaried or not) in ever-increasing quantities, in order to continually consign it to the automatic movement of “accumulation for the sake of accumulation, production for the sake of production” (Marx, 1867, 742), a requirement on which survival in the market depends.

In summary: understood as the universal exchange of commodities, the market necessarily expresses an economic structure based on private control of the means of production; and it presupposes the fragmentation of the productive apparatus into autonomous business units that, in order to survive in competition, need to maximize surplus value and continually reinvest it. The fragmentation of social labor requires that investments generate more value than the production costs incurred by them.

### 1NC

#### T-Strengthen.

#### Strengthening a right is distinct from expanding the scope of a right.

Frederick Schauer 82. Cutler Professor of Law at William and Mary College of Law, JD from Harvard University, MBA from Dartmouth College (Frederick Schauer, 1982, *Free Speech: A Philosophical Enquiry*, Cambridge University Press, pp. 134-5, University of Kansas Libraries, Watson) \*Italics in original.

It would seem therefore relatively uncontroversial to assert that freedom of speech is not and cannot be an absolute tight. This broad statement, however, must be tempered by two highly pertinent qualifications. First, it is important to recognize not only the distinction but also the relationship between the strength of a right and the scope of a right. This terminology is but another way of expressing the distinction between coverage and protection that I discussed earlier, but the terms ‘strength’ and ‘scope’ are particularly illuminating here. The scope of a right is its range, the activities it reaches. Rights may be narrow or broad in scope. Defining the scope of free speech as freedom of self-expression is very broad, defining it as freedom of communication substantially narrower, and defining it as freedom of political communication narrower still. The strength of a right is its ability to overcome opposing interests (or values, or other rights) *within* its scope. This distinction is nothing new, although it is often ignored in popular dialogue about freedom of speech. The point I wish to make here is that although the scope of a right and the strength of a right are not joined by a strict logical relationship, they most often occur in inverse proportion to each other. The broader the scope of the right, the more likely it is to be weaker, largely because widening the scope increases the likelihood of conflict with other interests, some of which may be equally or more important. Conversely, rights that are narrower in scope are more easily taken to be very strong within that narrow scope. It is much easier, for example, to say that there is a very strong, almost absolute, right to purely verbal political speech than it would be to say that a right to self-expression can be as strong. Any examination of rights must first recognize this interrelationship and then try to preserve some equilibrium between scope and strength. This is easiest but not necessarily best at the extremes. Meilkejohn, for example, defined freedom of speech as freedom of political speech by those without profit motives. Within this narrow scope it was easier for him to define the right as absolute (which he did) than it would have been had he broadened the scope to include other forms of communication. Yet the more narrowly we define a right, the more likely we are to exclude from coverage those acts that may fall within the justification for recognizing the right. Freedom of speech as freedom of political deliberation gains simple absolutism at the cost of excluding much that a deep theory of the Free Speech Principle would argue for including.

#### Vote neg:

#### 1. Limits. Expanding ‘strengthen’ permits hundreds of minor expansions.

#### 2. Ground. ‘Unions bad’ presupposes existing economic structures.

#### Those outweigh. Err neg to check first and last speech AND moral high ground of ‘workers good’.

### 1NC

#### The USFG is Congress, the Executive, and Article 3 courts.

U.S. Legal 16. Organization offering legal assistance and attorney access. “United States Federal Government Law and Legal Definition.” https://definitions.uslegal.com/u/united-states-federal-government/

The United States Federal Government is established by the US Constitution. The Federal Government shares sovereignty over the United Sates with the individual governments of the States of US. The Federal government has three branches: i) the legislature, which is the US Congress, ii) Executive, comprised of the President and Vice president of the US and iii) Judiciary. The US Constitution prescribes a system of separation of powers and ‘checks and balances’ for the smooth functioning of all the three branches of the Federal Government. The US Constitution limits the powers of the Federal Government to the powers assigned to it; all powers not expressly assigned to the Federal Government are reserved to the States or to the people.

#### The aff uses bankruptcy courts, which does not meet.

Kevin Kim 18. Staff Member for the Emory Bankruptcy Developments Journal, supervised by professors Rafael Pardo and Charles Shanor. “A Constitutional Tango of Judicial Interpretation: The Instability of A Constitutional Tango of Judicial Interpretation: The Instability of Bankruptcy Court Authority under Article III Bankruptcy Court Authority under Article III.” Emory Bankruptcy Developments. https://scholarlycommons.law.emory.edu/cgi/viewcontent.cgi?article=1069&context=ebdj

After the Northern Pipeline decision in 1982, bankruptcy courts no longer had jurisdiction over “non-core” claims in bankruptcy proceedings because these courts lacked Article III protection.113 Any grant of broad jurisdictional powers to non-Article III courts was considered an encroachment on judicial authority.114 However, in 1986, the Supreme Court was presented with another constitutional issue similar to that in Northern Pipeline, but this time involving a different congressional act regarding the futures contracts market.115

#### Vote neg for limits and ground. Hundreds of independent courts and agencies explode the topic and delete neg offense premised on federal labor law.

### 1NC

#### States CP.

#### The fifty states and all relevant subnational entities should:

#### ---[significantly strengthen rights to collectively bargain in good faith during bankruptcy proceedings],

#### ---withold all cooperation with federal initiatives until the United States federal government [significantly strengthens rights to collectively bargain in good faith during bankruptcy proceedings],

#### ---through a limited constitutional convention, [significantly strengthen rights to collectively bargain in good faith during bankruptcy proceedings].

#### State action spurs follow on OR mounts pressure to overturn precedent, while boosting federalism.

Moshe Z. Marvit 17. Attorney and fellow at the Century Foundation, and co-author of *Why Labor Organizing Should Be a Civil Right: Rebuilding a Middle-Class Democracy by Enhancing Worker Voice*. “The Way Forward for Labor Is Through the States.” American Prospect. 9/1/17. https://prospect.org/labor/way-forward-labor-states/.

After eight years of the Republicans using a strategy of non-cooperation with President Obama, and now President Trump's open contempt for federal regulation and enforcement, many on the left have begun to push for a “progressive federalism” that relies more on state and local action on issues from climate change to minimum wage to immigration. Labor law should be included on their federalist bill of particulars, and broad federal preemption of labor law should also be challenged. Doing so would free states and cities to experiment with a variety of policies that would protect workers and more adequately allow them to exercise their rights of free association and collective bargaining at work. These experiments could then provide empirical data for national labor law reform, should the day ever come when Congress regains a taste for cooperation and compromise.

To create the ground for such experiments cities, states and unions should begin challenging the Supreme Court to reconsider the preemption doctrine that it wrote into the NLRA. Challenging preemption may lead to unlikely alliances that are not grouped easily into liberal and conservative camps. Even though the results of such a challenge would benefit labor, the promotion of federalist and strict statutory construction arguments are core principles of conservative legal thought. Getting the Supreme Court to overturn its past precedent is always an uphill battle, but it is not impossible.

Though the overall labor figures released by the Bureau of Labor Statistics show a movement in decline, labor's density and power is quite uneven. Labor is still a force in northern cities across the country, as well as major states such as California, New York, Washington, Oregon, Alaska, Hawaii, Pennsylvania, and throughout the Midwest. In many of these states and cities, laws could be passed that advance the original purpose of the NLRA—provided their hands were unbound. It is time for those concerned with workers' rights and with the future of labor in America to challenge the Supreme Court's misreading of the law.

#### Dual sovereignty ensures a flexible regulatory ecosystem necessary to check countless existential threats.

Charles Weiss 22. Distinguished Professor Emeritus and Visiting Scholar at the American Association for the Advancement of Science, former Science and Technology Adviser to the World Bank and Distinguished Professor of Science, Technology and International Affairs at the Georgetown University School of Foreign Service. Survival Nexus: Science, Technology, and World Affairs, “Playing with Fire,” Ch. 13. https://academic.oup.com/book/39185

We are needlessly allowing technology to take the world to the brink of disasters from accidental climate disruption, nuclear war, and pandemics— at the same time that we are allowing the means for controlling these technologies to erode. In effect, we are edging closer and closer to cliffs from which we have removed the guardrails. Fortunately, people are beginning to develop— or at least to think about— protections against some of these dangers.

A technology-based model of authoritarian government is being promoted and exported as a technological, economic, and political challenge to Western liberal democracies. The Internet and social media, conceived as vehicles for free exchange of information and platforms for untrammeled innovation, in some countries have become instruments of repression. At the same time, a systematic, worldwide campaign of misinformation and disinformation, spread via social and mass media, has deliberately sown distrust in the democratic process, in government, in international institutions, in science, in expertise of all kinds, and in the very idea that there is such a thing as truth. In the United States, the scientific consensus concerning climate change has been overwhelmed by misinformation and disinformation spread by political and business interests that it threatens, while public messaging regarding the CO VID-19 pandemic has been at best mixed. All this has made it difficult for people to understand the complex and dangerous new threats to the environment, to their health, to their security, and to democratic government.

Stimulating and Guiding Technological Change

Science and technology have much to contribute to the resolution of all these issues. We need better scientific understanding of the climate, of the ways in which diseases spread, and of the likely impact of gene drivers and geoengineering. We need technological innovations to prevent or cure non- communicable diseases, alleviate malnutrition, conserve resources, defend against cyberattack, and restructure our economies along more sustainable and equitable lines.

But we cannot depend on science and technology to address these issues on their own. We also need policies and institutions that not only support research and encourage technological innovation but also guide scientific research and technological change in responsible directions. This will require both “top-down” measures by national governments and “bottom-up” pressures from public opinion, from nongovernmental organizations (NGOs) and from state and local governments that are often more directly responsive to public pressure. It will need ideas and inspiration from businesses, universities, research institutes, individual inventors, and ordinary citizens, and support from public opinion and from the actions and advocacy of individuals and communities. In some cases, it will require sustained effort to resist commercial, political, and military pressures to ignore broader social and environmental problems when investing in research and innovation and to deploy technologies before at least some of their consequences are understood and anticipated. The response to the COVID-19 pandemic and the denial of the reality of climate change in a number of countries show how even the best scientific advice can be undercut by the words and actions of shortsighted, self-interested political leaders.

We need to devise limits on technological innovations like autonomous weapons and hypersonic missiles that can lead to unintended nuclear war. We need to restructure our economy and redesign our cities to end, or at least to limit the use of fossil fuels and to increase the efficiency of our use of energy and materials. We need controls on technologies like artificial intelligence, gene drivers, and geoengineering, all of which both promise major benefits and involve great risks. We need to defend ourselves against technology-based attacks on the values of freedom of thought, communication, innovation, and access to information that were embodied in the original design of the Internet and social media but are now under attack.

At the same time, we need new science and technology to develop novel approaches to environmental sustainability: improved sources of renewable energy and innovative approaches to efficient energy use. We need both to expand and to restructure our electric energy grids to electrify our economy and to improve their efficiency, reliability, and security. We need to restructure our agricultural economy, our urban infrastructure and our transportation systems. We need explicit measures to ensure that everyone can participate in the benefits of technological change. We need research and development on orphan technologies, and vaccines and cures for the diseases that mainly affect people in low- income countries. Not a small menu.

Some of these issues, like climate change, nuclear weapons, and global health, are governed by long-standing regimes, norms, and institutions that now need strengthening and refurbishing to meet new political, economic, and techno­ logical challenges. Nonproliferation and anti-missile agreements need to be restored and extended to limit or ban development and deployment of hyper­ sonic missiles, destabilizing weapons that are now under rapid development in many countries. Voluntary national limits on greenhouse gas emissions need to be urgently increased. Time is running out, and costs will be much greater the longer we take for effective action to mitigate and adapt to climate disruption. In the global health sphere, the system for emergency preparedness and pandemic control needs increased and sustained political and financial support to replace the long-standing pattern of crisis-to-crisis, feast-or-famine funding. Most low- income countries still need basic health infrastructure, both to provide health services to their population and to identify and control epidemic disease that could spread beyond their borders.

Cyberweapons, too, can quickly get out of control and wreak enormous damage on critical infrastructure, including the systems of command-and- control on which we would depend to prevent accidental escalation of a localized conflict to full-scale war. Like hypersonic missiles, the response to these weapons depends on artificial intelligence. Unlike hypersonic missiles, cyberweapons do not lend themselves to the type of verifiable arms control regime that has so far been successful for nuclear weapons. What is more, many governments op­ pose any limits on the use of cyberweapons, despite the risk they pose of acci­ dental escalation. Continued research and international discussion on how these weapons can be controlled are urgent priorities.

Geoengineering and gene drivers also take the world into uncharted terri­ tory. Their governance is complicated by the fact that they are accessible not only to governments, but also to private businesses, NGOs, and individuals. It is far from clear how decisions should be made as to whether and under what circumstances these technologies should be developed, and what criteria should govern any such decisions. Advocates for these technologies have developed roadmaps for deploying them in a way that minimizes risks. Still, there are fundamental disagreements over whether geoengineering and gene drivers should be developed and implemented at all, and there is substantial support for the idea that one or both should be banned outright. Critics have called for moratoriums until the broader questions can be explored by a broad range of worldwide stakeholders, disciplines, and cultures. However, the disagreements we have outlined will probably never be totally resolved to everyone’s satisfaction, and deployment decisions will eventually have to be made one way or the other.

The governance of the Internet and social media involves measures to pre­ serve the global Internet and to address those issues of cybersecurity that are of common concern to countries with very different political systems and very different ideas concerning civil liberties and human rights. The competition be­ tween authoritarian and democratic governments over freedom of information and innovation is likely to go on for a long time, but both sides have a strong in­ terest in maintaining a functioning global Internet and in avoiding catastrophic damage to information and telecommunication systems.

Several academies of science, research institutes, NGOs, and religious organ­ izations have proposed codes of conduct and declarations of principle to deal with the difficult philosophical, ethical, and practical issues involved in all these issues. These represent a useful beginning, and one may hope that they will reach the level of consensus that would allow them to be codified into national legisla­ tion or international agreements.

Dealing with these issues will require respect for expertise in the fields to which we have often referred: science, technology, politics, economics, business, law, and culture. We will need to incorporate scientific advice into decision­ making processes, and to acknowledge and manage the risks and uncertainties in our understanding of the science and the technology we are trying to manage, as well as in their ramifications for the larger society. There is also a need to edu­ cate governments and the public, both on the underlying science and technology and on their links to the broader context. Finally, I would urge that there is a need for an international obligation to identify areas for scientific research and technological innovation that can help to resolve these issues and to support this research with adequate financial, human and institutional resources. This last re­ quirement should become a general principle that should become part of the ac­ cepted framework for thinking about global issues and incorporated into formal agreements on these matters as a matter of usual practice.

Dealing with complex global, technology-intensive issues like these is a tall order, especially when they require democratic countries to find common in­ terest with countries with whose governments they are otherwise deeply at odds. Nevertheless, the world has faced such issues successfully before under the arguably more difficult conditions of the Cold War, which pitted two ideologically opposed superpowers against each other that nevertheless managed to agree on elaborate and technically demanding measures to avoid nuclear holocaust.

There have been major innovations since the days of the Cold War that will help with these new challenges. Civil society is a source for new ideas and new institutional arrangements. The Intergovernmental Panel on Climate Change (IPCC) and epistemic communities provide scientific advice and education on climate to international negotiators and to the public. Multi-stakeholder meetings develop “bottom-up” codes of conduct, norms, and standards that sometimes make their way into more formal government and international declarations and eventually into national legislation and international agreements. State and city governments combine forces across borders to deal with issues when their national governments shrink from action. Flexible, informal, or voluntary arrangements facilitate international cooperation in situations where binding obligations and formal agreements would be cumbersome or slow moving. Pragmatic, informal institutional arrangements arise to manage international resources when more formal institutions or agreements would be cumbersome or impractical. Private foundations support research in areas neglected by governments and intergovernmental organizations. “Innovative developing countries” like India and China develop and market profitable products for low- income people. Multinational corporations and NGOs support innovations to meet the needs of people without market power. And a billion-dollar network of agricultural laboratories develops improved technology for small-scale farmers in low-income countries.

### 1NC

#### Midterms DA.

#### The United States federal government should:

#### ---maintain and enforce Section 2 of the Voting Rights Act;

#### ---commit to and hold the 2026 midterm election;

#### ---impeach president Donald Trump.

#### Dems win the house now That’s polymarket.

https://polymarket.com/event/which-party-will-win-the-house-in-2026

A graph of a graph of a house

AI-generated content may be incorrect.

#### Delivering on Pro-Labor policies locks in working-class support for Republicans

Eyal Press 25. Writer at The New Yorker. Author of *Dirty Work*, recipient of 2022 Hillman Prize for Book Journalism. PhD in Sociology @ NYU. Puffin Foundation Fellow at the Type Media Center, previously fellow at the Carnegie Corporation and the Dorothy and Lewis B. Cullman Center at the New York public Library. “Josh Hawley and the Republican Effort to Love Labor.” The New Yorker. 5-30-2025. https://www.newyorker.com/news/the-lede/josh-hawley-and-the-republican-effort-to-love-labor

But even those who question Hawley’s motives don’t doubt his ambition, particularly as jockeying for 2028 begins. One thing he appears to recognize is that siding with unions has become popular even on the right. In March, American Compass, a conservative think tank, and YouGov conducted a survey that illustrated this fact. Among Republican respondents, the poll found that labor unions had a net favorability of eight percentage points. Among young Republicans, defined as those born after 1980, the margin was thirty-eight points. Young Republicans also overwhelmingly backed several provisions of the PRO Act that the survey tested, such as expediting the collective-bargaining process, posting information about labor rights in workplaces, and penalizing companies that violate the law.

Daniel Kishi, a policy adviser at American Compass and a former aide to Hawley, told me that the generational divide captured by the survey is mirrored among Republican elected officials, with those who entered office after the 2008 financial crisis—such as Hawley and Vance—more likely to view unfettered markets skeptically and to see rank-and-file union members as potential supporters. These officials understand that, while voters in union households still tend to back Democrats, the gap has narrowed, a dynamic that has enabled Trump to win states like Michigan and Pennsylvania. Some Republicans are even beginning to see the labor movement’s leaders as allies, rather than as Democratic operatives who will turn out the vote for their opponents—in particular Sean O’Brien, the general president of the International Brotherhood of Teamsters, who spoke at the Republican National Convention this past summer. Kishi believes that enacting some of the pro-union reforms that drew support from young Republicans in the American Compass survey could solidify the political realignment that has occurred in recent years, leading more and more blue-collar workers to view the Republican Party as their home.

Thus far, of course, what the Trump Administration has prioritized is not passing such reforms but selling influence to wealthy patrons and granting unchecked power to billionaires including Elon Musk, whose Department of Government Efficiency fired thousands of federal employees who are union members. On March 27th, Trump issued an executive order that cancelled the union contracts of nearly a million federal workers. The order is “by far the largest single action of union-busting in American history,” the labor historian Joseph McCartin recently told the Center for American Progress, which has estimated that it ended collective-bargaining rights for one of every fifteen workers currently protected by a union contract. Trump’s tax-and-spending bill contains a few measures designed to appeal to low-income workers, such as eliminating taxes on tips and overtime pay. But assessments by the Congressional Budget Office and other nonpartisan sources show that the benefits will go mainly to the wealthiest households, while the poorest ten per cent of Americans will see their income decline.

#### Dem house restrains Trump, solving a slew of existential threats.

Mitch Jackson 25. J.D., Western State College of Law, California Lawyer Attorneys of the Year (CLAY) Award, Attorney at Maneuver Mediation law firm. “The 2026 Midterms Could Save America — If We Show Up.” Uncensored Objection. 5/29/2025. https://mitchthelawyer.substack.com/p/the-2026-midterms-could-save-america

This is an urgent and unflinching call to action that argues the 2026 midterms may be our last, best chance to stop Donald Trump’s dangerous grip on power, restore constitutional checks and balances, and protect the future of American democracy. With Congress currently enabling the White House, the piece lays out in plain, forceful terms how a Democratic majority in the House and Senate could block further damage, reverse harmful executive actions, hold corrupt officials accountable, and defend fundamental freedoms under siege.

It connects the dots across the economy, environment, global alliances, civil rights, and the rule of law, showing how much is at stake and how much power voters still hold. For anyone who thinks their vote won’t matter, this article makes one thing clear: it absolutely does.

How Do You Feel Right Now?

I’m going to be honest: like many of you, I’ve felt a knot of worry in my stomach when I think about our country lately. Over the past several months, I’ve heard friends and neighbors say they’re discouraged, that they feel our democracy is slipping away. I understand that fear deeply, because I feel it too. But I’m not writing today to dwell on despair. I’m here to share a path forward.

We are not powerless. We, the everyday Americans, have the ability to change the course of history in the 2026 midterms. By voting for Democrats to take back the majority in both the House and Senate, we can restore the checks and balances that safeguard our democracy and begin to repair the damage being done right now. This isn’t just a political preference; it’s a democratic necessity. It’s how we save our democracy from a real and present danger.

Democracy at the Brink

President Donald Trump’s return to the White House in 2025 has brought our nation to a crisis point. In just a short time, his actions and rhetoric have inflicted serious harm on the pillars of American democracy.

We’ve watched as he casts aside constitutional norms and treats the presidency like a personal fiefdom. He’s openly undermining the rule of law, pardoning those who committed violence in his name and urging his Justice Department to target political rivals. He’s using words like “vermin” to describe his opponents and calling the free press the “enemy of the people,” language that shocks me as an American. This is not normal disagreement or routine politics; it’s an assault on the values that hold us together.

Our economy, too, is caught in the crossfire of chaos. Instead of working to lower costs for working families, Trump and his allies in Congress have focused on tax breaks for billionaires and gutting programs that everyday people rely on. They tried to slash health care for millions by cutting Medicaid, and they even moved to shrink food assistance for struggling families. While costs of groceries and gas went up for us, the only “plan” from this leadership has been more breaks for the wealthy and leaving the rest of us to fend for ourselves. It feels like the powerful are playing a different game entirely, one that leaves regular folks behind.

Socially, the fabric of our nation is being pulled apart. Rather than seek common ground, this administration doubles down on dividing us, by race, by religion, by who we love or where we come from. Hate crimes and violent extremism have been emboldened by wink-and-nod encouragement from our nation’s highest office.

Instead of firmly denouncing white supremacists and conspiracy theorists, Trump often echoes their slogans or welcomes their support. It’s no wonder so many Americans feel a sense of dread and disunity. We are all tired of the constant outrage cycle and the feeling that we’re at each other’s throats. This is not the America we know and love, where despite our differences we used to believe we were on the same team.

Internationally, the United States’ standing has plummeted. Longtime allies are questioning whether they can rely on us, as President Trump cozies up to dictators and strongmen around the world. He has hinted at abandoning NATO and other alliances that have kept us safe for generations.

He pulled back on global agreements, like those on climate and human rights, leaving America isolated on the world stage. I can’t tell you how heartbreaking it is to see the country that once championed democracy and freedom now shaking the confidence of our friends and giving comfort to our adversaries. When America doesn’t lead with its values, the world becomes a more dangerous and unstable place.

All of this sounds dire, and it is. We have to face that truth head on: our democracy is at the brink. The Constitution, the economy, our unity as a people, and our global reputation are all under assault by a president who will stop at nothing to aggrandize his own power. It’s easy to feel hopeless hearing that.

But here’s the thing I want you to remember: this story isn’t over. We are not helpless spectators. America’s strength has always been the ability of its people to course-correct, to come together and insist on change when it’s needed most. And right now, what’s needed is a restoration of checks and balances. We need a Congress that will stand up and say no to this march toward authoritarianism and division. We need a Congress that works for us, the people, not for the president’s whims.

Checks and Balances: Why Congress Matters So Much

When the founders of our nation wrote the Constitution, they were deeply worried about any one person having too much power. That’s why they built a system of checks and balances, so no president could act like a king.

The legislative branch, Congress, was given the duty to be the people’s voice and a check on the executive branch. In plain terms, it’s Congress’s job to rein in a president who goes off the rails. For most of our history, this system has (more or less) worked. No matter which party a president came from, Congress was there to question, to oversee, and sometimes to say “hold on, that’s not right.” Checks and balances are the brakes on the car when the driver is speeding toward a cliff.

Right now, those brakes aren’t working. With Trump in the Oval Office and his party holding slim majorities in the House and Senate, the usual safeguards are failing. Instead of putting country over party, too many current congressional leaders have chosen to be rubber stamps. They’re either too afraid or too complicit to stand up to the President’s worst instincts.

We’ve seen congressional committees that should be investigating genuine problems instead wasting time targeting the President’s perceived enemies or spreading his preferred narratives. We’ve seen silence or shrugs in response to blatant abuses of power. This lack of pushback is exactly what enables the dangerous trajectory we’re on. When one party controls all levers of government and refuses to police its own leader, the checks and balances are effectively gone.

But here’s the hopeful part: we can fix this by changing who’s in Congress. In our democracy, the people are the ultimate check. If our representatives won’t do their job, we can fire them at the ballot box.

By electing a Democratic majority to the House and Senate, we will restore the balance that our system needs. I’m not talking about giving one party power just for the sake of it. I’m talking about ensuring that someone in power is finally willing to stand up to the president and say, “Enough.” We need lawmakers who will actually perform oversight, who will act as a co-equal branch of government instead of a subordinate.

Throughout history, there have been moments when Americans chose a new Congress to correct the course of a runaway presidency, and it worked. I think of 1974 after Watergate, or the 2018 midterms after Trump’s first two years, when voters elected a House that could hold the administration accountable. Those were turning points that pulled our country back from the brink. We have that same kind of moment before us in 2026. By voting for Democrats, we aren’t handing power to a party so much as we are reclaiming power for the people, via a Congress that will actually do its job.

The Powers Congress Can Use to Stop the Damage

How exactly can Congress constrain a president gone rogue? It’s important to understand that the legislative branch has real, tangible powers, tools that, in the right hands, can halt abuse and even begin to undo it.

If we flip the House and Senate, a Democratic-controlled Congress can deploy these powers on our behalf. Here are the major ways Congress can act as a safeguard:

Oversight and Investigations: Congress has the authority to oversee the executive branch. This means they can hold hearings and launch investigations into misconduct, corruption, or unconstitutional actions by the President or his administration. With a Democratic majority, those committees investigating would no longer turn a blind eye.

They can shine a bright light on what’s been happening behind closed doors. Think about the power of truth, when wrongdoing is exposed in the public eye, it becomes a lot harder for it to continue. Hearings can reveal, for example, if officials are abusing power, if taxpayer money is being misused, or if rights are being violated.

We saw this work in the past: it was congressional investigations that uncovered the Watergate scandal long ago, and more recently, a Democratic-led House in 2019 was able to investigate and impeach Trump over abuse of power. Oversight is a way of saying, “We’re watching, and you will be held accountable.”

Subpoena Power: As part of oversight, Congress can issue subpoenas to compel witnesses to testify and produce documents. This might sound technical, but it’s basically the power to force the truth out into the open.

Right now, a lot of truth is being hidden from the American people, whether it’s details about backroom deals, communication with foreign powers, or internal decisions that affect all of us. A Congress willing to use subpoena power can drag those facts into the sunlight.

For instance, if there are allegations that the administration is using government agencies to persecute political opponents or that officials are violating ethics laws, subpoenas can bring those officials before Congress to answer under oath. It puts a real check on abuse because lying under oath is a crime, and refusing a lawful subpoena can lead to contempt charges. In short, subpoenas are how Congress says, “You must tell the truth, whether the president likes it or not.”

The Power of the Purse: This is one of Congress’s most critical powers. Only Congress can appropriate money for government operations. In practice, this means if the President wants to fund a controversial project or enforce a harmful policy, a determined Congress can say, “Not with taxpayer dollars, you won’t.” A Democratic majority could block funding for any number of Trump’s harmful initiatives.

For example, if Trump issues an executive order that hurts the environment or sets up some kind of overreaching task force to target his critics, Congress can pass a budget that explicitly prohibits spending money on that. On the positive side, Congress can direct funding toward the things that help people, education, healthcare, disaster relief, infrastructure, and away from things that do harm. It’s an immense leverage point. Even the most powerful president cannot spend money that Congress refuses to provide. By controlling the purse strings, a Democratic House and Senate can effectively stop many of the damaging policies in their tracks.

Legislative Authority (Passing and Blocking Laws): Congress is the only branch that can make federal laws. With a majority, Democrats could block any new laws Trump’s allies try to push that would hurt our democracy or rights.

Think about proposals that may be on the table: a national abortion ban, cuts to Social Security or Medicare, laws undermining voting rights, or extremist cultural laws that attack LGBTQ citizens or other groups. Right now, those kinds of bills might have a chance. With a Democratic majority, they would never see the light of day.

Blocking bad legislation is vital, it prevents further damage. But it’s not just about defense. A new majority can go on offense by passing bills that protect our democracy and our people. Now, it’s true that Trump as president could veto bills he doesn’t like, but passing them still matters. It forces a public conversation and pressures even members of his party to take stands. In some cases, if enough Republicans feel the heat, Congress could even override a veto.

For instance, a law to safeguard elections or to help veterans shouldn’t be something a president vetoes without paying a political price. A Democratic Congress can put good legislation on his desk and dare him to reject it. And in any must-pass bills (like funding the government), they can include provisions that rein in abuses, knowing the President has to sign or face a shutdown that he’d be blamed for. In these ways, writing and shaping laws gives Congress immense power to direct the country’s course.

Advice and Consent (Senate’s Confirmation Power): The Senate has a unique role in confirming or rejecting the President’s appointments for key positions, from Cabinet secretaries to federal judges, including Supreme Court justices. If Democrats have the majority in the Senate, they can ensure that unqualified or extreme nominees don’t get rubber-stamped into lifetime judgeships or critical agency roles.

### 1NC

#### Advantage CP.

#### The United States federal government should:

#### ---Significantly tighten access to bankruptcy discharge.

#### ---citing international custom, declare it is impermissible to [significantly strengthen rights to collectively bargain in good faith during bankruptcy proceedings].

#### That bans the plan, getting cases into civil systems and stemming a burgeoning consumer debt crisis.

Giacomo Elqueta 13. Assistant Professor of Private Law, University of Roma Tre. “The Paradoxical Bankruptcy Discharge: Rereading the Common The Paradoxical Bankruptcy Discharge: Rereading the Common Law- Civil Law Relationship.” Fordham Archive of Civil Law. https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1384&context=jcfl

This Article shows the limits of the highly ideological U.S. debate on consumer bankruptcy and challenges the wisdom of both the progressive and law-and-economics bodies of scholarship. In particular, the study employs a descriptive analysis of consumer bankruptcy discharge informed by behavioral law-and-economics methodology in order to show how bankruptcy shapes debtors’ behaviors. This Article argues that bankruptcy discharge, traditionally regarded in common law legal systems as a pro-debtors remedy, in its most liberal extension, instead becomes a powerful incentive toward over-indebtedness and therefore, a profitable legal device for financial institutions.

Further, this Article argues that civil law legal systems, which are typically considered pro-creditor due to their much stricter approach toward consumer debt, present an opposite picture: a much less-indebted middle class and a less fertile soil for creditors. By demonstrating the paradoxical effects of the common law and civil law approaches to consumer debt, this Article challenges the traditional wisdom according to which the civil law tradition—based on the “universal patrimonial liability” rule for debtors—is purely a pro-creditor system while the common law tradition—faithful to a liberal notion of bankruptcy discharge—is a pro-debtor one.

This assertion lays the foundation for a new normative analysis of bankruptcy discharge that suggests that in order to truly protect debtors, contrary to traditional progressive ideas, it is necessary to adopt a less paternalistic approach that considers the incentives that bankruptcy discharge poses to debtors. This ex ante perspective, different from the one supported by law-and-economics scholarship, arrives at the conclusion that in order to ultimately make debtors safer, it is necessary to tighten access to bankruptcy discharge and restore the mechanism’s original founding principle of protecting only the honest but unfortunate debtor, not any over-indebted individual.

#### Otherwise, consumer financial distress hamstrings readiness.

Scott Carroll 14. UC Davis Professor and Researcher at NBER. “In Harm’s Way? Payday Loan Access and Military Personnel Performance.” *Oxford Society for Financial Studies*. October 28, 2014. https://faculty.econ.ucdavis.edu/faculty/scarrell/payday.pdf

Our outcome variables are three measures of military personnel performance and retention for the universe of enlisted members of the Air Force, covering all airmen stationed at sixty-seven domestic Air Force bases in thirty-five states for the time periods 1996–2001 or 1996–2007 (depending on the outcome). One measure captures what the military considers critically poor job readiness: the presence of an Unfavorable Information File (UIF). Another measure—re-enlistment eligibility—provides a summary statistic for job performance because airmen are only eligible to re-enlist if their job performance has been satisfactory. A third measure—re-enlistment itself—could be affected independent of the eligibility channel if payday loan access changes outside options for airmen.

These outcome variables let us generate, to our knowledge, the first plausibly causal evidence of links between consumer financial access and workplace productivity. This is topical given the growing interest among firms, policymakers, and nonprofits in expanding employer financial intermediation beyond retirement savings to “financial wellness” more broadly.

Of course, job performance is only one outcome class among many that might be affected by high-interest borrowing. Unfortunately, we lack data on other outcomes, although we present some descriptive evidence on links between payday borrowing and financial distress in Section 5.3.

We find some evidence that payday loan access adversely affects job performance and readiness. Access significantly increases the likelihood that an airman is ineligible to re-enlist by 1.1 percentage points (i.e., by 3.9%). We find a comparable decline in re-enlistment. Payday loan access also significantly increases the likelihood that an airman is sanctioned for critically poor readiness by 0.2 percentage points (5.3%). The effects are strongest among the most junior (first-term) airmen and those in non-finance occupations (i.e., among those who plausibly lack financial sophistication or experience).

Descriptive evidence does not support the hypothesis that these declines are mechanically driven by military rules that penalize servicemen for borrowing or loan delinquency independent of job performance. Rather, the evidence is more in line with the DoD’s hypothesis that payday loan borrowing creates productivity-sapping distractions, such as exacerbated financial distress or taking a second job to service the debt.

#### Financial readiness averts extinction.

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Limits to military superiority

Any developments that weaken the US economy and the role of the dollar could also affect the United States’ ability to preserve its military superiority. China is in the middle of an extraordinary defense buildup that is challenging US strategic positions in the Indo-Pacific theater. Moreover, the Ukraine war has led to stepped-up cooperation between Russia, Iran, and North Korea (which has been contributing troops to compensate for Russia’s losses), and China increasingly supports Russia’s armament efforts by supplying it with drones and dual-use technology.

The United States and Europe have also been pushed on the defensive in Africa as China, especially, has made strategic inroads there, as have Russia, India, and countries in the Persian Gulf. Many countries are looking to China for help in developing their energy and transport infrastructure, imports of low-cost consumer and investment goods, and market access for their own exports, allowing the use of strategic ports and other locations in exchange.

At the same time, China has a hold on supply chains involving critical raw materials, controlling 85 percent of the world’s refined rare earth materials, which are crucial for high-tech military technologies. If made unavailable to the United States, this could significantly complicate the production of advanced weaponry. The global processing capacity for critical raw materials is also highly concentrated in China, providing it with means to influence market prices and access, and creating supply chain vulnerabilities and dependencies.

Advances in military technology toward low-cost weapons, lower procurement costs in competitor countries, and a relative decline in US manufacturing capabilities (e.g., in shipbuilding) pose significant challenges to US military strength. While the United States retains a large nominal advantage in military spending over other competitors, the discrepancy is smaller when considering cost differences; in other words, the United States has a smaller advantage in real terms than suggested by simple budget comparisons (see Figure 3).

In fact, a recent congressional review of US defense strategy has raised concerns that the United States is not ready for a multifront war spanning theaters in Europe and Asia. US forces have also been slow to adopt new battlefield technologies, including a trend toward autonomous weapons systems, which will take considerable time to redress. In addition, the end of the New START treaty in 2026 could trigger a nuclear arms race that would force the United States to expand its nuclear forces after decades of deep cuts.

While the United States is still the only country able to project military power at any point in the world, it is unlikely to be able to respond to these challenges on its own. The room to dedicate additional fiscal means to the US defense budget is increasingly circumscribed by growing interest and entitlement spending (see Figure 4), and even under optimistic assumptions, there is a risk of strategic overreach for the United States, given the magnitude of challenges across different regional theaters.

#### Meanwhile, the counterplan declares the aff’s protection of unions impermissible, revitalizing international custom.

Kushtrim Istrefi 25. Assistant Professor of Human Rights Law and Public International Law with the Netherlands Institute of Human Rights (SIM) at Utrecht University. Luca Pasquet. “Mind Your Attitude: The Erosion of International Law?” https://www.ejiltalk.org/mind-your-attitude-the-erosion-of-international-law/

In international law, however, attitude plays a significantly different role in shaping norms, influencing the use of international institutions, and determining the authority of law. What States think is a crucial factor in the formation of customary international law. Opinio juris – the belief that a practice is legally required – is shaped by State attitudes and perceptions. Moreover, consent, the foundation of international legal obligations, can be expressed through various means, including tweets, public statements, and even phone calls. This makes language a critical element of international law. In fact, international law is fundamentally dependent on words and attitudes.

According to the International Court of Justice (ICJ), the attitude of States more than their actions determine the strength or weakness of the validity of legal norms. Addressing the issue of repeated violations of international law, the ICJ in the Nicaragua case stated that:

“If a State acts in a way prima facie incompatible with a recognised rule, but defends its conduct by appealing to exceptions or justifications contained within the rule itself, then whether or not the State’s conduct is in fact justifiable on that basis, the significance of that attitude is to confirm rather than to weaken the rule”.

As Hart observed, a legal system can only exist if its secondary rules are “effectively accepted as common public standards of official behavior by its officials” (p 116). Thus, beyond the question of compliance, in order to understand the relevance of international law in international affairs, one must ask whether States are still willing to use the language of international law to define what is permissible in international politics.

The attitude of States towards international has not always been amicable. Jens David Ohlin, in his book Assault on International Law, shows concerted efforts made by State officials, legal advisers and academics to undermine international law and its compliance. However, these assaults – driven by self-interest – targeted specific norms and institutions. There is a fundamental difference between contesting specific rules of the game and refusing to play the game as a whole, and while the examples discussed by Ohlin seem to mostly illustrate the former attitude, recent developments seem to highlight a growing tendency towards disregarding the international legal system in its entirety. Looking at the current global affairs, the general attitude of certain powerful States towards international law has never been worse. According to the US President Trump, “[h]e who saves his Country does not violate any Law”. Reading this in the context of his recent statements and narrative one can easily conclude that Mr Trump is not referring to circumstances precluding wrongfulness under ARSIWA when he refers to actions that justify saving the country. Instead, it suggests that national interests, whatever they imply, may justify any kind of action in international affairs. On this ground, he has not excluded the possibility of the use of force to take over Greenland and has threatened other neighbouring countries.

Attitude is usually matched with behaviour, and it is this combination that may erode international legal order as a whole. Sanctions against the International Criminal Court (ICC) aim to paralyse an international organisation and send a clear message against international accountability. The recent approach of Mr Trump with regards to Russia-Ukraine peace talks further undermines not only the position of Ukraine, but of international law as a whole. By favouring a negotiation where everything is on the menu, we disregard the fact that acquisition of territory through aggression is prohibited under international law, the obligations to ensure reparations, and that there should be international criminal responsibility for international crimes. This attitude also suggests that amnesties for international crimes are open to negotiation, and power sharing arrangements incompatible with human rights could be accepted.

This new attitude of disregard for international law is matched with a new attitude of rubbish justifications for breaches of international law. In the wake of Russia’s aggression against Ukraine, Fuad Zarbiyev, argued that the most remarkable thing concerns Putin’s attitude towards international law. Zarbiyev distinguishes lies, used by other States in relation to other breaches of international law, and the bullshit argumentation in the case of Russia’s invasion of Ukraine:

“the allegations of the United States about the development of weapons of mass destruction in Iraq and the latter’s links with terrorist organizations were lies because even though they were factually inaccurate, they were made with an eye on the truth. In contrast, Russia’s allegations about the genocide in Ukraine are bullshit because they were made without the slightest attention to or concern with the truth. But more generally, I submit that all the justifications put forward by Russia in connection with the invasion of Ukraine are situated vis-à-vis international law exactly how bullshit is situated vis-à-vis the truth: they are not on either side of the game of international law”.

Zarbiyev reminds us that “there are justifications and justifications… [and] taking Putin as offering international legal justifications would be adding insult to injury.”

Attitudes and behaviours are contagious, and this is especially so when it concerns the actions of powerful States. According to philosopher René Girard, humans’ ability to copy each other was the characteristic that most differentiated us from other animals. In his view, imitation also explains our desires – they are copied from others, either consciously or unconsciously. Following on Girard’s work, Pieter Thiel claims that China and the United States are increasingly becoming ‘mimetic doubles’ of each other. As they compete more strenuously to be the world’s number one power, and mirror each other’s strengths in order to advance that goal, they will inevitably become more and more alike – and their mutual antipathy will grow.

The fact that the attitude of disregard for international law characterises the approach of global superpowers is particularly worrying. The capacity of international law to inform the behaviour of States is in fact largely dependent on the willingness of the most powerful States to observe and engage with international law. In The Concept of Law, Hart stressed that while “no individual is so much more powerful than others, that he is able, without cooperation, to dominate or subdue them for more than a short period’, in ‘international life’ there are ‘vast disparities in strength and vulnerability between the states” (p 195). Whereas the “approximate equality among individuals would [make] obvious the necessity for a system of mutual forbearance and compromise which is the base of both legal and moral obligation, the inequality between the units of international law is one of the things that has imparted to it a character so different from municipal law and limited the extent to which it is capable of operating as an organized coercive system” (ibid). Although the pessimistic stance of Hart towards international law is well-known, it is hard to deny that the disparities among States make it necessary to involve powerful States in international institutions, and in the game of international law more at large. To provide an illustration, the veto power of the five permanent members of the Security Council was the price that the international community was willing to pay in order to ensure the survival of the UN project despite macroscopic power disparity. Acting within the framework of international law is, we contend, in the best interest of every State, including the most powerful ones. However, given the de facto inequality among States, it is not impossible to imagine a world where regional powers play their own individual games, opting out from or simply ignoring universal legal rules and principles.

Since the end of WWII, our discipline was based in a belief that when a State feels compelled to justify its actions in terms of international law, it acknowledges rather than disregards its relevance. At times international law was used only as a performative act, but other times it has also encouraged behaviour of compliance, solidarity and cooperation. Most importantly, it has ensured that international law is intact, despite flaws, weakness and moments of desperation.

International lawyers have traditionally criticised the ‘hypocrisy’ of international actors which deliberately violated international norms while speaking the language of international law and human rights. However, it would be a mistake to believe that the disregarding attitude of some States towards international law is just a more direct way to conduct business as usual. Despite its undesirability, the hypocritical use of international law preserves the grammar, categories and criteria of international law for future use and signals that international law continues to be perceived as an authoritative discourse. By contrast, the alternative put forward by some actors seems to consist in a logic where everything that is physically possible is acceptable if it serves national interest.

The current attitude toward international law brings a new and unprecedented challenge to the world legal order. It undermines international law as a basis for resolution of disputes in international relations, and makes international institutions redundant in their task to ensure and monitor compliance. History of the 1930s and the end of the League of Nations teaches us that the end of such rules and institutions has a potential to produce horrors that we have witnessed twice in the past century. It is precisely because of the latter that all States must react against the bullisation of international law, and step in to protect international law and institutions. The response of 79 States in support of the ICC against the US sanctions, and the recent UN General Assembly resolution condemning Russia’s aggression against Ukraine, despite and especially considering the US, Russia and China’s objections, are a move in the right direction. European States have the power and platforms to do more in this regard, and the Global South can be a valuable partner in ensuring that the conversation on reform is distinct from one that undermines international law.

#### Declaration of CIL as prior and binding without state consent crystallizes a generalized legal order that’s necessary to respond to existential threats

Dr. Rebecca Crootof 16, PhD in Law from the Yale University Graduate School of Arts and Sciences, JD from Yale Law School, Executive Director of the Information Society Project, ISP Research Scholar, and Lecturer in Law at Yale Law School, “Change Without Consent: How Customary International Law Modifies Treaties”, Yale Journal of International Law, 41 Yale J. Int'l L. 237, Summer 2016, Lexis

This Article challenges that presumption by presenting situations where customary international law has both lessened and expanded states' treaty rights and obligations, thereby supporting the few scholars who have posited - usually in purely theoretical works - that customary international law may modify treaties. By advancing a doctrinal justification for such modification based on lex posterior, this Article also contributes to the growing literature questioning whether the legitimacy of the binding nature of international legal obligations can be grounded solely in state consent. This argument is novel to the extent that it presumes that general - rather than universal - acceptance of a new customary rule may be sufficient to work a treaty modification, thereby avoiding the holdout problem inherent to multilateral treaty modification under the Vienna Convention's consent-focused rules (whereby a single state can upset the consensus of the majority).

Finally, this Article advances the counterintuitive argument that this less consensual basis for treaty modification requires a state to engage in more consensus-respecting conduct. When a state wishes to argue against a traditional understanding of a treaty provision, the usual approach of adaptive interpretation - attempting to reinterpret a treaty's text to permit an action previously understood as forbidden - actually encourages states to act unilaterally and risk destabilizing the international legal order. In contrast, a state that bases its legal argument on the claim that the treaty has been modified by subsequently developed customary international law will have to identify and engage in coalition-building conduct.

Part I reviews how treaties were historically relatively flexible bilateral agreements concluded against a stable background of default customary international law. While foundational customary norms and bilateral agreements are still the norm, today's international legal structure is complicated by a proliferation in multilateral treaties and an increasing demand for international regulation of new areas, technologies, objects, actions, and ideas. In the absence of directly relevant treaty law, and in need of reliable guiding principles, states are developing practices standardizing their rights and duties in these new spheres. As a result, treaty text is increasingly running up against conflicting state action and swiftly developing customary international law. Part II describes consent-based means of modifying treaties and concludes that these traditional methods do not legitimately resolve all conflicts between treaty and later-in-time customary international law. Part III demonstrates that the possibility of treaty modification by customary international law has long existed in the international legal structure and evaluates different doctrinal justifications for such modification. Part IV employs the threatened U.S. unilateral use of force in Syria as a case study to tease out the relative benefits and drawbacks of these different means of treaty modification.

I. A New International Legal Order

Customary international law and treaty law are the two primary sources of international legal obligations. Sometimes they operate independently, governing particular fields; sometimes they serve as mutually reinforcing regulations; sometimes one fills the other's lacunae; sometimes they mandate apparently contradictory actions. As this Article is concerned with how customary international may modify treaties, this Part traces how, due to ideological, geopolitical, and technological developments, the relationship between these two sources of international legal obligations has grown more complicated and more prone to conflict.

[\*242]

A. The Classic Account

1. Stable Customary International Law

A rule of customary international law is recognized as existing when states generally engage in specific actions (the "state practice" requirement) and accept that those actions are obligatory or permitted (the "opinio juris sive necessitatis" element). Thus, unlike custom in many domestic legal systems, which derives much of its authority from its long-standing nature, customary international law has no formal temporal requirement. Instead, a rule of customary international law is authoritative because states generally abide by it in the belief that it is law.

That being said, because of the generalized state practice requirement, customary international law was slow to develop in a world of limited communication and sporadic technological advances. Accordingly, historic customary international law comprised long-established, well-known, and relatively fixed rules governing relations among all states. It regulated the recognition of new states and state responsibilities; the exchange of diplomatic counsels and their immunities; the conduct and resolution of wars; the creation, interpretation, and termination of treaties; and other subjects associated with state interaction.

2. Flexible Treaties

Against this background of static customary norms, states concluded [\*243] bilateral treaties - written documents memorializing agreements between two states - clarifying their respective legal rights and duties. These treaties were relatively flexible legal regimes: they could be modified or terminated with the consent of states parties, by the conclusion of a subsequent, conflicting treaty between the same parties, by the denunciation of one party after a material breach by the other, or by a fundamental change in circumstances or other supervening event resulting in the impossibility of performing a promised legal obligation. Additionally, certain types of treaties - for example, commercial or trading treaties or treaties of alliance - were generally presumed to allow for unilateral denunciation. Accordingly, treaties have long been celebrated as a source of adaptive positive law that reflects states parties' needs.

B. The Modern World

Today's international legal structure is far more complicated. Certain customary rules still serve as background defaults governing many areas of state interaction, and the majority of new treaties are still bilateral. But two factors - the rise of multilateral treaties and swiftly developing customary international law - have changed the dynamic between treaty and customary international law, resulting in treaties sometimes being the fixed backdrop against which new state practice and norms develop.

1. Constitutive Treaties

The past century has seen a dramatic rise in multilateral treaties - treaties [\*244] concluded by multiple countries that often aspire to universal participation. As early as the 1920s, scholars were recognizing that there were "an increasing number of multilateral treaties." According to one study, eighty-six multilateral treaties were concluded in the century between 1648 through 1748 - but more than two thousand such treaties were concluded in the twenty-five years between 1951 and 1975! This proliferation might be traced to a growing conviction that certain global problems - including combating the training and financing of transnational terrorist organizations, minimizing human-driven climate change, and reducing the development or use of weapons of mass destruction - are best addressed through global solutions.

### 1NC

#### Security K.

#### The 1AC embodies violent security logics, shaping reality and subjectivity. Vote neg for rhetorical critique as revision.

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This special issue investigates the ways technical communicators employ methods, cultural frameworks, and discourses that depend on the invocation of threats to rationalize policies and procedures. These rationalizations—deployed to manage, diminish, or respond to both real and perceived dangers—are known as “security logics.” Today, such logics are utilized to support institutional and organizational decisions surrounding areas such as immigration, healthcare, law enforcement, national and international security, climate policy, reproductive autonomy, surveillance and privacy, elections, and disaster response. Although framed in the language of safety, these policies often lead to the restriction of civil freedoms, infringement of human rights, and reinforcement of systemic racial and economic disparities. Technical communicators—and the genres they operate within, such as manuals, data visualizations, reports, user experience/user interface (UX/UI) design, proposals, translations, and instructions—frequently serve as vehicles for these logics. In this way, the emphasis on safety and functionality within the field of technical communication may inherently support repressive (alongside protective) modes of securitization. This issue aims to confront how technical communication enables state, corporate, and institutional security initiatives, while also exploring how ethical approaches within the discipline can challenge dominant security narratives to foster greater justice.

Though security is often associated with protecting against threats, the term security logics refers to rhetorical and discursive practices that present and define threats—and thereby legitimize organizational and institutional actions in response. Scholars working within critical security studies examine these logics using tools such as rhetorical analysis, ethnography, and actor–network theory to understand how cultural narratives and justifications influence behavior at all levels (Anwar et al., 2020; Macías-Rojas, 2018; Salter & Mutlu, 2013). Wrange (2022, p. 577) describes security logics as a set of discursive interactions that shape identity, governance, and perceptions of threat, while Stępka (2022, p. 34) defines them as intersubjective meaning-making practices that activate a particular security mindset and influence how problems and their solutions are understood. In this context, technical communication becomes a medium through which threat perceptions and responses are made tangible via the rhetoric, imagery, and design choices that carry both symbolic and functional weight.

Securitization theory was not merely intended to describe security practices, but also to reflect on their political and ethical implications, particularly how “security” is enacted and for whose benefit (Berling et al., 2022). Accordingly, technical communication can meaningfully contribute to security studies by treating security not only as political rhetoric, but as technical labor with real-world impact. Longo (2000) notes that technical writing standards can foster surveillance-like cultures in workplaces, while Scott (2003) shows how health technologies and discourses can monitor marginalized populations. In contrast, Ding (2009) illustrates how informal risk communication during the severe acute respiratory syndrome outbreak revealed new ethical possibilities within the discipline. So far, technical communication scholars have addressed security logics mainly indirectly, through related areas such as ethics, crisis and risk communication, surveillance, and tactical communication.

Ethical concerns explore how rhetoric and documentation affect decisions and outcomes in security contexts. Katz (1992) critiqued Nazi-era technical texts for their “ethic of expediency,” a critique later extended by Stanchevici (2013) to Soviet intelligence documents. Ridolfo and Hart-Davidson (2019) analyzed the relationship between digital rhetoric and securitization in post-9/11 America. Risk and crisis communication further reveal the tension between public accountability and messaging efficacy. Scott (2003) identified harm caused by HIV risk communication, for example, while Youngblood (2012) examined the friction between transparency and safety in local emergency planning. More recently, Young (2021) assessed how flaws in Zoom's UX design contributed to a data privacy failure during COVID-19. In the realm of surveillance, technical communicators may unintentionally support monitoring practices. Young (2023) highlighted the imperialist themes embedded in national security discourse, and Pflugfelder and Reeves (2024) linked surveillance to teaching strategies within artificial intelligence (AI) pedagogy. Finally, tactical technical communication offers resistance to dominant security paradigms: Randall (2022) calls for anti-utilitarian approaches, and Aguilar (2022) highlights marginalized communities’ use of indirect communication as resistance.

As the scope of security logics continues to broaden—particularly across technology, privacy, surveillance, and data use—so does the role of technical communication in these practices. This special issue invites scholars, educators, and practitioners: to critique and revise professional codes and ethical frameworks; to develop strategies for evaluating security practices; to design communication efforts that are both effective and humane during crises; and to better prepare students and colleagues to critically assess the impact of their work in relation to security logics. The goal is to promote a technical communication practice that not only recognizes its complicity in securitization but also seeks out ways to resist and reimagine it toward more equitable outcomes.

#### Their projections of imagined futures are a tactic of anxiety suppression. That turns the case and makes aff solvency impossible.

Eric Van Rythoven 19. PhD in Political Science from Carleton University. Journal of Global Security Studies and the International Studies Association and the Canadian Political Science Association. “The Securitization Dilemma.” https://academic.oup.com/jogss/advance-article/doi/10.1093/jogss/ogz028/5532523#137694797.

The most important result of this reconstruction, however, may be in how taking the tragic element of the dilemma seriously reorders the political role of the analyst. Rather than assessing the validity of a particular security discourse, or exposing its socially constructed nature, this perspective asks the analyst to provoke reflexivity on behalf of powerholders over the risks associated with securitization. While this entails a bias toward deescalation and desecuritization, unlike other approaches this is not achieved through overt references to any liberal, democratic, or emancipatory ideal. Instead, it is packaged for power-holders as a strategy of self-preservation. Here, the analyst presents the move to securitize as a risk-laden and potentially self-defeating strategy. The analyst points to a series of precedents showing how such a strategy can produce perverse consequences: how today's tough talk can become tomorrow's liability; how audiences can interpret threatening messages in unexpected ways; and how today's framing of security can lead to perverse consequences tomorrow. By foregrounding the problem of uncertainty, the analyst works to accentuate and impress upon actors the dilemmatic quality of securitizing moves. Yet, the problem with presenting the move to securitize as a risk is that it may become accepted. Ironically, framing an escalation in enmity as possible but dangerous is precisely what may legitimize such a move in the eyes of risk-insensitive actors. This is Huysmans’ (2002) now familiar normative dilemma of writing security. The indeterminacy of language means that political actors may interpret advice in unpredictable ways. Frustratingly, this may include the precise opposite of the analyst's intention. This situation is likely inescapable, but it may be mitigated. What I suggest is that analysts should strive to cultivate a deeper subjectivity of risk sensitivity, comparable to Booth and Wheeler's security-dilemma sensibility, among political actors. Key to this argument is how visions of the future satisfy the human desire for certainty. As Berenskoetter argues, “visions depicting the self in an imagined future order serve as anxiety controlling mechanisms” (2011, 654). Visions of the future inoculate actors against the anxiety of uncertainty by providing a narrative of where they are going and how to get there. Indeed, normative debates on securitization are already loaded with such visions. The impulse to securitize is underpinned by a utopian future where the security frame can finally mobilize a response to an otherwise intractable problem. Conversely, the impulse to desecuritize is sustained by a dystopian future defined by unrestrained authoritarian politics. A tragic vision of the future does something different: it presents a future where the only thing we can know decisively is that it is indeterminate and attempts to conclusively control it are vulnerable to failure. The very recognition of fundamental limits on human freedom (Steele 2007, 281–82) becomes transformed into a source of ontological security. This tempers the human need for cognitive closure by reconfiguring it into what Herz understood as a “fundamentally humble posture toward the value and precariousness of life” (Sylvest 2008, 442). An actor with a greater sensitivity to indeterminacy may still pursue securitizing moves, but with a cautious awareness that they are volatile acts best pursued sparingly. The analyst does not simply educate political leaders by pointing to the indeterminacy of the world; she seeks to make political subjects more sensitive toward it by crafting visions of a precarious future. Finally, this tragic vision cannot, and should not, escape its own need for reflexivity. Its scholarly proponents need to engage in their own process of self-reflection, focusing on how their knowledge and interests are themselves historically situated. The ethic of restraint is a value, and not necessarily the value for all historical circumstances. A recognition of the social construction of security “facts” must be sobered by a recognition of the social construction of security “values” (Hamati-Ataya 2012, 685).

### 1NC

#### Delaware CP.

#### The fifty states sans Delaware should determine that corporate directors have a duty to [significantly strengthen rights to collectively bargain in good faith during bankruptcy proceedings].

#### The counterplan alone reverses DExit

George Shepherd 21. Professor of Law, Emory University School of Law. "Not Just Profits: The Duty of Corporate Leaders to the Public, Not Just Shareholders." University of Pennsylvania Journal of Business Law, 23.3, 823-861.

The currently dominant view of the corporation ignores history, is harmful and unfair, and should be rejected in favor of the view that existed for the United States’ first 150 years. Corporate leaders should be required to manage their corporations in the public interest as compensation for the state’s granting their corporations limited liability. Without limited liability, the corporation could not exist. Only because of limited liability can a corporation raise sufficient sums from equity investors to complete its projects.85 Limited liability is a valuable resource that the government controls. As it did in the United States’ early decades, the government should distribute this resource to corporations only on the condition that corporations compensate the government for the valuable resource by operating in the public interest.

A way to assure that corporations implement this duty to serve the public interest would be to impose the duty not only on the corporation itself, but also on the corporation’s officers and directors. In other situations where the government distributes benefits to professionals, the professionals are required to promote the public interest.86 For example, state governments provide lawyers with the valuable monopoly right to sell legal services; no one other than lawyers can provide such services. In return, lawyers are required to act as “officers of the court,” and to act in the public interest. 87 Furthermore, they are held to a higher standard of behavior than nonlawyers: the state will deny a legal license to a person who has been convicted of a serious crime.88

Similarly, certified public accountants have a duty to act in the public interest.89 Again, this is appropriate because the government has provided the accountants with the large benefit of the monopoly right to perform certain accounting services.90

Corporate officers and directors too should have a duty to lead their corporations in the public interest. The states have provided corporations with the valuable benefit of limited liability. Like lawyers and accountants, corporate officers should be required to reciprocate by acting in the public interest. Because the state has provided the corporation with the benefit of limited liability, the corporation’s leader has a duty to run the corporation to benefit the public.

Perhaps this duty should be described in a way that resembles how the duty for lawyers is described. A lawyer is called an “officer of the court.” A corporate officer or director might be called an “officer of the public.”

This duty for corporate leaders to manage their corporations as officers of the public would help protect groups that are vulnerable to corporations’ behavior. A corporation might protect communities that surround its factories by not immediately closing less-profitable factories. Cigarette manufactures might choose to leave the cigarette business, even if the business were profitable.

The penalties for violating this duty would be the same penalties that punish lawyers and accountants who violate their respective ethical duties. Just as some criminal acts disqualify a person from serving as a lawyer, a person’s acts that harm the public interest should disqualify said person from serving as a director or officer of a corporation. If a corporate leader causes their corporation to harm the public interest, the government should have the authority both to remove them from their corporate position and to eliminate their corporation’s limited liability.

Although federal or state courts, especially Delaware courts, might impose this duty as part of the common law, the duty might be best imposed at the federal level, by federal statute. Otherwise, state courts and state legislatures have a strong economic interest not to impose such a requirement. A state that did impose such a requirement would be at a disadvantage in the market for incorporations in which states compete to attract corporations to incorporate there. For example, Delaware might fear that it would lose its dominance in this market if it imposed a requirement that corporations promote the public interest. Corporations would reincorporate in other states that did not impose the requirement. To assure that the requirement governs all corporations in all states, federal legislation might be necessary.91

[[Begin Shrinking for Readability]]

This is not an extreme proposal. Instead, the proposal would return corporate governance to the requirements that existed for the United States’ first 150 years.92 Until the mid-1950s, it was understood that corporations should operate in the public interest.93 The current prevailing approach of hard profit maximization is extreme, deviating from a system that had existed for almost 200 years. My proposal is conservative: it would return corporate governance to its moderate mainstream.

VII. Current Responses Are Inadequate

In the last decades, and even more recently, there have been halting suggestions that corporations assume obligations to more than shareholders. As discussed in the introduction and bibliographical appendix, scholars have made various proposals.94 Two other approaches have arisen from industry itself. First, some companies have chosen to become “benefit corporations,” also called B corporations. Second, a group of corporate leaders has suggested that corporations should have duties to more than shareholders. I discuss each in turn and explain why both are inadequate to achieve the goal of appropriate corporate responsibility.

A. Benefit Corporations

Benefit Corporations are normal corporations that have voluntarily committed to serving interests other than those of shareholders. Indeed:

Just what is a benefit corporation? A for benefit corporation has the same structure as a traditional for-profit corporation. Each has a board of directors, officers, and shareholders who own shares in the company. The officers and directors run the business, yet the shareholders can hold them accountable for the decisions they make. Shareholders have several means to do this, including filing a shareholder lawsuit.

The difference between a traditional corporation and a benefit corporation is in its purpose. A traditional for-profit corporation’s purpose is to make profits for shareholders. This means that corporate managers are judged based on the company’s financial performance. They may face shareholder action if they make decisions that sacrifice profits to achieve nonmonetary goals.

A benefit corporation still has a profit-making goal, but it also has a broader public benefit purpose: to make a material positive impact on society and the environment. Managers must work to achieve this purpose and therefore they have flexibility to make decisions that balance profits with social causes and environmental responsibility.

The first benefit corporation law was enacted in Maryland in 2010, and currently about 30 states allow them. A benefit corporation is best suited to a company that has an important social or environmental mission but also wants to generate profits. For example, Yonkers, NY-based Greyston Bakery was founded in the early 1980s to give hard-to-employ people a new chance in life. It is profitable, has stayed true to its mission, and has developed new community programs. It reorganized as New York’s first benefit corporation in 2012. 95

Additionally, while it may vary from state to state, forming a benefit corporation is no more difficult than forming a normal C corporation:

Benefit corporation laws vary somewhat from state to state but, in general, a benefit corporation must have a general benefit purpose stated in its articles of incorporation. A B corporation is formed by filing articles of incorporation with the state—the same as with a traditional corporation.

In most states, a BENEFIT ORGANIZATION must demonstrate that it is upholding its public benefit purpose by publishing an annual benefit report that assesses social and environmental performance using a third-party standard. The report must be sent to shareholders and published on the company’s website. State law also may require it to be filed with the state.

Because they may sacrifice profits in order to achieve social goals, for-benefit companies may not be as popular with investors as traditional profit-centered corporations. Owners of benefit corporations may have to develop a strategy to attract investors that value contributions to social or environmental causes as highly as they value profits.96

Whether a given benefit corporation achieves the goals that it establishes for itself is based on the honor system; by itself, registering as a benefit corporation does not require the corporation to achieve these goals. However, the corporation may also agree to monitoring by an outside entity. For example, the corporation may not only become a benefit corporation, but also become certified by an outside organization as a certified B Corporation:

Another way to show that a business is focused on environmental and social goals is to apply for B CORP. CERTIFICATION through the nonprofit organization B Lab. Certification is available to all types of businesses, including traditional corporations and LLCs. Some businesses, like King Arthur Flour Company and Greyston Bakery, are organized as benefit corporations and also are B Lab certified B corporations.

Certification involves completing an assessment that evaluates the company’s overall impact on its stakeholders. The assessment is then reviewed by B Lab staff members, who may require supporting documentation. Some companies must amend corporate formation documents or bylaws to include a general benefit purpose. B Lab also offers a free tool that can assist companies in meeting their annual benefit corporation reporting requirements.

Forming a benefit corporation can help a company fulfill a social purpose without risking shareholder action for placing social good ahead of profits. Certification and reporting requirements help business managers assess progress and set new goals. And, in an era where so many are trying to be authentic and sustainable, becoming a BENEFIT COMPANY helps you stand out from the crowd by demonstrating your commitment to your employees, your community, and the environment.97

That some corporations may choose to become benefit corporations is admirable. However, the existence of benefit corporations does not achieve the goal of imposing a duty to serve the public interest on all corporations. A corporation becomes a benefit corporation only if its organizers choose to do so. The large majority of companies that do not choose to become a benefit corporation have no enhanced duty to the public.98

B. The Business Roundtable’s Statement

The Business Roundtable is an association whose members are CEOs of major U.S. corporations.99 For decades, the group indicated that the goal of a corporation should be to promote the interests of the corporation’s shareholders.100 However, in 2019, the group issued a statement that suggested that corporations should consider the interests of a broader group of stakeholders. The “Statement on the Purpose of a Corporation” provided:

Americans deserve an economy that allows each person to succeed through hard work and creativity and to lead a life of meaning and dignity. We believe the free-market system is the best means of generating good jobs, a strong and sustainable economy, innovation, a healthy environment and economic opportunity for all.

Businesses play a vital role in the economy by creating jobs, fostering innovation and providing essential goods and services. Businesses make and sell consumer products; manufacture equipment and vehicles; support the national defense; grow and produce food; provide health care; generate and deliver energy; and offer financial, communications and other services that underpin economic growth.

While each of our individual companies serves its own corporate purpose, we share a fundamental commitment to all of our stakeholders. We commit to:

Delivering value to our customers. We will further the tradition of American companies leading the way in meeting or exceeding customer expectations.

Investing in our employees. This starts with compensating them fairly and providing important benefits. It also includes supporting them through training and education that help develop new skills for a rapidly changing world. We foster diversity and inclusion, dignity and respect.

Dealing fairly and ethically with our suppliers. We are dedicated to serving as good partners to the other companies, large and small, that help us meet our missions.

Supporting the communities in which we work. We respect the people in our communities and protect the environment by embracing sustainable practices across our businesses. Generating long-term value for shareholders, who provide the capital that allows companies to invest, grow and innovate. We are committed to transparency and effective engagement with shareholders.

Each of our stakeholders is essential. We commit to deliver value to all of them, for the future success of our companies, our communities and our country.101

As with the benefit corporation, the Business Roundtable’s statement is merely aspirational. It does not require corporations to do anything. It is a suggestion by some powerful CEOs that they might consider the interests of stakeholders other than shareholders. It does not require the CEOs to consider these other interests.

Moreover, the statement is unenforceable. If a CEO were to ignore other stakeholders’ interests and continue to focus solely on shareholders’ interests, neither the CEO nor their corporation could be punished. No one would be able to sue to enforce any rights of other stakeholders.

Looked at most favorably, the statement is a statement of aspiration that might inspire some corporate leaders to think more broadly beyond shareholder maximization. A more cynical view would be that the statement is public relations hot air, which is designed to make corporations seem more appealing, while requiring them to do nothing.

The statement does not appear to have marked a dramatic turning point in corporate behavior. Indeed, a recent study shows that, more than a year after the statement was issued, those companies whose executives signed the statement have done no better in serving the public interest than those whose executives did not sign it. 102 Corporations whose executives signed the statement did not change their objectives beyond shareholder primacy. 103

This failure is easy to understand. As before, a CEO who focused on something other than profits might soon be out of a job. Disgruntled shareholders would have them fired. Alternatively, the resultant declining stock price would make the corporation an enticing takeover target, which again would result in the CEO being fired.

As with the benefit corporation, the statement allows corporate leadership to continue on as before, but with a new public relations halo.

VIII. Corporate Responsibility And Vulnerability

Various stakeholders of corporations are uniquely unprotected from their vulnerability to the corporations.104 Often, a corporation holds large power over the workers and surrounding community, and they are at the corporation’s mercy. Workers and the surrounding community must make large investments in the corporation, which, under traditional law, the corporation can destroy at its whim, with no recourse for the workers and community. 105

A. Employees of the Corporation

Employees of a corporation must often make large investments in the corporation, the value of which the corporation can easily destroy. For example, workers often must move to a new community when the corporation hires them, cutting off valuable ties with their former communities.

Likewise, workers must invest in the specific skills that the corporation requires, skills which often will not be transferable to another corporation.

The workers and their families establish valuable social ties with institutions in the community, such as schools and churches.

The workers buy houses in the community.

The value of all of these investments will decline or even be completely lost if the corporation decides to close its local plant. If the workers are forced to move, the workers’ ties to the community will be lost. The value of the workers’ non-transferable employer-specific skills will be destroyed.

Likewise, if the corporation closes, this will cause the value of the real estate in the surrounding area to decline, decimating the value of the former workers’ homes.

Examples of this are the many workers in the industrial middle of the United States, whose lives were shattered when corporations closed manufacturing plants.

B. The Surrounding Community

Apart from the workers, the community surrounding a major corporate employer is also unprotected from its vulnerability. Families and businesses invest in the community. If the corporation leaves, the whole community is devastated.

Likewise, if the corporation begins emitting larger amounts of pollution, the community is often defenseless. Because the community depends so deeply on the corporation, the community can neither confront the corporation nor defend itself against the corporation, for fear that the corporation will leave.

Examples of communities that have been devastated by corporate decisions are present through the U.S.’s industrial middle.

C. The Environment

Because the corporation holds power over the surrounding community, the surrounding community cannot effectively demand that the corporation reduce pollution. The community fears that environmental activism will cause the corporation to leave for another area or another country. Accordingly, the environment enjoys few protections against its vulnerability.

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D. Unions

Because the corporation can threaten to leave, the corporation has effective power to destroy unions. Unions have declined as corporations have moved their factories from union areas in the U.S.’s north to non-union areas in the south. Workers have gotten the message: if you try to organize a union, the corporation will leave and destroy your community.

This is what happened when Amazon suddenly revoked its commitment to build a large headquarters near New York City. The community had made various requests that Amazon protect workers and the environment. Rather than agree to them, Amazon left. To workers and communities, the message is clear. If you request protections from a corporation, your jobs and community are at risk.

The duty that I propose in this paper would permit corporations’ workers and communities to enjoy some resilience and to be protected to some degree from their vulnerability to corporations. Corporate law presently provides many protections to shareholders who have invested in a corporation. My proposal provides protections to the workers and communities who have invested in a corporation not just with money, but with their lives. My proposal would require a corporation to consider the interests of all investors in it, including workers and the surrounding community, not just shareholders.

The proposal would also be fair and efficient. Just as it is fair and efficient for shareholders to expect a reliable return on their money investment in the corporation, the corporation should be required to attempt to provide its workers and the surrounding community with a similar reliable return on their nontransferable investment—or, at minimum, to consider in the corporation’s decision-making the workers’ and community’s interests.

IX. Conclusion

Over the past century, corporations have freed themselves of a duty that they previously had: the duty to promote the public interest. The recent development of the benefit corporation does not change this. Any publicspirited acts that corporations take as benefit corporations are purely voluntary. A corporation can choose not to be a benefit corporation. If it chooses to be a benefit corporation, it still has complete discretion whether to act in the public interest.

Likewise, the recent statement by the Business Roundtable does not impose any new duties. It merely suggests that corporate leaders might aspire to promote the interest of “stakeholders” other than stockholders. However, the statement does not specify how exactly the leaders should do this. Nor does it provide any enforcement or penalties if they don’t.

Instead, a new duty should be created for corporate leaders to act in the public interest. Just as lawyers are required to be “officers of the court,” corporate leaders should be “officers of the public.” Just as some criminal acts disqualify a person from serving as a lawyer, acts that harm the public interest should disqualify people from serving as directors and officers of corporations. If a corporate leader harms the public interest, the government should have the authority both to remove them from their corporate position and to eliminate their corporation’s limited liability.

Furthermore, if corporations violate this duty to act in the public interest, limited liability should be eliminated for that corporation’s shareholders. If the corporation fails to provide the quid, then the corporation and its shareholders should no longer receive the quo.

This new duty could be created by the courts. For example, the Delaware courts could hold that corporate directors and officers have a fiduciary duty that runs not only to the corporation, but also to other stakeholders. Just as lawyers and accountants have duties beyond serving their clients, corporate leaders would also have duties to serve the public interest.

Alternately, this public duty could be achieved through legislation. It could be done at the state level. For example, the Delaware legislature could pass a statute that imposes the new duty.

The duty could also be imposed by federal legislation.106 There would be benefits of this. With federal legislation, the duty would be consistent across all jurisdictions. In contrast, market forces would probably prevent this duty from arising in the states, either in state legislatures or state courts. No state would act individually to impose such a duty for fear of losing incorporations to other states that do not impose the duty. Accordingly, the best way to impose the duty would be through federal legislation, which applies to all states, and which gives no state an advantage in the market for incorporations.

#### Reversing DExit is key to facilitating tort claims that check corporate externalities

Michael Toth 24. Founding partner of PNT Law Firm. "Why the corporations are fleeing Delaware." The Hill. 06/12/2024. https://thehill.com/opinion/finance/4715117-why-the-corporations-are-fleeing-delaware/

Over the last few years, Delaware courts have also been increasingly receptive to cases alleging breaches of oversight by directors. Investors should beware. Corporate lawfare is an expensive distraction from business growth. And as former Attorney General William Barr and Labor Department official Jonathan Berry have observed, Delaware’s corporate-law elder statesmen “today advocate that the state should adopt a more assertive and explicitly pro-ESG corporate law.” The upshot: executives could be liable for failing to manage so-called “risks” that “correspond to du jour ESG issues like climate change, [diversity, equity and inclusion], and #MeToo — or even the 2020 presidential election.”

Delaware’s courts also affect tort law claims, because plaintiffs can file claims in the state of incorporation. Dominion, for example, filed against Fox News in Delaware. The judge, Eric Davis, imposed burdensome discovery on Fox and rejected the network’s libel defenses. According to Fox’s former general counsel, Viet Dinh, these pretrial rulings “called into question the fundamental fairness and integrity of the Delaware civil justice system.” This left the network with a Hobson’s choice between a trial that would have been “months of utter pain” and a jaw-dropping $787 million settlement.

Other states are offering businesses less regulatory and litigation risk. Tripadvisor recently said sayonara to Delaware and reincorporated in Nevada. The travel platform explained that the move would save about $250,000 a year in taxes and “provide potentially greater protection from unmeritorious litigation for directors and officers.”

It’s not the only company bailing on Delaware’s deal-killing litigation environment. Since April, reports Nevada’s Democratic Secretary of State Francisco Aguilar, “three more publicly traded companies have announced plans to shift to Nevada, and these sort of legal shenanigans are a big reason why.”

Texas shows that states can become more business-friendly through policy choices. As recently as the early 2000s, trial lawyers were one of the most powerful political forces in Texas. This was before Texans for Lawsuit Reform worked with lawmakers from both political parties and pushed through historic tort reform that energized the state’s business climate.

In the time since, Texas has continued to build on its reputation as a place where companies can count on a fair and transparent regulatory system. This September, the state’s dedicated business court, which handles derivative, corporate governance and securities claims to rival Delaware’s Chancery Court, will begin taking cases.

#### Unchecked externalities cause extinction

Jeremy Lent 22. Author and speaker whose work investigates the underlying causes of our civilization’s existential crisis, MBA from the University of Chicago, former internet company CEO, described by Guardian journalist George Monbiot as “one of the greatest thinkers of our age.” "How Corporate Dominance Is Driving Civilization to a Precipice." Resilience. 03/14/2022. https://www.resilience.org/stories/2022-03-29/how-corporate-dominance-is-driving-civilization-to-a-precipice/

Back in 1947, as the world was rebuilding from the destruction of the Second World War, a few dozen free-market ideologues met in a luxury Swiss resort to form the Mont Pelerin Society—an organization devoted to spreading the ideology of neoliberalism throughout the world. Their ideas—that the free market should dominate virtually all aspects of society, that regulations should be dismantled, and that individual liberty should eclipse all other considerations of fairness, equity, or community welfare—were considered fanatical at the time. Over three decades, though, financed by wealthy donors, they assiduously established networks of academics, businessmen, economists, journalists, and politicians in global centers of power.

When the stagflation crisis of the 1970s threw classic Keynesian economics into disrepute, their moment of opportunity arrived. By 1985, with free market disciples Ronald Reagan and Margaret Thatcher entrenched in power, they initiated a campaign to systematically transform virtually all aspects of life into an unrestrained marketplace, where everything could be bought and sold to the highest bidder, subject to no moral scruple. They crippled trade unions, tore up social safety nets, reduced tax rates for the wealthy, eliminated regulations, and instituted a massive transfer of wealth from society at large to the uber-elite.

Through their control of government, finance, business, and media, neoliberal adherents have succeeded in transforming the world into a globalized market-based system. The triumph of neoliberalism has led to the greatest inequality in history, where the world’s twenty-six richest people own as much wealth as half the entire world’s population. It also created the conditions for large transnational corporations to become the dominant force directing our world, more powerful than any government or nation. Through their influence on legislation, they have virtually eliminated regulatory limitations on their growth, their permissible industries, or their competitive playing field. Massive corporations are gobbled up by even vaster ones, creating commanding monoliths that set the terms for their own activities. Of the hundred largest economies in the world, sixty-nine are now corporations.

In today’s corporate-dominated global stage, nations and municipalities compete against each other to attract corporate investment to their region, relinquishing taxation, regulations, and worker protections in the hope of jobs or infrastructure spending. In most countries, the boundaries between corporate executives and government have become so blurred as to be virtually nonexistent. Transnational corporations control most of the world’s finance, manufacturing, agriculture, and trade, and are routinely invited to intervene in international treaty negotiations, ensuring that their interests remain protected.

A new moniker arising from the corporate titans at the World Economic Forum is “stakeholder capitalism”: an inviting term that seems to imply that stakeholders other than investors will play a role in setting corporate priorities, but actually refers to a profoundly anti-democratic process whereby corporations are assuming even more dominant roles in global governance. The UN Food Systems Summit was essentially taken over by the same giant corporations, including Nestlé and Bayer, that are largely responsible for the very problems the summit was intended to grapple with — which led to a widespread boycott by hundreds of civil society and Indigenous groups.

If this supreme global force had benevolent aims, then at least a case could be made for permitting it to retain such control over human activity. But the opposite is true. The common goal of corporations around the world is to monetize human activity and what’s left of nature’s abundance as rapidly and efficiently as possible. The overriding purpose of the world’s most powerful institutional force is thus directly at odds with a flourishing Earth or a viable future for humanity.

A fundamental reason for the rapacious behavior of transnational corporations is their drive to maximize shareholder value above anything else. While there is no explicit requirement for this in the standard corporate charter, a century of case law has entrenched this principle into the behavior of large corporations to the point that is has become the de facto standard of operation. As a result, if corporations were people, they would be considered psychopaths, utterly devoid of any caring for the harm they cause in the pursuit of their goals.

[[Figure Omitted]]

This relentless pursuit of profit and economic growth above all else has propelled human civilization onto a terrifying trajectory. The uncontrolled climate crisis is the most obvious danger: The world’s current policies have us on track for more than 3° C increase by the end of this century, and climate scientists publish dire warnings that amplifying feedbacks could make things far worse than even these projections, and thus place at risk the very continuation of our civilization.

But even if the climate crisis were somehow brought under control, a continuation of untrammeled economic growth in future decades will bring us face-to-face with a slew of further existential threats. Currently, our civilization is running at 40% above its sustainable capacity. We’re rapidly depleting the earth’s forests, animals, insects, fish, freshwater, even the topsoil we require to grow our crops. We’ve already transgressed five of the nine planetary boundaries that define humanity’s safe operating space, and yet global GDP is expected to more than double by mid-century, with potentially irreversible and devastating consequences.

[[Figure Omitted]]

The corporate takeover of humanity is so all-encompassing that it’s become difficult to visualize any other possible global system. Alternatives do, however, exist. Around the world, worker-owned cooperatives have demonstrated that they can be as effective as corporations—or more so—without pursuing shareholder wealth as their primary consideration. The Mondragon cooperative in Spain, with revenues exceeding €12 billion, shows how this form of organization can efficiently scale.

There are also legal and structural changes that can be made to corporations to realign their value system with human welfare. The pathology of shareholder value maximization could be addressed by requiring their charters to be converted to a triple bottom line of people, planet, and profits, and subject to rigorous enforcement powers. This alternative corporate value system is already available through chartering as a benefit corporation or certifying as a B-Corp. Since it is voluntary, however, it has had virtually no impact on a broader scale. If, instead the triple bottom line were a requirement for all corporations above a certain size, and strictly enforced, it would rapidly lead to a profound shift in corporate priorities.

The idea of restraining corporate domination of our society may seem daunting in the current global political environment. It must, however, begin with the clear and explicit recognition that the overarching goal of corporations is currently at odds with a healthy Earth and the future flourishing of humanity. The neoliberal model that has led our global civilization to the precipice of disaster must be supplanted by a different economic system based on life-affirming values before it’s too late.

### 1NC

#### Deference DA.

#### Courts are constraining novel NLRB rulings, but durable fiat forces the court to defer to the board. That forces the court’s hand and collapses agency independence

Alexander T. MacDonald 25. Shareholder & Co-Chair of the Workplace Policy Institute, Littler Mendelson P.C. "Is Deference to the NLRB Finally Over?" The Federalist Society. 07/09/2025. https://fedsoc.org/commentary/fedsoc-blog/is-deference-to-the-nlrb-finally-over-what-loper-bright-started-a-concurring-opinion-in-consumers-research-may-have-finished

For administrative lawyers, the October 2023 Supreme Court term hit like an earthquake. The Court handed down a series of epoch-making decisions, none more important than Loper Bright Enterprises v. Raimondo. There, the Court not only overruled one of the most cited decisions of all time, Chevron USA Inc. v. NRDC, but it also seemed to announce a new era of judicial review. No longer would courts defer to the legal judgments of administrative agencies; instead, they would decide legal questions for themselves.

Yet in some of those same agencies, the decision was met with the administrative equivalent of a yawn. Chief among the skeptics was the National Labor Relations Board, which quickly insisted that Loper Bright changed nothing. The Board maintained that it remained an “independent” agency with unique authority to articulate national labor policy. Its judgments had received deference for almost a century. So Loper Bright or not, it should continue to get deference from courts.

A year later, however, that view looks not only wrong, but diametrically wrong. In a concurring opinion in a late-term decision, FCC v. Consumers’ Research, Justice Brett Kavanaugh highlighted the danger of overbroad delegations to so-called independent agencies. He explained that these agencies occupy a uncertain place in the constitutional order, free from oversight by the president or the people. That lack of accountability makes them less trustworthy to handle the public’s business. So courts should be more, not less, vigilant in reviewing their handiwork.

That approach effectively finishes what Loper Bright started. It shows that Loper Bright left no special reserve for independent agencies. To the contrary, because of their unaccountability, independence agencies deserve the least deference in court.

Loper Bright, the Courts, and the Board

On its face, Loper Bright seemed to end the debate about deference to agencies. The Court’s logic was straightforward: In the Administrative Procedure Act (APA), Congress instructed reviewing courts to “decide all questions of law.” In other words, when the meaning of a statute was at issue, courts could not accept an agency’s interpretation at face value. Agency interpretations had no special place in the legal firmament. When it came to interpreting statutes, the only interpretations that mattered were those made by courts.

But not all agencies saw the decision that way. The Board, for one, maintained that Loper Bright didn’t even apply. In multiple court filings, the Board pointed out that it had been getting deference from courts long before Chevron was decided. As early as 1944, in NLRB v. Hearst Publishing, the Supreme Court had recognized the Board’s special role in developing national labor policy. That role came from a pre-APA statute, the National Labor Relations Act (NLRA). And it was the NLRA, not the APA, that justified deference to the Board. So to hear the Board tell it, Loper Bright changed nothing about the relationship between the Board and the courts.

To be sure, most courts have disagreed. The Fourth, Fifth, Sixth, and Tenth Circuits have all held that Loper Bright fully applies to the Board. These courts have reasoned that notwithstanding the Board’s independent status, Loper Bright requires courts to review the Board’s legal positions for themselves. Only the Third Circuit has come out differently, reasoning that the Board might still have some claim to special competence given its independence source of deference. But even that court declined to resolve the issue, instead reserving it for another day.

Consumers’ Research, Delegation, and the Accountability Gap

Those decisions mark a clear trend away from deference. But if there were still any uncertainty over the issue, it has likely been resolved by Justice Kavanaugh’s concurrence in Consumers’ Research. Justice Kavanaugh made clear that independent agencies have no better claim to special competence in interpreting statutes. If anything, their claim is worse.

On its face, Consumers’ Research had nothing to do with the Board, or even deference to agencies in general. Instead, it centered on whether Congress had improperly delegated too much power to the FCC to craft a “universal service” plan for telecom providers. The Court ultimately decided that the delegation was fine: Congress had laid out an “intelligible principle” for the agency to follow. So the outcome was far from the earthquake seen in Loper Bright.

But outcome aside, the case still cast light on the debate over independent agencies. Most illuminating was a separate concurrence by Justice Kavanaugh. Justice Kavanaugh started by observing that the FCC wasn’t an independent agency; its members were removable at will by the president. But if it had been, the result in Consumers’ Research might have been different. Independent agencies, he wrote, were by design “unaccountable” because they did not answer to the president. And that lack of accountability made them inherently problematic:

Such a system of disembodied independent agencies with enormous power over the American people and American economy operates in substantial tension with the principle of democratic accountability incorporated into the Constitution’s text and structure, as well as historical practice and foundational article II precedents.

Justice Kavanaugh saw two possible solutions to this conundrum. One would be to overturn Humphrey’s Executor v. FTC, a 1935 decision that allowed Congress to insulate the heads of certain independent agencies. That proposal wasn’t novel; scholars have written about it for decades, and the Court itself has recently suggested that Humphrey’s Executor may be on its last legs. The second solution, however, was new. Rather than overturn Humphrey’s Executor, Justice Kavanaugh suggested, courts could review the actions of independent agencies more closely. Courts could police the agencies’ decisions more diligently to make sure they were acting within the bounds set by elected lawmakers. Or in other words, they could apply a “more stringent version of the nondelegation doctrine.”

That second approach is essentially the opposite of the Board’s view. The Board claims that, as an independent agency, it is due more deference than its traditional executive counterparts. But under Justice Kavanaugh’s approach, the reverse would be true: the Board’s independence would make it especially ineligible for deference. The Board is by design unaccountable, so courts should review its decisions even more closely.

That approach would align with the Court’s recent trends. The Court has been increasingly skeptical of broad delegations to administrators. Its skepticism has been animated largely by concerns about accountability: the Court has been reluctant to let unelected officials wield vast governmental power. That concern is even more acute when the officials formally answer to no elected official, as they do in independent agencies like the Board. So lower courts should take note: what Loper Bright started, Consumers’ Research may have finished. It is increasingly hard to justify any deference to the Board.

#### That kills the administrative state

Hayley Durudogan & Michael Sozan 25. Senior policy analyst on the Courts and Legal Policy team at American Progress. Senior fellow at American Progress. "What Is *Humphrey’s Executor* and Why Should You Care About It?" Center for American Progress. 02/27/2025. https://www.americanprogress.org/article/what-is-humphreys-executor-and-why-should-you-care-about-it/

The federal government’s independent agencies have been designed by Congress to work on behalf of the public good—promoting the health, safety, and prosperity of all Americans and their communities. Housed in the executive branch, independent agencies, such as the Federal Communications Commission and the Consumer Product Safety Commission, are staffed nearly exclusively by nonpartisan experts who help safeguard consumers from unsafe products, protect workers’ rights, enhance highway safety, and stop big banks from scamming people, among other purposes. The leaders of those agencies are generally selected by the president and the leaders of the minority party to ensure they are bipartisan, and these commissioners jointly consider agency actions. Once installed, commissioners are supposed to be insulated from day-to-day political influence, unlike appointees who run executive departments directly under the president’s control, such as the U.S. Department of the Treasury.

Beginning with Humphrey’s Executor v. United States, the Supreme Court for 90 years has upheld congressional requirements that a president can fire independent agency commissioners only for a serious reason, such as malfeasance or neglect of duties. Yet Humphrey’s Executor and cases that reinforced its ruling are now under attack by President Donald Trump’s administration, which flouted the law and summarily fired commissioners at multiple independent agencies without any legally required cause. The president’s actions place Americans at considerable risk. This article discusses the chief elements of Humphrey’s Executor, as well as important related cases that have followed it, while also providing examples of how independent agencies are vital for the well-being of the American people.

Independent agencies help Americans

At their root, independent agencies are tasked with looking out for the well-being of all Americans, helping to enhance their safety, health, and prosperity.

As the Center for American Progress has discussed in prior reports, independent agencies derive their powers from statutes passed by Congress, a co-equal branch of government to the executive branch. Congress creates independent agencies to do the highly complex and technical work that lawmakers do not have the expertise or time to perform, often including devising intricate rules, investigating complaints, and penalizing lawbreakers. Independent agencies are typically managed by multiperson commissions, whose members are from both major political parties and are appointed by presidents and confirmed by Congress for lengthy terms at staggered intervals. Due to the often-technical nature of their responsibilities, independent agencies are given a large degree of autonomy to advance the public interest. Agency decisions are subject to review by the courts.

Importantly, independent agencies are largely staffed by nonpartisan civil servants such as scientists, doctors, engineers, safety inspectors, economists, and others who must carry out their technical work without political interference and can help guard against corruption. If a president could fire commissioners from both parties without cause and install only political loyalists to do their bidding, Americans would face real harms to their safety and prosperity. Some examples of these harms include:

* The Consumer Product Safety Commission could face pressure from corporate CEOs to hide dangerous safety hazards associated with products such as lawnmowers or children’s toys.
* The Securities and Exchange Commission could weaken rules to hold Wall Street banks and large corporations accountable, imperiling everyday Americans’ 401(k) plans and investments, exposing them to fraud while risking stock market collapse.
* The Federal Trade Commission (FTC) could be blocked from passing pro-consumer rules, such as prohibiting workers from being subjected to noncompete agreements.
* The National Labor Relations Board (NLRB) could be pressured to stop enforcing worker protections, especially at big corporations run by a president’s friends or wealthy donors.
* The National Transportation Safety Board could be impeded from investigating corporations that cause accidents on highways and railroads, as well as in the air and at sea.
* The Federal Communications Commission could favor or disfavor broadcasters depending on how their news programs discuss a president, such as by revoking broadcast licenses, which could lead reporters to weaken their coverage or stop exposing government corruption.
* The Federal Reserve, which is the nation’s central bank, could be forced to make crucial decisions based on short-term political pressures instead of the long-term economic prosperity of American families.

In short, dangerous and potentially corrupt consequences could result if a president further centralizes executive power and dictates the work of independent agency commissioners or nonpartisan experts—who could be forced to prioritize partisan loyalty over the law and public interest, which they swear to uphold. In fact, if Congress had ever contemplated that a president could hijack the responsibilities and powers of independent agencies, Congress may not have given the array of powers to independent agencies that it has.

The case law

Independent agencies exist today, in large part, thanks to the Supreme Court’s foundational opinion in Humphrey’s Executor v. United States in 1935. In that case, President Franklin Roosevelt tried to fire FTC Commissioner William Humphrey because Roosevelt worried that Humphrey would block his policies. The FTC Act, however, only allowed commissioners to be fired for inefficiency, neglect of duty, or wrongdoing while in office (i.e., “for cause”). Congress felt that FTC commissioners needed to be insulated from politics in order to serve the American people. If commissioners were replaced after every presidential election, that would lead to a constant policy back and forth that would ultimately harm American consumers and undermine the agency’s mission.

The Supreme Court unanimously ruled that the president does not have unlimited power to fire independent agency heads. According to the court, Congress’ power to insulate independent agency heads from removal “cannot be doubted.” When agency heads perform “quasi-legislative” or “quasi-judicial” functions (i.e., policymaking or adjudicating), they are not exercising pure executive power, and thus the president does not have or need the ability to remove them at will. This case solidified independent agencies’ ability to serve the American people without fear of political reprisal.

In 1958, the Supreme Court reinforced Humphrey’s Executor in Wiener v. United States. In another unanimous opinion, the court held that the president does not have unlimited removal powers: “no such power is given the President directly by the Constitution, and none is impliedly conferred upon him by statute.” The court again evaluated removal protections in Morrison v. Olson in 1988. In Morrison, the court approved the extension of removal protections from independent agency heads to lower executive branch officers without policymaking abilities. In a 7-1 opinion, the court held that the for-cause restriction did not violate the separation of powers because it did not “unduly trammel on executive authority.”

Then, in 2020, the conservative-dominated Supreme Court indicated that there may be a small exception to Humphrey’s Executor. In Seila Law v. CFPB, the court narrowed Humphrey’s Executor by finding unconstitutional the for-cause removal protections for the Director of the Consumer Financial Protection Bureau, who manages the agency alone without fellow commissioners. In a 5-4 decision, the court held that removal protections for agency heads can only apply in two situations: 1) agencies with multimember commissioners and 2) agencies that do not wield substantial executive power. Seila Law adopted a more expansive vision of presidential power than Humphrey’s Executor and marked a troubling shift in the law for the millions of Americans who rely on independent agencies.

Attacks on Humphrey’s Executor

Over the past month, President Trump has fired several leaders of independent agencies without cause, part of his ongoing efforts to increase his presidential power consistent with the unitary executive theory—a radical theory of government that vests the president with total control of the federal bureaucracy in defiance of traditional separation of powers. In a striking reversal of the U.S. Department of Justice’s (DOJ) long-standing position under both Republican and Democratic administrations, the Trump DOJ stated on February 12, 2025, that it would no longer defend for-cause removal restrictions and would instead urge the Supreme Court to overturn Humphrey’s Executor, claiming that the president must be given more power to supervise principal executive branch officers such as commissioners. Six days later, the president issued a related executive order further weakening independent agencies by placing them directly under the thumb of the Office of Management and Budget—helmed by Russell Vought, a co-author of the far-right Project 2025, which argued for the overturning of Humphrey’s Executor.

Amid these unprecedented attacks on independent agencies, two federal judges agreed to hear lawsuits that will likely lead to the Supreme Court again considering the breadth of Humphrey’s Executor. Wilcox v. Trump concerns the president’s unlawful firing of NLRB Board Member Gwen Wilcox, and Dellinger v. Bessent concerns the unlawful firing of the head of the Office of Special Counsel, Hampton Dellinger. Like the FTC commissioner in Humphrey’s Executor, Wilcox and Dellinger enjoyed statutory for-cause protections but were fired without cause. The Trump administration quickly submitted an emergency appeal to the Supreme Court in Dellinger, requesting a pause of the district court’s order to reinstate Dellinger as special counsel.

Conclusion

Humphrey’s Executor and the Supreme Court cases that follow from it provide the foundational backbone for the U.S. government’s independent agencies to carry out their mission to protect everyday Americans and communities across the nation without undue political influence. This settled case law is now being attacked by a president attempting to amass as much executive power as possible under the unitary executive theory at the expense of the American people and the nation’s system of checks and balances. All eyes will be on the Supreme Court to see if it follows reason and the law or gives in to the political demands of the administration by weakening or overturning Humphrey’s Executor.

#### Extinction

Henry Farrell 25. Professor of international affairs at Johns Hopkins University, Ph.D. in government from Georgetown University. "When the polycrisis hits the omnishambles, what comes next?" Programmable Mutter. 2-21-2025. programmablemutter.com/p/when-the-polycrisis-hits-the-omnishambles

A couple of years ago, on my now deleted Twitter account, I had a brief joking dialogue with Adam Tooze, about the concept of polycrisis, which he didn’t invent but has popularized. Adam explains the polycrisis as a concatenation of big problems - e.g. climate change; the crisis of democracy; global migration - that not only hit simultaneously but plausibly make each other worse. I pointed to another neologism, the “omnishambles” (from Arnaldo Ianucci’s dark comedy, The Thick of It - Wikipedia definition), describing governmental situations in which no-one has any idea what is going on or what to do, and policy-making is utterly shambolic and fucked up. By construction, I suggested, there must be such things as the polyshambles and omnicrisis.

It wasn’t a very good joke, but I think that there is a useful intuition behind it, which is worth turning into an entirely unfunny diagnosis. We are in a world where our problems are getting bigger, and are feeding on each other. Those of us who live in the U.S. are at the beginning of a sudden and dramatic worsening of the quality of government policy making. In other words, we are about to see a collision between the polycrisis and the omnishambles. So how do we think about this collision usefully?

From this perspective, both Paul’s post, and our op-ed map specific pieces of a larger and more complex problem. And when I use the term ‘complex,’ I use it advisedly. The polycrisis is a simplified way of talking about the world as a complex system. In Scott Page’s description, a “complex system consists of diverse entities that interact in a network or contact structure.” In less academic language, it is a larger system composed of smaller sub-systems that interact with each other. Even when these sub-systems are relatively simple, the whole may be complex and unpredictable. And when they are themselves complex …

This way of thinking about the world helps clarify what the polycrisis involves. Complex interactions may give rise to positive feedback loops, in which different parts of the system reinforce each other so as to induce instability. To apply this to the polycrisis, think crudely of how climate change may increase the likelihood of large scale migration across borders, leading to crises of democracy and government legitimacy, which in turn makes governments less capable of regulating the economic activities that make climate change worse. But complex systems may also give rise to homeostasis, in which some parts of the system become adaptive, perhaps dampening down positive feedback loops and responding dynamically to unexpected changes in the environment.

One of Paul’s early books builds on these ideas (although he later became skeptical, since they are notably better at describing the phenomenon than predicting how it will unfold, let alone providing precise guidance on what to do about it). Indeed, the Minsky cycle is exactly an example of how government may act to limit the likelihood of positive feedback loops getting out of hand. Without regulation, irrational exuberance feeds upon itself and the behaviors it induces. The role of the Federal Reserve, famously, is to order “the punch bowl removed just when the party [is] really warming up.”

Behind Paul’s post - and our piece - lies a possible understanding of the larger situation we face. In good times, we have an environment in which the problems are not too big, or can be dealt with one by one, or, ideally, both things are true at once. We have a government that is capable of dealing with them, acting as a kind of homeostatic regulator, which dampens down the possible chaos without, and perhaps even takes advantage of the unexpected possibilities it provides (while avoiding eviscerating the dynamical aspects of the economy - one can absolutely have too much government).

We are not in those good times. Instead, we are in an increasingly unpredictable environment with multiple major problems reinforcing each other in complex ways (the polycrisis). At much the same time, the most significant government in the world is absolutely not acting as a homeostatic regulator. Instead, of dampening down the chaos, it is accelerating it, while ripping out large swathes of the administrative apparatus that potentially allow it to understand the environment and influence it.

Trump’s second term is going to be the apotheosis of the omnishambles. And it is potentially even grimmer than that. In an ideal world, there is at least a second order feedback loop such that bigger problems leads to better government and the expansion of capacity for government to deal with these problems in conjunction with other modes of problem solving (markets; democracy). In the world we are in right now, there seems to be just the opposite set of feedbacks. Bigger problems are not leading to better government in the U.S. and elsewhere, but to worse.

As noted already, complexity theory is much better at describing problems like this than at predicting how they will turn out, let alone solving them. But it at least provides a framework for seeing how the different sub-systems might interact together.

The crises we are likely to face in Trump’s second term are not simply going to be crises of financial regulation, or of tariffs, or of withdrawn security guarantees, or breakdowns of scientific knowledge, or loss of capacity to respond to emergencies. They are likely, instead to involve the interactions of two or more of these factors with each other, and with the pre-existing problems of the polycrisis. Mapping out - even crudely - the relationships between these different sub-systems will help us be better prepared for what happens, even if we cannot fully anticipate it.

## Filings

### Turn---1NC

#### Bankruptcy caseloads are low. The plan reverses that.

Karsten Muller 22. National University of Singapore, Department of Finance. “Busy bankruptcy courts and the cost of credit.” Journal of Financial Economics. February 2022. https://www.sciencedirect.com/science/article/abs/pii/S0304405X21003664

In this paper, I study how bankruptcy court backlog affects ex-ante contracting by exploiting the largest recorded drop in the caseload of US bankruptcy judges in the wake of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA). The BAPCPA reform fundamentally changed the bankruptcy code for individual debtors, making it considerably harder and more expensive for them to default. In the two years following its implementation, bankruptcy filings essentially halved—the largest decrease outside of war times since the beginning of records in 1899 (Federal Judicial Center, 2019). This drop in filings permanently reduced the number of cases per bankruptcy court and thus the workload of judges.

Despite its effect on individual debtors, BAPCPA left corporate bankruptcies essentially unaffected. As a result, the drop in judicial workloads after the reform was larger in bankruptcy districts with a higher share of nonbusiness filings before. This generates plausibly exogenous variation in court backlog for firms located in the bankruptcy districts that were particularly exposed to BAPCPA. Building on Iverson (2018), I exploit this variation in a difference-in-differences framework to study the impact of court backlog on publicly listed firms.

To start, I show that a one standard deviation increase in the nonbusiness share in a court’s caseload is associated with a 64-hour drop in the annual workload of judges (around two work weeks). This drop in court backlog causes a 5.5% reduction in the length of bankruptcy cases and a 6%–12% increase in recovery values for creditors. Using contract-level data on syndicated loans from DealScan, I then estimate that this improvement in the functioning of bankruptcy courts leads to a 20 basis point drop in interest rate spreads (a 10% drop) and 9% increase in loan maturities. These results suggest that lower court congestion is priced into firms’ ex-ante financing terms by increasing expected recovery values.

Consistent with the predictions of a simple theoretical framework in the spirit of Hart and Moore (1998), the drop in caseload also reduces the gap in loan terms between risky and safe borrowers. Exploiting heterogeneity in pre-reform borrower characteristics in a triple-difference approach, I find that judicial backlog matters almost exclusively for firms with a higher probability of default and a higher expected loss given default. This also allows me to absorb bankruptcy district time fixed effects, which rules out many potentially confounding factors.

A few additional tests support a causal interpretation of these results. First, loan terms trended similarly for more and less exposed bankruptcy districts before the drop in court caseload, when uncertainty about the impact of BAPCPA lifted. This suggests that creditors interpret observable court backlog as a noisy signal about future recovery values. Initially, interest rate spreads only drop for short-term loans, for which the reduction in backlog in early 2006 is the most informative signal about expected recovery values. By late 2007, however, the effect on shorter and longer loans converges, suggesting that creditors learn over time whether changes in judicial caseload are permanent or transitory.

Second, the share of nonbusiness filings—which I use to measure exposure to BAPCPA—is uncorrelated with firm and loan characteristics before the reform. This also makes it less likely that I am capturing unobserved differences between districts. Third, some borrowers were additionally exposed to changes in credit supply because they had to roll over loans that were issued in the years before BAPCPA passed (also see Almeida et al., 2012). The estimates from using this pre-determined variation suggest that my findings are entirely driven by credit supply, not unobserved shocks to firms.

Next, I estimate the effect of court backlog on firm leverage and default risk, measured by credit ratings and ex-post bankruptcies. Consistent with an expansion of credit supply, book leverage increased by around 2% relative to the mean for a one standard deviation larger drop in court caseload. However, I find a precisely estimated zero effect on credit ratings, the probability of borrowers being rated, and the number of firm bankruptcies. This is likely because—although leverage increased—lower debt service payments decrease default risk. I also find a zero effect on the frequency of bankruptcy filings during the financial crisis. Taken together, this suggests that the drop in court backlog did not change firms’ ex-ante or realized probability of default. Rather, fewer court cases decrease the expected loss given default, which is immediately priced in by creditors.

I conduct a simple back-of-the-envelope calculation to get a sense of the costs judicial backlog imposes on borrowing firms. While it requires a set of strong assumptions, only some of which I can test empirically, changes to interest rate spreads translate naturally into a macroeconomic quantity: the approximately $400 billion per year US non-financial corporations pay to service their debt. My estimates suggest that the costs to firms arising from overburdened bankruptcy judges are around $740 million per year. While this estimate does not necessarily tell us about the welfare effects of busy bankruptcy courts, these magnitudes are large compared to the costs of creating additional judgeships that would lower court congestion. This extrapolation exercise suggests that debt enforcement plays a key role in the ex-ante design of financial contracts. From a policy perspective, it provides some evidence that bankruptcy judges may be relatively “cheap” compared to their value added, at least in terms of the savings to borrowers’ debt service payments.

I also test and reject potential alternative explanations of my findings. A host of robustness checks suggests that the housing boom in the run-up to the 2007-08 financial crisis is unlikely to play a role. Exposure to BAPCPA is not correlated with key housing variables, and excluding securitized loans or the construction and nontradable industries—or adding lender year fixed effects—makes little difference to my point estimates. Event study plots further suggest a discontinuous and permanent effect of court caseload rather than a boom-bust pattern.

My results are also not driven by minor changes the reform made to corporate bankruptcies. I find almost equivalent estimates for firms who were clearly not affected by changes in the applicable bankruptcy framework. “Forum shopping”, that is the leeway the largest US borrowers have over where to file for bankruptcy, is also unlikely to play a role. Theory suggests that this would lead me to understate the effect of court congestion: if anything, less busy courts should increase bankruptcy filings and make judges more debtor friendly (Gennaioli and Rossi, 2010) and thus—all else equal—lead to worse contract terms for borrowers. In contrast, I find that less congested courts improve contract terms and do not change the number of firm bankruptcies. My baseline results also remain unchanged when I exclude the firms most likely to engage in forum shopping.

My paper builds on a large literature on legal frameworks and economic outcomes. First, my work builds on research that focuses on the enforcement of existing law. Djankov et al. (2008) use a representative bankruptcy case for 88 countries and show that better debt enforcement is associated with higher credit market development. Jappelli et al. (2005) show a negative correlation of judicial backlog and interest rate spreads for Italian provinces.4 However, these correlations do not constitute causal effects because court backlog is likely correlated with other factors that also matter for credit provision. For example, areas that lack public funding to hire judges likely have both more congested courts, firms at a higher risk of defaulting, and a higher cost of credit even in the absence of any causal link. My contribution is to provide, to my knowledge, a first causal estimate of how court backlog affects ex-ante contract outcomes.

I build on the insight of Iverson (2018) that BAPCPA constituted a shock to the US bankruptcy courts with the highest pre-reform share of nonbusiness bankruptcies. Iverson shows that the drop in court congestion around the reform reduced repeated bankruptcy filings, decreased the time larger firms spent in court, and lowered banks’ charge-offs for business lending. My contribution is to study whether and how such expected ex-post effects alter the ex-ante contracting environment. I show how banks adjust contracts in a forward-looking manner—usually more associated with equity markets—when news about recovery values arrive. In addition, I provide a back-of-the-envelope estimate of the aggregate costs court backlog imposes on firm borrowers. In other related work, Boehm and Oberfield (2020) study the effect of court congestion on the input choices of Indian manufacturing firms. Brown et al. (2016) study the effect of a 1953 law that imposed external state courts on Native American reservations.5

Second, I add to the literature studying how the effect of major legal reforms depends on pre-existing levels of judicial backlog. Ponticelli and Alencar (2016) and Rodano et al. (2016) show for Brazil and Italy, respectively, that financial reforms interact with legal institutions governing courts. Their work, however, estimates the value of major changes in bankruptcy regimes, not whether judicial backlog matters per se. In other words, these studies do not tell us whether courts have an effect without a contemporaneous legal reform that fundamentally alters bankruptcy law. My contribution is to estimate the effect of the caseload burden of judges on firms’ financing terms while holding the applicable bankruptcy law constant. My results suggest that court congestion also matters for the United States, which has one of the most sophisticated bankruptcy law and court systems in the world.

#### Strengthened collective bargaining rights in bankruptcy proceedings skyrockets filings.

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1. Introduction

We document that, on average, the financial leverage of unionized firms decreases following the passage of the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA, or “the Act”) of 2005, legislation that increases personal bankruptcy costs. We argue that this decrease in leverage is due to a reduction in union bargaining power following the passage of BAPCPA.

Firms use financial leverage to counteract the bargaining power of labor unions (Chu 2012; Hennessy and Livdan 2009; Matsa 2010). By increasing leverage, equity holders effectively “sell” the firm to debtholders ex ante, leaving little ex post residual value to be extracted by labor unions.1 When labor unions gain bargaining power, firms may increase leverage to reduce the piece of the pie that unions may capture. Correspondingly, when unions lose bargaining power, it is optimal for firms to reduce leverage. Union bargaining power is affected by personal bankruptcy costs because a work stoppage increases the likelihood of personal bankruptcy for union members.2

For our analyses, we utilize a difference-in-differences regression framework to control for unobservable differences between unionized firms and nonunionized firms. Our baseline analysis indicates that, on average, unionized firms reduce leverage by about two percentage points relative to nonunionized firms following the passage of BAPCPA. We then undertake additional analyses to control for the effects of omitted variables and to examine whether BAPCPA reduces union bargaining power.

First, we control for time-varying differences in labor markets, economic conditions, contemporaneous changes in state laws, or changes in state tax rates that potentially have differential effects on the leverage of unionized and nonunionized firms. Second, we document that the effect of BAPCPA on leverage is stronger in cases where the effect of BAPCPA on union bargaining power is stronger and in cases where firms are more likely to use leverage to counteract union bargaining power. Third, we provide corroborating evidence that BAPCPA reduced union bargaining power by documenting reductions in firms’ labor costs surrounding the Act's passage. Fourth, we document that BAPCPA reduced the number of union certification elections conducted by the National Labor Relations Board (i.e., employees’ attempts to officially unionize). The results of both the labor costs and certification election tests are consistent with a decrease in union bargaining power following BAPCPA's passage.

This paper contributes to the evidence surrounding the stakeholder view of corporate finance. The empirical evidence on the relation between capital structure and weaker union bargaining power proxied by the adoption of right-to-work laws is mixed. For example, Matsa (2010) and Chava et al. (2020) document that firms reduce leverage surrounding the passage of right-to-work laws, while Woods, Tan, and Faff (2019) and Avenancio-León, Piccolo, and Pinto (2023) document leverage increases during similar circumstances for firms in Oklahoma and Indiana, and in highly unionized industries, respectively. We contribute to this debate by examining firm-level measures of unionization and using an alternative shock to union bargaining power, both of which are unique to this literature.3

Additionally, extant studies show that capital structure is affected by the degree of employee protection (Ellul and Pagano 2019; Simintzi, Vig, and Volpin 2015) and unemployment risk (Agrawal and Matsa 2013; Berk, Stanton, and Zechner 2010). We present novel evidence that personal bankruptcy costs are reflected in capital structure decisions of unionized firms through their effect on union bargaining power.

This paper also contributes to the growing literature examining the effect of BAPCPA on firms. For example, BAPCPA increases credit supply to mortgage companies (Lewis 2023), decreases expected and realized bank loan losses (Heitz and Narayanamoorthy 2021), increases derivative availability and usage by financially distressed airlines (Giambona and Wang 2020), increases the amount and duration of trade credit offered to firms (Costello 2019), and increases the amount of mortgage-backed securities (MBS) financed with repo debt (Srinivasan, 2019). Chen, Halford, Hsu, and Lin (2020) also present evidence that firms reduce leverage in response to BAPCPA. They attribute this reduction to a general increase in expected unemployment costs related to BAPCPA's passage. We build upon Chen et al. (2020) by showing that reductions in leverage following BAPCPA are moderated by union bargaining power. Finally, this paper presents unique evidence that personal bankruptcy costs affect union bargaining power.

2. Motivation

2.1. Union bargaining power and capital structure

The link between union bargaining power and capital structure is developed in Hennessy and Livdan (2009), Matsa (2010), and Chu (2012). Matsa (2010) shows that a firm uses leverage strategically to limit the amount of excess liquidity (realized cash flows less required debt payments) that the union can extract from the firm. The reasoning is akin to Jensen's (1986) hypothesis that leverage reduces funds available to managers. In the presence of a powerful union, leverage removes excess liquidity that might otherwise be captured by the union.

In Matsa (2010), the firm trades off corporate bankruptcy costs with the potential for the union to extract excess liquidity. Positive cash flow shocks expose unionized firms to rent seeking by unions. As a result, unionized firms with greater cash flow volatility have greater incentives to use debt to shield cash flows and have higher optimal leverage than similar nonunionized firms.

We build on Matsa's (2010) insight to link personal bankruptcy costs to firms’ capital structure. We posit that if higher personal bankruptcy costs weaken a union's bargaining power, a unionized firm will decrease leverage relative to an otherwise similar nonunionized firm following an increase in personal bankruptcy costs.

There are several reasons why personal bankruptcy costs reduce a union's bargaining power. Perhaps the greatest bargaining chip of a union is its threat to strike or withhold labor. However, workers forgo wages during a strike and risk financial distress, particularly as most states offer no unemployment benefits to striking workers. Furthermore, there are anecdotal reports of firms shutting down plants or filing for bankruptcy due to labor disputes, leaving union members without jobs.4 Because labor disputes—whether in the form of a strike or management lockout—expose union members to financial distress and personal bankruptcy, higher personal bankruptcy costs will weaken unions’ ability to credibly threaten firms with a strike, as well as strengthen the threat of a lockout by management, both of which reduce unions’ bargaining power.

Congress signed the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) into law on April 20, 2005, and most of its provisions became effective as of October 17, 2005. BAPCPA made significant changes to the U.S. Bankruptcy Code, including an increase in the costs of filing for personal bankruptcy.

For example, the Act places greater restrictions on who can qualify for Chapter 7 bankruptcy, which allows the debtor to discharge most unsecured debt (Evans and Lewis 2008).5 The Act also places restrictions on homestead exemptions, gives greater priority to domestic obligations, requires bankrupts to obtain credit counseling, and requires bankrupts’ attorneys to certify clients’ ability to repay debts. According to the U.S. Government Accountability Office (2008) the Act increased the costs of filing for personal bankruptcy by 50 % to 70 %.

If the additional costs of filing for bankruptcy due to BAPCPA are binding on consumers, bankruptcy rates should fall once the Act is effective. In Fig. 1, we report the personal bankruptcy filing rates along with the expected filing rates over the 1994–2015 period. Personal bankruptcy filing rates in each quarter are the number of households that file for bankruptcy (data are obtained from the American Bankruptcy Institute's website) divided by the number of U.S. households reported in the Federal Reserve Economic Data (FRED). Guided by prior studies, we estimate the expected filing rates using the following regression:

filing rate\_t = β₀ + β₁PI\_t + β₂DS\_t + β₃GDP\_t + β₄CPI\_t + β₅RF + β₆TP + β₇NOHI + ε\_t

where PI is the average U.S. per capita personal income, DS is the average U.S. personal debt service ratio (the ratio of debt payments to disposable personal income), GDP is the percentage change in Gross Domestic Product, CPI is the percentage change in the Consumer Price Index, RF is the yield on one-year U.S. treasury securities, TP is the percentage change in government transfer payments, and NOHI is the proportion of the U.S. population without health insurance. These variables proxy for the economic cycle, individuals’ wealth, debt service, and medical expenses, which are significant determinants of personal bankruptcy filings (Domowitz and Eovalid 1993; Domowitz and Sartian 1999). NOHI is measured annually and is obtained from the U.S. Census Bureau; other variables are measured quarterly and are obtained from FRED. The model is estimated for the pre-BAPCPA period of 1994 through 2004 and captures a large portion of the variation in bankruptcy filings (the R-squared is 86 %). Then, we use the coefficient estimates from the model to compute the expected filing rates post-BAPCPA for 2005–2015. This process provides an estimate of the filing rate had BAPCPA not been passed.6

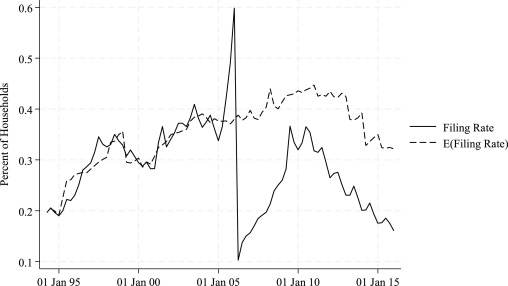


Fig. 1. Personal Bankruptcy Filing Rate.

This figure presents the quarterly time series of the personal bankruptcy filing rate in the United States compared to the expected pre-BAPCPA filing rate. The computation of the expected filing rate is described in Section 2.2.

Fig. 1 reveals a large spike in personal bankruptcy filings immediately following BAPCPA's passage in April 2005. The spike suggests that to avoid the new costs imposed by the Act, individuals rushed to file for bankruptcy before the new law became effective in October 2005. After the Act became effective, personal bankruptcy filings fell dramatically and have not recovered to pre-BAPCPA levels. This evidence supports the argument by Athreya et al. (2015) that without BAPCPA, bankruptcy rates would have been much higher during the “great recession” beginning in 2008. The evidence in Fig. 1 is consistent with BAPCPA's additional costs being binding on consumers.7

While the evidence in Fig. 1 indicates that BAPCPA is a shock to personal bankruptcy costs, Hennessy and Strebulaev (2019) demonstrate that exogenous shocks are insufficient to identify causal effects or even the correct sign of the effect in dynamic economies. The necessary condition for identification is that the shock is unanticipated and permanent or that market participants behave as if the shock is permanent. BAPCPA is likely to satisfy at least the latter of these two conditions.

The Act had a long and tumultuous legislative history, which increased the likelihood that market participants did not fully anticipate its passage.8 In the 108th Congress (2003 to 2004), Chairman Sensenbrenner remarked, “Perhaps the seventh attempt will prove to be a charm and finally lead to the enactment of these critically important reforms” (Jensen 2005 p. 560). After Republicans acquired a sufficient majority in the House and Senate in November 2004, BAPCPA was finally passed in the 109th Congress. The period between Republicans acquiring a majority in November 2004 and the Act's passage in April 2005 was likely not long enough for market participants to act in anticipation of the Act's passage. Fig. 1 supports these conclusions, as bankruptcy rates do not rise above expected rates until immediately after the passage.

Also, bankruptcy reforms are rare, and it is likely that market participants viewed the Act as a permanent event. BAPCPA was the first major consumer bankruptcy reform in 25 years, with no major bankruptcy reforms since its passage. The Act's unexpected passage and permanency satisfy Hennessy and Strebulaev's (2019) conditions and support the notion that BAPCPA is a valid setting in which to uncover causal effects.

### Dollar---1NC

#### Dollar heg is resilient.

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Why the Dominance of America’s Currency Is Harder Than Ever to Overturn.” July/August 2024. https://www.foreignaffairs.com/united-states/top-dollar-currency-prasad

It would be no surprise, then, if the dollar were rapidly losing its power. But in fact the opposite is happening: the trends that would be expected to weaken the dollar, many of them driven by U.S. policy, are only strengthening its global dominance. The dollar remains on top in part because of the U.S. economy’s size and dynamism relative to other major economies. But more than that, although American institutions are fraying, those in other parts of the world are in no better shape, with populism and authoritarianism on the rise. Moreover, economic and geopolitical turmoil serves only to intensify the quest for safe investments, usually leading investors back to the dollar, which remains the most trusted currency. The United States’ financial markets are much larger than those of other countries, making dollar assets easier and cheaper to buy and sell.

The dollar is not fully immune to shifts in global economic and geopolitical power. But even as the dollar has lost some ground, the gap between it and any putative rival has only grown and shows no signs of stopping. China and India have become major economic powers, but their currencies have not picked up steam outside their countries. Although the global hierarchy of international currencies is shifting, many of these changes are improving the dollar’s relative standing by hurting its rivals even more. Turbulence in the world economy or global affairs—even if triggered or exacerbated by the United States’ own policy blunders—only enhances the dollar’s strength vis-à-vis alternative currencies. Almost nothing could change this any time soon.

WORTH THE RISK

Since the end of World War II, the dollar has been the leading international currency in every respect—as a unit of account, a medium of exchange, and a store of value. Even by conservative estimates, at least half of all international trade is denominated in dollars, far more than in any other currency and much greater than the U.S. share of world trade, which is roughly 11 percent. It is the main invoicing currency and the top payment currency; roughly half of all international payments are settled in dollars. When a Chinese company imports iron ore from Brazil or a Brazilian firm purchases semiconductors from China, those transactions are almost always invoiced and paid for in dollars rather than in Brazilian reais or Chinese renminbi.

The dollar is also the principal global reserve currency; 59 percent of foreign exchange reserves in the world’s central banks are held in dollar-denominated assets, or assets whose face value and prices are all stated in dollars. There’s a reason the share is so large. Foreign exchange reserves act as a central bank’s rainy-day funds. They can be used to pay for imports or prop up the domestic currency when its value falls. Central banks in emerging-market countries have learned that large stocks of foreign exchange reserves help insulate their economies from volatile capital flows, and they try to keep reserves in assets that are safe and liquid. As a result, they buy dollar-denominated assets, which are available in large quantities and are always in demand and can therefore be bought and sold with minimal transaction costs.

And the greenback remains a key funding currency in global debt markets. When firms or governments in developing countries try to raise money in those markets, they are routinely forced to borrow in foreign currencies. This is usually because foreign investors lack confidence in the value of those countries’ domestic currencies and prefer to be repaid in dollars. Even some European companies and banks prefer to raise capital in dollars because the profusion of dollars makes that cheaper and easier. Two-thirds of securities issued by corporations outside their home countries are denominated in dollars.

These preferences reinforce one another. Foreign central banks’ demand for U.S. Treasury securities helps finance U.S. government borrowing, keeping U.S. interest rates relatively low. This in turn incentivizes foreign governments, corporations, and financial institutions to borrow in dollars. The widespread use of dollars in international trade encourages both developing and developed countries to hold reserves in dollars. During the 2008 global financial crisis, even the Bank of England and the European Central Bank borrowed dollars from the U.S. Federal Reserve.

But since that crisis, dollars have become an increasingly risky asset. The United States remains a dynamic and resilient economy, yet gross federal public debt is likely to exceed $35 trillion—roughly 125 percent of annual GDP—by the end of 2024, and Congress shows little inclination to curb spending or raise taxes. No one expects the U.S. government to walk away from its debt obligations. Still, the threat of even short-lived defaults, on top of the sheer and rising magnitude of debt, has caused rating agencies such as S&P and Fitch to downgrade U.S. government bonds.

The dollar is hostage to politics in more ways than one. During former U.S. President Donald Trump’s term in office, the rule of law and the Federal Reserve’s independence—bulwarks of foreign investors’ belief in the stable long-term value of the dollar—took a beating. The U.S. system of checks and balances proved far too fragile and dependent on unwritten norms to maintain these investors’ confidence, prompting them to reevaluate their trust in the dollar and look for alternatives.

Washington has further jeopardized the dollar’s status by barring Iran, North Korea, and Russia from trading in dollars and thereby from accessing the international financial system. Following Russia’s invasion of Ukraine in 2022, the United States even froze Moscow’s foreign exchange reserves held in dollars. Whether or not this move was justified by Russia’s gross violation of international law, it undoubtedly left other central banks wondering whether their own dollar-denominated rainy-day funds would be locked up should their governments run afoul of Washington.

FALSE PROPHETS

But predictions of the dollar’s demise have greatly exaggerated the currency’s weakness—a fact made clear by its remarkable endurance. Analysts have warned for years that the dollar will lose out to other currencies, and yet none of them has displaced it. Consider the euro, whose inauguration in 1999 seemed to herald the end of the dollar’s unrivaled power. The eurozone was, after all, an economic area that stood toe to toe with the United States in terms of economic and financial market size. It had an independent central bank, and its members generally followed the rule of law.

At first, the euro did bite into the dollar’s shares as a payment and reserve currency. By 2009, the euro’s share of global foreign exchange reserves had risen to 28 percent, up from 18 percent in 2000, and the dollar’s share fell by a corresponding amount. But by the end of that year the euro’s progress had stalled. European governments lacked the political will to transform their monetary union into a broader economic and financial union, which would have required them to cede more power to eurozone institutions and exercise greater discipline in their own policies. The 2009 eurozone debt crisis laid bare the economic and political weaknesses of the monetary union. The euro’s share of global foreign exchange reserves eroded and has now fallen below 20 percent.

The Chinese renminbi has followed a similar trajectory. In 2010, Beijing began to actively promote the “internationalization” of its currency. With China’s rising clout in the world economy, this campaign quickly took off. By 2015, about three percent of global payment transactions were being conducted in renminbi—up from essentially zero just five years earlier. Chinese firms issued renminbi-denominated debt in Hong Kong and other financial markets, establishing it as a major currency on track to one day challenge the dollar.

Then the renminbi, too, stalled. China’s economy and stock market hit a rough patch in 2014 and 2015. Capital flight surged, and the currency lost value. Beijing responded by making it harder to take capital out of the country, spooking foreign investors. Since that period, the use of the renminbi in global trade transactions has increased slightly, but only for trade in which China is directly involved. The share of global foreign exchange reserves held in renminbi has stagnated, staying under three percent. And as China’s economy stumbles, with its leader, Xi Jinping, tightening his control and avoiding significant economic reforms, it is unlikely that foreign central banks and investors will trust renminbi-denominated assets.

Other countries have not even come close to challenging the dollar’s status. Economic and geopolitical forces have in recent years boosted some smaller reserve currencies, such as the Australian dollar, the Swedish kroner, and the Indian rupee, as has been observed by the economist Barry Eichengreen. But these currencies are still bit players in global finance, and their gains have come mainly at the expense of traditional reserve currencies such as the euro, the British pound sterling, and the Japanese yen. The dollar remains firmly on its pedestal, well above the fray.

### Economy---1NC

#### No impact.

#### a) 08 and COVID thump.

**b) Decline doesn’t cause war.**

Stephen Walt 20. International Relations Professor at Harvard University. “Will a Global Depression Trigger Another World War?” Foreign Policy. 5/13/2020. <https://foreignpolicy>.com/2020/05/13/coronavirus-pandemic-depression-economy-world-war/

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

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

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

Third, and most important, the **primary motivation** for most wars is the desire for **security**, not economic gain. For this reason, the odds of war increase when states believe the long-term balance of power may be shifting against them, when they are convinced that adversaries are unalterably hostile and cannot be accommodated, and when they are confident they can reverse the unfavorable trends and establish a secure position if they act now. The historian A.J.P. Taylor once observed that “every war between Great Powers [between 1848 and 1918] … started as a **preventive war**, not as **a war of conquest**,” and that remains true of most wars fought since then.

The bottom line: Economic conditions (i.e., a depression) may affect the **broader** political environment in which decisions for war or peace are made, but they are only **one factor** among many and **rarely the most significant**. Even if the COVID-19 pandemic has large, lasting, and negative effects on the world economy—as seems quite likely—it is **not likely to affect** the probability of war very much, especially in the short term.

## Reorganization

### Alt Causes---1NC

The plan can’t solve coal mining or warming in other countries.

### Acid Rain---1NC

**Acid rain is minimized now.**

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How countries tackled acid rain

The dramatic reduction of air pollution in London is an example of a local success. But there are two other big success stories that are worth mentioning: acid rain, which needed countries to collaborate at a regional level, and the ozone layer, which required the world to work together to find a solution.

In the late 20th century, statues and monuments were dissolving. The faces of queens and kings became featureless blobs. Rivers and lakes became acidic, killing off fish. Freshwater insects were disappearing. Many forests were dying, stripped bare of their vegetation.

The culprit was acid rain, which is caused by emissions of sulphur and nitrogen oxides. In the atmosphere, these compounds react with water to form sulphuric and nitric acid. The rain, and everything it then filters into – trees, soils, rivers and lakes – become more acidic. The main sources of sulphur and nitrogen oxide are fossil fuels, industry and some forms of agriculture. Coal, for example, contains lots of sulphur. When it’s burned, it emits sulphur dioxide (SO2), a molecule that dissolves in rainwater and makes it more acidic.

By the 1980s, acid rain had become the environmental problem of the day. What became clear is that individual countries couldn’t tackle the problem on their own. It was an issue that crossed boundaries: emissions of SO2 from the UK drifted over Scandinavia, ruining Norwegian forests, and emissions in the US blew over to Canada where they polluted freshwater lakes. After strong resistance, the United States and much of Europe brought in tight regulations. The impact was almost immediate. SO2 emissions in the US were cut by around 95% from their peak in the 1970s.16 In Europe, they’ve fallen by 84%, and in the UK, by 98%. The solution was quite simple: add a reactant to the smokestack of a coal plant, and the SO2 can be stripped away so that it’s not emitted into the atmosphere.

A graph of a graph showing the growth of a stock market

Description automatically generated

Acid rain has almost disappeared across North America and Europe. Many other countries are making fast progress too. To prove it, look at China. In just over a decade its SO2 emissions have fallen by two-thirds. That’s while the country’s coal use more than doubled.

### Warming---1NC

#### No warming impact---inflation, adaptation, and war turns.

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Hypothesized damaging consequences of global warming include (i) loss of life from greater intensity and frequency of heat waves, hurricanes, floods, droughts, and wildfires and (ii) economic losses from such extreme-weather events and from sea-level rise due to melting polar ice caps. Assessments of the impact from human-caused warming are complicated by the difficulty of determining the extent to which observed temperature increases are caused by natural climate variability – a difficulty that adds to the uncertainty in estimates of how much human-caused warming to expect over the 21st century.

Warming over the past 120 years

The question of whether global warming is dangerous (whatever its cause) can be addressed by examining the behavior of the climate since before the time human activity generated large amounts of greenhousegas emissions. Human-caused global warming is typically measured with reference to pre-industrial times; for practical reasons in terms of the availability of data, the usual approach employs a baseline period in the late 19th century. Since the late 19th century, Earth’s average temperature has increased by about 1.3o C (2.3o F). During the same period, average global sea level has risen 8-9 inches, and there has been little or no detectable change in most types of extreme weather events when measured against the background of natural weather and climate variability.

Since the late 19th century, with 1.3o C of global warming, humanity has seen unprecedented increases in prosperity and well-being. Global population has increased from about 1.6 billion in 1900 to 8.2 billion people in 2024. In 1900, the global average lifespan was 34 years; in 2024 the global average lifespan more than doubled to 73 years. From 1961 to 2020, global agricultural output nearly quadrupled, with a 53% increase in per capita output despite a 2.6-fold increase in global population.

Since the early 1900s, per capita mortality from hurricanes, floods, droughts, and wildfires has decreased by almost 98% (Koonin (2021, page 170)). These favorable trends in weather- and climate-related mortality rates reveal that the world is now much better at preventing deaths from extreme weather and climate events than it was a century ago. The sharp reduction in death rates has been accomplished through greater wealth (driven by energy derived from fossil fuels), which provides better infrastructure, superior advance-warning technologies, and greater capacity to recover from weather-related disasters.

Although the role of higher temperatures and atmospheric CO2 concentrations in these favorable changes in mortality rates is open to debate, two aspects of the increases are unambiguously beneficial. First, satellite observations since the 1980s indicate widespread greening of the planet. The satellite data show that, over the last two decades, Earth has increased its green leaf area by approximately 5%. This greening reflects increased CO2 fertilization, warmer temperatures, and more rainfall (Chen et al. (2024)).

The second aspect relates to heat and cold extremes. An unambiguous consequence of global warming is more frequent heat extremes, coupled with less frequent cold extremes. It is well known that mortality is substantially greater (almost a factor of 10) for extreme cold than for extreme heat (Zhao et al. (2021). Consequently, rising temperatures are associated with a net saving of lives owing to the reduction of mortality from extreme cold events. Heat-related mortality is also declining over time (O’Neill et al. (2021)), owing to general improvements in health care systems, increasing prevalence of residential air conditioning, and behavioral changes – factors that have dominated any impact of a warmer planet on the risk of heat-related death.

Although the dollar value of damages from extreme weather events is now greater than it was many decades ago, this increase is the result of increasing vulnerability and exposure associated with greater population and concentration of wealth in coastal and other disaster-prone regions. A recent analysis summarizing many studies finds no evidence to support claims that any part of the overall increase in global economic losses from weather and climate disasters can be attributed to global warming (Pielke (2020, 2023)).

Prospective warming over the 21st century

What about warming over the rest of the 21st century? Is there reason to expect dire consequences for humanity going forward in time?

The Apocalyptic climate narrative and the most extreme impacts are driven by extreme emissions scenarios, with 4-5o C of warming by 2100 (above a baseline in the late 19th century). However, since 2021, the UN’s climate negotiators have abandoned extreme emissions scenarios as unrealistic for two reasons. First, they make unrealistic assumptions, especially about coal use. Second, actual emissions have been tracking well below their most extreme emission scenario, and indeed slightly below their medium emissions scenario. The UN is now working with an estimated year 2100 warming of 2.5°C (UNFCCC (2022)), while the IEA Roadmap to NetZero projects 2.4°C of warming by 2100 (IEA (2023)). When plausible scenarios of natural climate variability and values of climate sensitivity on the lower end of the UN’s IPCC likely range are considered, the expected warming could be significantly lower (Lee et al. (2021)).

If we work with 2.5°C projected warming by 2100, more than half (1.3°C) of the predicted increase in temperature has already occurred. There are good reasons to expect continued advances in prosperity and well-being over the remainder of the 21st century – and ample reasons such as AI to expect such advances to accelerate. Moreover, the so-called threshold of danger of 2°C warming since pre-industrial times is not an objective threshold of danger. Rather, 2°C is a politically negotiated target designed to motivate broad-based actions to reduce emissions (Curry (2023, page 9)).

Importantly, there is no credible case that missing the 2°C target would pose an existential risk to humanity. Humans have adapted to (and thrived in) climates extremes far worse than in the pessimistic extreme scenario, as summertime residents of Phoenix and wintertime residents of Minneapolis demonstrate every year.

Two other risk-related points are relevant here. First, a basic assumption in the socioeconomic scenarios used in formulating the UN climate-assessment reports is that vulnerability to weather and climate extremes decreases with greater wealth and economic development, as adaptive capacity increases. All of the Shared Socioeconomic Pathways (SSPs) scenarios constructed for the most recent UN climate assessment entail dramatic growth, with global GDP in 2100 between four and ten times larger than in 2010 (Dellink et al. (2017)). These scenarios do not imply any futures for humanity that are worse than today.

Second, risks from human-caused global warming are difficult to separate credibly from natural weather and climate variability and the risks are dominated by the vulnerabilities of less-developed countries and poorer populations generally. Increasing wealth and productivity will continue to reduce humanity’s vulnerability to weather- and climate-related risks.

Tipping points and surprises

Uncertainty about the impact on humans of continued use of fossil fuels is dominated by the difficulties of estimating the likelihood of catastrophic outcomes from climate tipping points that could cause severe and possibly irreversible damage.

Climate tipping points are defined as abrupt or nonlinear transitions to a different climate state, which are hypothesized to occur once some threshold has been crossed, with regional or global consequences that are largely uncontrollable and beyond our management. In other words, tipping points are points of no return, at least on the century timescale. In recent geologic history, abrupt climate change has been caused by changes in ocean circulation patterns and ice-sheet dynamics, including (i) the Younger Dryas (12,900- 11,700 years ago) when global temperatures dropped by up to 15o C in some regions, (ii) an unnamed sudden cooling event that occurred around 8,200 years ago and that lasted about 150 years, and (iii) the Dansgaard-Oeschger Events (115,000-11,500 years ago) with a series of abrupt warmings and cooling during the last Ice Age with temperature shifts of 5-10o C occurring within decades.

The IPCC Assessment Reports have considered a number of potential tipping points associated with global warming, including ice-sheet collapse, collapse of the Atlantic Overturning Circulation, carbon release from permafrost thawing, and destruction of the Amazon rainforest and coral reefs. There are some preliminary climate model simulations for some of these conjectured tipping points. However, climate models do not include the appropriate physical, chemical, and biological processes to adequately simulate such events. Hence, these hypothesized climate tipping points have been based largely upon the consideration of imperfect analogues from the geologic past, process models, and physically based storylines.

The likelihood of any of the above types of hypothesized tipping points occurring in the 21st century under the medium emissions scenario is generally regarded as low, although there is also low confidence in any conclusions surrounding possible tipping points owing to deep (Knightian) uncertainties in our understanding of the complex climate system.

Could something genuinely catastrophic happen to the climate on the timescale of the 21st century? Yes, although continued use of fossil fuels is not the only possible cause. For example, a climate catastrophe could also be caused by nuclear war, a series of explosive volcanic eruptions, natural shifts in ocean circulation patterns, and/or shifts in ice-sheet dynamics driven by geologic processes.

It is impossible to remove all sources of climate-related risk, and it would be unwise to attempt to try to avert low probability climate catastrophes with policy actions that would themselves surely impose massive near-term costs on humanity. There is no doubt that aggressive near-term suppression of fossil-fuel use would impose significant costs on humans until such time as viable replacements for fossil fuels were found for the roles they play in the production of food, steel, cement, and plastics.

The critical implication: In terms of rational risk management, there is no case for policies that would suppress fossil-fuel use aggressively simply because something bad might happen. For such suppression to be rational, we should have good reason to think that the low probability climate catastrophe we would avoid would be far worse than the catastrophe we would surely induce by moving aggressively to net zero. We have yet to see anyone provide credible support for the latter argument.