

The Backlash Against Neoliberal Globalization from Above: Elite Origins of the Crisis of the New Constitutionalism

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Abstract

This article recounts the backlash against the neoliberal constitutionalism that locked in free trade and capital rights through the multilateral treaty organizations of the 1990s. It argues that we can find important forces in the disruption of the status quo among the elite losers of the 1990s settlement. Undercut by competition from China, the US steel industry, in particular, became a vocal opponent of unconditional free trade and a red thread linking all of Trump's primary advisers on matters of trade. Steel lobbyists themselves helped frame a critique of actually existing neoliberal globalism, which Trump both adopted and acted on as part of his trade war. By searching for the contemporary attack on neoliberal constitutionalism among the disgruntled corporate elite, we find that our current crisis must be framed as a backlash from above as well as one from below.

Keywords

global elites, globalization, law, multilateralism, neoliberalism, sovereignty, World Trade Organization

Among the most influential arguments linking neoliberal thought to global capitalism is the theory of New Constitutionalism. Beginning in the 1990s, political scientist Stephen Gill argued that we could see the decade's new institutions, including the WTO, NAFTA, and the European Union, as interrelated efforts to depoliticize economic arrangements by 'locking in' private capital rights through multilateral legal entities insulated from democracy (Gill, 1992, 1995, 1998a, 1998b).

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New Constitutionalism, in his words, was the ‘political-judicial counterpart’ to ‘disciplinary neoliberalism’ (Gamble, 2001: 134; Gill, 2002: 47). Legal scholars and sociologists took up arguments about the New Constitutionalism and applied them *inter alia* to international investment law (Schneiderman, 2008), transnational arbitration courts (Cutler, 2003, 2018), the European Union (Beiling and Schulten, 2003; Dale and El-Emany, 2013; Streeck, 2016; Van Apeldoorn, 2009), independent central banking (Baker, 2006), multilevel governance (Harmes, 2006), and intellectual property law (Mylly, 2018).

One of the New Constitutionalism’s attractions was how certain aspects of neoliberal theory seemed to index the ‘roll-out’ (Tickell and Peck, 2003) of new institutions. Scholars found prefiguration and even blueprints for the New Constitutionalism in the work of Friedrich Hayek, James Buchanan, and German ordoliberalists like Franz Böhm, Ernst-Joachim Mestmäcker, and Walter Eucken (Biebricher, 2019; Cristi, 1984; Gerber, 1994; MacLean, 2017; Slobodian, 2018b; Streeck, 2014; Tzouvala, 2018; Vatter, 2014). Seeing law as the ‘code of capital’ (Pistor, 2019), they saw legal institutions and lawyers as critical pillars of a neoliberal world order (Rodríguez-Garavito, 2011) that oversaw, enacted, and enforced the ‘juridicization of international trade relations’ (Reich, 1997).

New Constitutionalism was a remarkably durable description of the global political economy (Biebricher, 2018). Decades after its first articulation, little seemed to gainsay the contention that law locked in capital rights at ever widening scales as part of the ‘institutional project of neoliberal globalism’ (Chorev, 2005). A retrospective volume on New Constitutionalism co-edited by Gill in 2014 contained no significant revisions of the original theory, merely suggesting how it could be extended to new domains and objects of study (Gill and Cutler, 2014). An article from 2013 asking whether we had moved ‘beyond the New Constitutionalism’ after the Global Financial Crisis of 2007–8 answered in the negative (Dierckx, 2013).

The events of 2016 dealt a body blow to New Constitutionalism as both theory and practice. The British vote to leave the European Union ran counter to the trajectory of ever greater integration suggested by the New Constitutionalism. In the United States, the turn of both presidential nominees against the latest large-scale free trade agreement – the Trans-Pacific Partnership (TPP) – marked a swerve from the status quo of what has been called ‘the long 1990s’ (Purdy, 2018). While some advocates of Brexit called for free trade under ‘WTO rules’, Donald Trump campaigned directly against the WTO and NAFTA and commenced a sequence of escalating tariffs against Chinese imports within six months of his presidency, triggering the most significant breach of liberal trade policy for the US since the 1930s. The claim in the 2014 volume on New Constitutionalism that ‘in contemporary global politics

there can be few more popular normative appeals than to the rule of law' felt immediately outdated (May, 2014: 63).

The first response from scholars of neoliberal constitutionalism was to claim that the apparent deviation only proved their theory correct. Globalization's chickens had come home to roost and we were witnessing the 'return of the repressed' (Streeck, 2017) as disgruntled populations began 'opting out of global constitutionalism' (Hirschl, 2018). By delegating ever more tasks of governance to the supranational level, nation-states had undermined their own legitimacy, eroding mass consent for economic and legal globalization (Grewal, 2018). Granted, the backlash came from an unexpected quarter – not the grassroots social movements of the left (Adler, 2014; Della Porta et al., 2006; Tarrow, 2005; Teune, 2010), but from the right. Still, some scholars were relatively untroubled, taking the short leap to a grudging support for the insurgent political forces opposing supranational integration. Wolfgang Streeck described the 'populist' Eurosceptic parties as a 'communitarian response to the neoliberal competition regime' whose 'demands for a decentralized, distributed architecture of political rule' represented 'the better arguments' (Streeck, 2019: 14). Another scholar wrote that '[o]ne of the reasons for the populist appeal of Trump is undoubtedly the way he has challenged neoliberal reason' (Kiely, 2017: 741). Others contended with more circumspection that popular resentment was being commandeered to serve political ends unlikely to remedy the original grievances (Rodrik, 2018). Some were even more skeptical about the backlash's grassroots origins, diagnosing an emergent 'neo-illiberalism' combining features of ethno-nationalism with elite imperatives of cross-border capital mobility (Hendrikse, 2018).

One can see why critical scholars of global political economy favored the narrative of a 'backlash from below' (Frieden, 2018). The storyline of 'an epic struggle between globalization and a resurgent nationalism' (Crouch, 2019: 1) is attractive in its elegance and has the advantage of confirming the priors of scholars who found the legitimacy of the status quo unsustainable. It finds the seeds of discontent where they expected to find them: among those suffering economic loss, wage stagnation, and demographic change. It offers clear binaries: open versus closed, free trade versus protectionism, Smith versus Fichte, globalists versus populists, 'citizens of nowhere' versus 'citizens of somewhere' – perhaps, as the title of this special issue proposes, even neoliberalism versus post-neoliberalism.

The reliance on such binaries in interpretations of the backlash is striking. This article contends that it is also a partial story that obscures important origins of the current predicament. The backlash-from-below narrative relies on a stark scalar divide between an upper stratum of interlocked states, supranational institutions, and capitalist elites, and a lower stratum of fragmented national populations subject to their

decisions. Theories of neoliberal constitutionalism support this binary by asserting, both implicitly and explicitly, a coherence of interests at the elite level around projects of free trade and neoliberal globalization. Even if qualifications about the ‘internal contradictions’ among capitalist elites were routine in the literature, the fundamental unity of the ‘Transnational Capitalist Class’ (Robinson, 2014) was maintained in practice. Because the super-stratum was comprised of globalization’s winners, by definition, the sub-stratum must contain its losers. By lumping too many interests together, the interpretative straitjacket of New Constitutionalism made it difficult for critical scholars to differentiate between the backlash from the left and the right. Thus, Bernie Sanders and Trump become common symptoms of a backlash or a ‘global organic crisis’ (Gill, 2018).

My argument – which is also a self-critique – is that scholars of New Constitutionalism may have read their opponents too closely and reproduced their arguments too faithfully. By adopting the framing of neoliberals themselves, the relatively static diagnosis of New Constitutionalism partakes in its own kind of ‘End of History’ delusion, reifying what was ultimately one of many competing propositions about organizing global political economy.

Ran Hirschl reminds us that trends toward constitutionalization in the 1990s arose from ‘a sense of threat, not hubris’ (Hirschl, 2014: 106). To defenders of the multilateral free trade order, the enemy was from outside the business community, including NGOs and civil society groups in the Global North, and untrustworthy electorates in the Global South. But the threat was also from within the business community: the pleading of corporate lobbyists and special interests for preferential treatment. Law has distributive effects and forms part of distributive struggles (Kennedy, 2016). Any global economic legal settlement ‘represents a political deal brokered in the context of power and special interests’ (Pauwelyn, 2005: 331), not the interests of a putatively unitary ‘capital’ in the abstract. To understand the dimensions of the current rupture, we must be attentive not only to the ‘left behinds’ (Ford and Goodwin, 2014) of globalization in the electorate but those sectors of capital who have felt left behind in the movement to freer trade.

This article proposes that the elite losers of the 1990s settlement are neglected forces in the disruption of the status quo of US trade policy. The US steel industry, in particular, has been disproportionately influential as an opponent of free trade. Though steel manufacturing plays a minor role in the US economy, accounting for less than 1 percent of employment and exports, it is symbolically important to issues of deindustrialization, unemployment, and masculinity, especially in the Midwestern states key to Trump’s victory (Sandhu, 2017). Steel lobbyists, including Nucor’s Dan DiMicco, framed a critique of actually existing neoliberal globalism that Trump adopted and acted on as part of his

trade war. As we will see, the steel industry is a red thread linking Trump's primary advisers on matters of trade, US Trade Representative Robert Lighthizer, Commerce Secretary Wilbur Ross, and Director of Trade and Manufacturing Peter Navarro. By looking at one particular sector of the disgruntled corporate elite, we see that the contemporary challenge to neoliberal globalization and the New Constitutionalism is not simply a backlash from below; it is also a backlash from above.

Robert Lighthizer and Competitive Liberalization

The so-called neoliberal era has been marked by frequent deviations from the rules of multilateral free trade implied by the New Constitutionalism. Perhaps most notably, the 1980s saw an extension of the New Protectionism of the 1970s (Green, 1981), when Ronald Reagan used a series of quotas, 'orderly marketing arrangements' and 'voluntary export restraints' to protect threatened domestic economic sectors. The 1980s saw a so-called Super 301 investigation added to the already existing Section 301 investigation included in the 1974 Trade Act. These legal instruments allowed for investigations by the US Trade Representative leading to the unilateral levying of tariffs or quotas on imports from countries deemed to be practicing 'unfair trade'.

Far from gestures toward isolationism or autarky, these were market-opening maneuvers, driven by US frustration at their perceived disadvantage in the global legal landscape (Destler, 2005: 124). One such expression of frustration came from the real estate magnate Donald J. Trump, who declared in 1986 that 'I believe it's very important that you have free trade. But we don't have free trade right now' because of barriers to economic investment in booming countries like Japan and Saudi Arabia (Trump and King, 1987). The idea that one might have to break the rules of multilateral free trade through unilateral action to get to the end point of free trade in practice – also known as 'competitive liberalization' (Bergsten, 1996) – was a common sentiment of the decade. Some have gone as far as to call this 'neoliberal protectionism' (Wraight, 2019) in its use of state power to achieve the end goal of more open global markets.

One actor involved in 1980s trade negotiations would later become Trump's most powerful trade official, Robert Lighthizer. A native of Ohio born in 1947 who attended Georgetown at the same time as former President Bill Clinton, Lighthizer served as the chief counsel for the Finance Committee under Senator Bob Dole beginning in 1978 before being appointed Reagan's Deputy USTR in 1983. He was the chair of the US-Japan Investment Committee and helped negotiate limits on the import of Japanese steel. The US negotiated export restraints with Japan in 1984, two years after it had negotiated similar ones with the European Community (Destler, 2005: 195). Cresting on an

established record of deploying state power to protect private interests, Lighthizer returned to the private sector in 1985, working for the storied Wall Street law firm Skadden Arps and acting as a lobbyist for the steel industry and ‘lead counsel for U.S. Steel in trade litigation’ (Johnson, 2018: 710). When Lighthizer became Trump’s USTR in 2017, he brought multiple members of the firm along, including the new ambassador to the WTO (Politi, 2018).

Free trade economists were ambivalent about the so-called export protectionism of the 1980s. Jagdish Bhagwati read Reagan’s rampant use of executive action on trade as a symptom of what he called ‘diminished giant syndrome’, where the US lashed out in fear of its loss of industrial dominance and compelled its trading partners to take measures that increased US competitiveness. While he disapproved of the method, Bhagwati acknowledged that these actions often functioned in the interest of opening markets. He and economist Douglas Irwin described the approach as ‘the return of the reciprotarians’, comparing it to the ‘fair traders’ of the late 19th century in Britain who also used trade deals to open new markets (Bhagwati and Irwin, 1987). Many others saw the unilateral actions of the US as productive. The measures did not conform to the spirit of the New Constitutionalism but they did help drive nations to the negotiating table for the WTO, which many weaker nations perceived as a second-worst option to dealing with the erratic executive action of the United States.

On its face, the WTO, inaugurated in 1995, was an entirely different animal than the Reaganite repertoire of export protectionism. Its champions claimed it ushered in a world economy governed by ‘rules’ as opposed to the ‘power’ of its forerunner organization, the GATT (Jackson, 1978: 98). From one perspective, the WTO’s architects were extraordinarily successful. Speaking at the neoliberal think tank, the Institute of Economic Affairs, in 2015, the WTO’s first director, Peter Sutherland, paid homage to a neoliberal icon when he said that the WTO’s framers ‘drew on two of Hayek’s key insights – the role of the price system in conveying information and the importance of the rule of law’ (Slobodian, 2018b: 273). The two features of Rule of Law for Hayek – isonomy or ‘same law’ and enforcement – were indeed covered in the WTO by the gradual elimination of special treatment for developing nations and the creation of a Dispute Settlement Mechanism with binding judgements. One of the active participants in framing the WTO enthused that it could serve as a model to help make ‘market freedoms’ into universal human rights (Petersmann, 1996–7).

Scholars who deploy the framework of the New Constitutionalism often adopt Sutherland’s framing as read. They take for granted that the state was bound in a two-level game, and decision-making was removed to an international space. Not all observers agreed. As many noted, it was easy to overstate the constitutional status of the WTO.

The ‘constitutional conceits’ (Dunoff, 2006) propagated by some of those involved exaggerated the power of the WTO, which remained, as with all forms of international law, only as powerful as the states permitted it to be (Howse and Nicolaïdis, 2001). While novel in some respects, the WTO was, from another perspective, just another forum for pursuing special interests.

How did different sectors of US capital fare under the WTO settlement? Some were served well by the WTO’s ‘North-South Grand Bargain’ (Ostry, 2002). Pharmaceuticals, apparel, software and entertainment, in particular, saw their demands for intellectual property law covered despite the fact that, as some economists protested, their demands were not even trade-related (Bhagwati, 1994). Finance was clearly aided by the liberalization of services and capital movements. By contrast, textiles lost the special protection they had enjoyed under the export quotas of the Multi-Fiber Arrangement, and heavy industry was opened up to new overseas competition, especially after the accession of China to the WTO in 2001.

Within a decade of the WTO’s passage it was clear that the most disruptive domestic opponents of the new multilateral settlement would not be the labor and environmental groups that free traders feared most (Barfield, 2001). Rather, it would be the elite losers: those industries undercut by imports enabled by the expansion of free trade and liberalization of investment flows. While some sectors of capital had secured their interests by way of the WTO deal, others would seek the same protection from the state by other means.

Wilbur Ross and the Protectionist Put

Steel offers an illustration of the recurrence of state protectionism again. The Asian Financial Crisis of 1997–8 flooded the US market with cheap steel imports, contributing to the loss of nearly 200,000 jobs in the sector as factories closed or went bankrupt (Irwin, 2017: 661). The steel industry’s requests for 1980s-style protection fell on deaf ears at first but scored a victory in 2002 when the Bush administration placed a tariff of up to 30 percent on some steel imports (Irwin, 2017: 673). The response from WTO member states was swift and the Geneva trade body ruled against the US, leading Bush to drop the tariffs within 18 months. The interlude of the Bush steel tariffs is usually read as a mere footnote in trade history (Destler, 2005: 245). One might even read it as an affirmation of the strength of the new free trade consensus were it not for the way that it previewed the dynamics that would return with Trump’s trade war.

The tariffs were consequential for their effect on the fate of someone who would become Trump’s second most influential trade official: future Commerce Secretary Wilbur Ross. Ross spent the first decades of his

career at Rothschild advising in bankruptcy proceedings, including Trump's own in 1990, when he advised the creditors of the Trump Taj Mahal. Ross was known as the 'King of Bankruptcy', helping restructure \$200 billion in liabilities in an era when filing for Chapter 11 bankruptcy went from being a source of personal shame and a sign of failure to a profitable corporate strategy (Delaney, 1992; Skeel, 2003). In 2000, Ross set up his own so-called vulture fund specializing in acquiring, restructuring and reselling distressed assets. His biggest victory happened as a direct result of the Bush steel tariffs.

Beginning in 2001, Ross bought a series of ailing or bankrupt steel companies, restructured and merged them as the International Steel Group. With US steel prices momentarily buoyed by the tariffs, Ross sold the company to Lakshmi Mittal in May 2005 at a profit of \$260 million (Fong, 2005). Ross held a seat on the board of directors of what would become the world's largest steel company, ArcelorMittal, until taking the post of Commerce Secretary in 2017. The business press dubbed Ross a 'man of steel' (Olijnyk, 2004) for his successful tactic of 'betting on protection' in the Mittal deal (Tejada, 2003). The passing use of protection was apparently not in conflict with Ross's own statement that he and Mittal were both 'strong believers, first, in globalization' (Anonymous, 2004).

On display here was a skill that Ross deployed during his whole career: taking advantage of the nexus of law, policy, and market to maximize personal profit. Journalists observed that Bush's actions on steel taught Ross 'the value of government intervention' (Malone, 2003). In responding to recriminations on the campaign trail about his record of bankruptcies, Trump's stock response was a similar one. He shrugged that he had 'used the laws of the land' (Anonymous, 2016). Ross's approach reflected the understanding he would bring to the White House. Policy was not aimed at goals of universal welfare or efficiency but was an appendage of particular private interests. Capitalism worked best by leveraging the state in service of private profit.

Ross's attitude toward trade policy was led by a bloodless pragmatism. In September 2003, he launched a new lobbying group of which he was founder and chairman: the Free Trade for America Coalition. The group brought together a 'coalition of steel, textile, glass, copper and brass, cattle, honey and sugar companies with the Paper, Steel and Textile Unions', in Ross's words, 'to educate the American people and their elected representatives of the consequences associated with international trade deficit and to campaign against unfair international trade practices' (Anonymous, 2003). Ross boasted of being the first representative from management to attend an anti-free trade rally of the United Steelworkers and he vocally opposed further trade liberalization in the Americas at their meetings (McCarthy, 2003). His hope was that the protection given to steel would be extended to another sector as he sought to repeat his

success with the International Steel Group with an International Textile Group, snapping up bankrupt companies in that sector.

When a second coming of what we could call the ‘protectionist put’ was not forthcoming, Ross deftly flipped his message, supporting precisely the kind of treaty he’d opposed in the Central American Free Trade Agreement (CAFTA), earning the justified label of ‘turncoat’ from his former allies in organized labor (Patterson, 2004). He explained his logic when he discussed the addition of a denim plant in Guatemala City to his already existing overseas textile manufacturing operations: ‘Guatemala is a very logical place from a CAFTA point of view... The normal wage in this industry is a little under \$200 a month. That is getting down toward the China level’ (Malone, 2004). The following year, he went to the bottom of the wage scale, breaking ground for a textile factory outside of Shanghai, performing the act he had vociferously condemned to US textile workers just two years earlier (Fong, 2005).

Ross’s self-defense was telling. Asked by a reporter at a press conference whether he was advocating protectionism to preserve his own investments, he responded ‘it absolutely is. I don’t see any reason [why] that should be criticized. Do you believe the foreign governments are protecting anyone’s interest but their own? I doubt it’ (Nash, 2003). When pushed on his reversal in support for CAFTA, he repeated the theme: ‘I believe that everyone in the industry should be acting in his or her own self-interest’ (Patterson, 2004). Ross’s status as distressed investor meant an endless motility of rhetoric: a belief that an asset must always be talked down until the right point to buy and up until the most advantageous moment to sell. We see here a surface loyalty to the logic of shareholder value (Davis, 2009) and a deeper commitment to what Martijn Konings calls ‘the logic of leverage’ (Konings, 2018b). Far from the tropes of neoliberal constitutionalization ensuring uniform predictability of economic exchange, Ross practiced the nimbleness of speculation under conditions of uncertainty (Feher, 2018).

Peter Navarro and Heartland Sinophobia

Wilbur Ross’s interest in steel faded with his personal stake in the industry. More engaged was the third figure destined to play an influential role on Trump’s trade team as his Director of Trade and Manufacturing: University of California-Irvine economics professor Peter Navarro. In 2011, Navarro co-wrote a book with business school professor Gene Autry called *Death by China: Confronting the Dragon – A Global Call to Action* (Navarro and Autry, 2011). The book was a sensationalist reflection on China’s economic rise, including a barrage of anecdotes about China’s adulterated food products, alleged collaboration with dictators, and unregulated pollution. Beginning with an epigraph from

Albert Camus that 'it is the job of thinking people not to be on the side of the executioners', the authors accused China of becoming 'the planet's most efficient assassin' under whose regime of unfair competition the 'American blue-collar worker has become an endangered species' (Navarro and Autry, 2011). The book targeted US business organizations as 'soldiers in the pro-China lobby' and accused politicians of a similar complicity.

Navarro adapted *Death by China* into a documentary film of the same name narrated by Martin Sheen (and streamed well over a million times online as of late 2020). The film is replete with startling animations. Blood spurts out of the US Midwest as a hunting knife marked 'made in China' plunges into it. Chinese bombs reading 'income tax breaks' and 'illegal export subsidies' pulverize American factories. Bayonets reading 'slave labor' and 'child labor' parade in front of Mao Zedong's portrait. A shell game shows China taking 'jobs', multinational corporations taking 'profits', and the US government holding 'debt'. The flags of Microsoft, GE, Caterpillar, and Boeing are hoisted over both the US Capitol building and Beijing's Forbidden City. The effect is heartland Sinophobia: a hybrid spirit of the patriotic globalization critique of the films of Michael Moore and long-standing tropes of Chinese treachery and civilizational depravity.

Journalists later revealed that funding for the film came from the country's second-largest steel company, Nucor, funneled through a non-profit organization (Timiraos and Ballhaus, 2018). Both film and book followed closely the talking points of Nucor's CEO at the time, Dan DiMicco. Singled out as an exemplary CEO in *Death by China*, DiMicco is also quoted as saying: 'We've been in a trade war with China for more than a decade. But they are the only ones firing the shots!' (Navarro and Autry, 2011: 66, 242). DiMicco spoke on behalf of one of the perceived losers of free trade globalization as employment in steel had been hit by the so-called 'China Shock' of import competition alongside the much more consequential increase in productivity (Griswold, 2019). He pioneered many of the points later taken up by Trump, including the attack on China's 'mercantilist and predatory trading practices', including currency manipulation and illegal subsidies, and the call for domestic energy independence and protection of domestic manufacturing (DiMicco, 2009). In an op-ed co-authored with Navarro, DiMicco described China as a global threat that needed to reform or 'be engulfed in a trade war largely of its own making' (Navarro and DiMicco, 2010).

The echoes of DiMicco in Trump's rhetoric are not coincidental. DiMicco was one of Trump's campaign advisors, alongside Navarro and a range of hedge fund managers and real estate CEOs, along with veterans of the neoliberal think tank archipelago like Stephen Moore of ALEC and Club for Growth and the inspiration to Reagan's top

marginal tax cuts, Arthur Laffer (Matthews, 2016; Moore and Laffer, 2018). DiMicco took the lead on trade policy for Trump, steering the transition team on the USTR and interviewed for the job himself before the selection of Lighthizer (Fares and Lawder, 2016). True to DiMicco and Navarro's threats, among the first acts of the new government was the commencement of a trade war through steel and aluminum tariffs with China as a primary target. This was done first through a 'national security clause' (Section 232) followed by further tariffs authorized by a Section 301 investigation led by Lighthizer (Park and Stangarone, 2019; Slobodian, 2018a). A 25 percent tariff was placed on steel in 2018, lifted for Canada and Mexico in 2019. Trump tweeted regularly about steel, perhaps most memorably on 2 March 2018, when he wrote: 'We must protect our country and our workers. Our steel industry is in bad shape. IF YOU DON'T HAVE STEEL YOU DON'T HAVE A COUNTRY.'

How to make sense of the steel industry's apparent capture of US trade policy? In sponsored vehicles for their message like *Death by China*, steel lobbyists crafted a persuasive narrative about the immiseration of the heartland and those left behind by globalization, reproduced by many journalists and politicians despite the sparse evidence that tariffs have the capacity to reverse the symptoms identified. Protection did pay off in the short run for Nucor's shareholders as the stock price doubled from January 2016 to January 2018, though it has fallen since. Was Trump's steel-friendly trade policy the opposite of New Constitutionalism? A 'post-neoliberal' return to 'power' after the 1990s dogma of 'rules'?

One must draw distinctions between the economic imaginaries of Trump's advisors. Lighthizer continues to adhere to 'competitive liberalization', according to which unilateral action can be market-opening, producing a more 'level playing field' (to use the common metaphor) and perhaps even a future multilateral settlement (Wraight, 2019). Arriving at this destination requires many of the tools of the New Constitutionalism. Lighthizer is keen on extending the purview of economic juridicization well beyond the Chinese border into its court system to ensure compliance with intellectual property laws. In this sense, we see an intensification of some aspects of the legalized political economy of the 1990s and certainly the market-opening protectionism of the 1980s (Miller, 2018).

Navarro, by contrast, tends toward the more radical demand of 'decoupling' the US economy from China. Rather than a transitional phase of tariffs to arrive at a free trade telos, he foresees manufacturing supply chains disentangled permanently to protect against national security vulnerabilities (Irwin and Bown, 2019). Navarro's concern extends to infrastructure, placing military concerns ahead of economic interests in a version of what scholars have called 'weaponized interdependence' (Farrell and Newman, 2019) and 'geoeconomics' (Roberts et al., 2019). The gap between Lighthizer and Navarro's policy vision

makes clear that the desire of state protection by certain sectors of capital may be constant but the larger strategy within which this desire is fulfilled is an object of ongoing contestation.

Conclusion

The central metaphor of the New Constitutionalism comes from Homer's *Odyssey*. Passing the island of the beguiling Sirens, Ulysses requests to be bound to the mast to enjoy their songs without wrecking his ship (Teubner, 2012). The metaphor of constitutional 'pre-commitment' (Elster, 1977) is deployed by both neoliberal theorists and their critics to describe the constraints placed on governments, and by extension, the populations that elect them to ward off the seductive appeal of trade protection and the blandishments of special interests (Brennan and Buchanan, 2000: 82; Lal, 1984: 25; Tucker, 2018: 223). The narrative logic is unforgiving: to loosen the bonds would mean total destruction.

Much of the alarm (or elation) since 2016 has sprung from a common impression of Ulysses unbound. The 'liberal international order' was undone, we were often told, and the ships of economy and state roved free at the risk of scuttling themselves. Yet compare the metaphor to reality. Even if neoliberal ideologues like Hayek and Buchanan believed that the sovereign itself had to be bound, the US as hegemon was only ever provisionally persuaded to engage in limiting itself by trade rules. Even the preeminent theorist of precommitment, Jon Elster, conceded that 'in politics, people never try to bind themselves, only to bind others' (Elster, 2000: ix). The Ulysses metaphor misleads by compressing all state and capitalist interests into a single figure, thus eliding important divisions.

Nevertheless, returning to the metaphor may accommodate the alternative reading proposed in this article. Recall that the Sirens tempted Ulysses by promising him not just pleasure but foresight. Homer wrote that 'he who listens [to their song] will go on his way not only charmed, but wiser', for the songs 'can tell you everything that is going to happen over the whole world'. It was precisely such reassurances about the future that special interests sought through the protections afforded by the legal repertoire of the state, whether it was Ross exploiting state intervention for a short-term sale, Lighthizer's clients seeking countervailing duties from a US administration, or DiMicco seeking semi-permanent protection for his sector of manufacturing.

Scholars argue that the neoliberal mode of rule defaults to a repetitive two-step by governing through uncertainty in the surrender of control over the economic future to private actors within a market framework followed by inevitable episodic interventions to rescue the wealthy in the moments of systemic crisis that follow (Davies and

McGoey, 2012; Gindin and Panitch, 2012; Konings, 2016). This formula of privatizing profit and socializing risk is especially applicable to the financial sector, where losses can be as profitable as gains, depending on the direction of one's wager. Neoliberalism studies have, for good reason, been dominated by a focus on finance (Fine, 2009; Konings, 2018a). Yet trade and manufacturing operate differently, requiring more regularity and longer time horizons. From the point of view of the capitalist engaged in export manufacturing, one sees less the binary option of Ulysses bound or freed but, more pragmatically, an ongoing effort to forge alliances with the Sirens on a choppy sea as sources of knowledge about the future. The lobbying of Congress, the Commerce Department and the USTR for special attention is part of a hope to 'lock in' a different future than that usually envisioned by the New Constitutionalism literature: not a neutral grid for entry and exit but a partisan effort at preserving market share in a field of rising competitors.

Attempts so far to explain Trump from within the framework of neoliberalism studies have been somewhat tortured. Descriptions of Trump as 'neoliberalism's Frankenstein' (Brown, 2018) have productively pointed to the unexpected consequences of neoliberal policies, but they can also serve to re-inscribe a chiliastic framework of neoliberalism in the process of unraveling. The eschatological mode has not served the study of neoliberalism well, as the trail of announcements of its demise attest. Every death of neoliberalism, as it is now routine to observe, portends a new 'mutation' (Callison and Manfredi, 2019; Ong, 2006; Sornarajah, 2011).

It may be that the effort to arrive at a single storyline has been one of our primary obstacles. The influence of the Regulation School has pushed for the identification of sequential eras, stages, or epochs. The story offered in this article suggests that we can best understand Trump's trade policy as born within the range of legal instruments indigenous to the 'neoliberal era' of the last 40 years. Because free trade and protection coexisted, the before/after frame is changed into one of uneven coequality.

As we have seen, the tendency of the New Constitutionalism to homogenize the needs and aims of capital in the abstract overlooked the ongoing power of those sectoral capital interests disadvantaged by free trade globalization. By giving the impression of an overly coherent package, critics underestimated the power of particular sectors of capital in bending legal structures to their benefit. Attending to the distributive effects of new legal regimes within the capitalist class itself helps us to find prefigurations of later crises. We must take seriously the fact that it is in the commanding heights as well as in the suffering provinces that the roots of the current split in the US philosophy of global economic governance can be found.

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References

- Adler, Paul (2014) *Planetary citizens: U.S. NGOs and the politics of international development in the late twentieth century*. PhD, Georgetown University, USA.
- Anonymous (2003) News Conference Announcing Formation of Free Trade for America Coalition, *U.S. Newswire*; Washington [Washington] 24 Sep: 1.
- Anonymous (2004) Successful steel equation: Mittal plans world's largest producer. *Metal Producing & Processing* 42(6).
- Anonymous (2016) *9th Republican Presidential Candidate Debate*, 13 February. <https://www.c-span.org/video/?404611-1/cbs-republican-presidential-candidates-debate>.
- Baker, Andrew (2006) *The Group of Seven: Finance Ministries, Central Banks and Global Financial Governance*. New York: Routledge.
- Barfield, Claude (2001) *Free Trade, Sovereignty, Democracy: The Future of the World Trade Organization*. Washington, DC: American Enterprise Institute.
- Beiling, Hans-Jürgen and Schulten, Thorsten (2003) 'Competitive restructuring' and industrial relations within the European Union: Corporatist involvement and beyond. In: Cafruny, Alan and Ryner, Magnus (eds) *A Ruined Fortress?: Neoliberal Hegemony and Transformation in Europe*. Lanham, MD: Rowman & Littlefield.
- Bergsten, C. Fred (1996) Competitive liberalization and global free trade: A vision for the early 21st century. *Working Paper 96-15*. Peterson Institute for International Economics. Available at: <https://www.piie.com/publications/working-papers/competitive-liberalization-and-global-free-trade-vision-early-21st> (accessed 15 February 2021).
- Bhagwati, Jagdish (1994) Threats to the world trading system: Income distribution and the selfish hegemon. *Discussion Paper 696*. Columbia University. Available at: <https://core.ac.uk/download/pdf/161436412.pdf> (accessed 15 February 2021).
- Bhagwati, Jagdish and Irwin, Douglas A. (1987) The return of the reciprocitarians: US trade policy today. Available at: <https://www.dartmouth.edu/~dirwin/docs/Reciprocitarians.pdf> (accessed 15 February 2021).
- Biebricher, Thomas (2018) The rise of juridical neoliberalism. In: Golder, Ben and McLoughlin, Daniel (eds) *The Politics of Legality in a Neoliberal Age*. New York: Routledge, pp. 97–115.
- Biebricher, Thomas (2019) *The Political Theory of Neoliberalism*. Stanford, CA: Stanford University Press.
- Brennan, Geoffrey and Buchanan, James M (2000 [1985]) *The Reason of Rules: Constitutional Political Economy*. Indianapolis, IN: Liberty Fund Press.
- Brown, Wendy (2018) Neoliberalism's Frankenstein: Authoritarian freedom in twenty-first century 'democracies'. *Critical Times* 1(1): 60–79.
- Callison, William and Manfredi, Zachary (eds) (2019) *Mutant Neoliberalism: Market Rule and Political Ruptures*. New York: Fordham University Press.
- Chorev, Nitsan (2005) The institutional project of neo-liberal globalism: The case of the WTO. *Theory and Society* 34(3): 317–355.
- Cristi FR (1984) Hayek and Schmitt on the rule of law. *Canadian Journal of Political Science/Revue Canadienne de science politique* 17(3): 521–535.

- Crouch, Colin (2019) *The Globalization Backlash*. Cambridge: Polity.
- Cutler, A. Claire (2003) *Private Power and Global Authority: Transnational Merchant Law in the Global Political Economy*. New York: Cambridge University Press.
- Cutler, A. Claire (2018) The judicialization of private transnational power and authority. *Indiana Journal of Global Legal Studies* 25(1): 61–95.
- Dale, Gareth and El-Enany, Nadine (2013) The limits of social Europe: EU law and the ordoliberal agenda. *German Law Journal* 14(5): 613–649.
- Davies, William and McGoey, Linsey (2012) Rationalities of ignorance: On financial crisis and the ambivalence of neo-liberal epistemology. *Economy and Society* 41(1): 64–83.
- Davis, Gerald F. (2009) *Managed by the Markets: How Finance Reshaped America*. New York: Oxford University Press.
- Delaney, Kevin J. (1992) *Strategic Bankruptcy: How Corporations and Creditors Use Chapter 11 to Their Advantage*. Berkeley: University of California Press.
- Della Porta, Donatella, et al. (2006) *Globalization from Below: Transnational Activists and Protest Networks*. Minneapolis: University of Minnesota Press.
- Destler, I.M. (2005) *American Trade Politics*. Washington, DC: Institute for International Economics.
- Dierckx, Sacha (2013) After the crisis and beyond the new constitutionalism? The case of the free movement of capital. *Globalizations* 10(6): 803–818.
- DiMicco, Dan (2009) A nation that ‘builds things’. *Wall Street Journal*, 15 December.
- Dunoff, Jeffrey L. (2006) Constitutional conceits: The WTO’s ‘constitution’ and the discipline of international law. *The European Journal of International Law* 17(3): 647–675.
- Elster, Jon (1977) Ulysses and the sirens: A theory of imperfect rationality. *Social Science Information* 16(5): 469–526.
- Elster, Jon (2000) *Ulysses Unbound: Studies in Rationality, Precommitment, and Constraints*. Cambridge: Cambridge University Press.
- Fares, Melissa and Lawder, David (2016) In Trump cabinet, Commerce Secretary will run trade policy. *Reuters*, 20 December.
- Farrell, Henry and Newman, Abraham L. (2019) Weaponized interdependence: How global economic networks shape state coercion. *International Security* 44: 42–79.
- Feher, Michel (2018) *Rated Agency: Investee Politics in a Speculative Age*. New York: Zone Books.
- Fine, Ben (2009) Neoliberalism in retrospect? It’s financialisation, stupid. In: Chang Kyung-Sup, Fine, Ben and Weiss, Linda (eds) *Developmental Politics in Transition: The Neoliberal Era and Beyond*. New York: Palgrave, pp. 51–69.
- Fong, Mei (2005) Buyout specialist invests in China textile plant. *Wall Street Journal*, 11 July.
- Ford, Robert and Goodwin, Matthew J. (2014) *Revolt on the Right: Explaining Support for the Radical Right in Britain*. London: Routledge.
- Frieden, Jeffrey A. (2018) The backlash against globalization and the future of the international economic order. Available at: https://scholar.harvard.edu/files/jfrieden/files/frieden_future_feb2018.pdf (accessed 15 February 2021).

- Gamble, Andrew (2001) Neo-liberalism. *Capital & Class* 25(3): 127–134.
- Gerber, David J. (1994) Constitutionalizing the economy: German neoliberalism, competition law and the ‘new’ Europe. *The American Journal of Comparative Law* 42(1): 25–84.
- Gill, Stephen (1992) Economic globalization and the internationalization of authority: Limits and contradictions. *Geoforum* 23(2): 269–283.
- Gill, Stephen (1995) Globalisation, market civilisation, and disciplinary neo-liberalism. *Millennium: Journal of International Studies* 24(3): 399–423.
- Gill, Stephen (1998a) European governance and new constitutionalism: Economic and monetary union and alternatives to disciplinary neoliberalism in Europe. *New Political Economy* 3(1): 5–26.
- Gill, Stephen (1998b) New constitutionalism, democratisation and global political economy. *Pacifica Review: Peace, Security & Global Change* 10(1): 23–38.
- Gill, Stephen (2002) Constitutionalizing inequality and the clash of globalizations. *International Studies Review* 4(2): 47–65.
- Gill, Stephen (2018) Access and Inclusion/Exclusion in Global Governance. Access and Exclusion in Global Governance (Barcelona). <http://stephengill.com/news/2018/04/access-and-inclusionexclusion-in-global-governance-2018.html>.
- Gill, Stephen and Cutler, A. Claire (2014) New constitutionalism and world order: General introduction. In: Gill, Stephen and Cutler, A. Claire (eds) *New Constitutionalism and World Order*. New York: Cambridge University Press, pp. 1–22.
- Gindin, Sam and Panitch, Leo (2012) *The Making of Global Capitalism: The Political Economy of American Empire*. Brooklyn, NY: Verso.
- Green, Carl J. (1981) The new protectionism. *Northwestern Journal of International Law & Business* 3(1): 1–20.
- Grewal, David Singh (2018) Three theses on the current crisis of international liberalism. *Indiana Journal of Global Legal Studies* 25(2): 595–621.
- Griswold, Daniel (2019) Assessing President Trump’s trade priorities. *Cato Journal* 39(1).
- Harmes, Adam (2006) Neoliberalism and multilevel governance. *Review of International Political Economy* 13(5): 725–749.
- Hendrikse, Reijer (2018) Neo-illiberalism. *Geoforum* 95: 169–172.
- Hirschl, Ran (2014) The origins of the new constitutionalism: Lessons from the ‘old’ constitutionalism. In: Gill, Stephen and Cutler, A. Claire (eds) *New Constitutionalism and World Order*. New York: Cambridge University Press, pp. 95–108.
- Hirschl, Ran (2018) Opting out of ‘global constitutionalism’. *Law & Ethics of Human Rights* 12(1): 1–36.
- Howse, Robert and Nicolaïdis, Kalypso (2001) Legitimacy and global governance: Why constitutionalizing the WTO is a step too far. In: Porter, Roger B. et al. (eds) *Efficiency, Equity, and Legitimacy: The Multilateral Trading System at the Millennium*. Washington, DC: Brookings Institution Press, pp. 227–252.
- Irwin, Douglas A. (2017) *Clashing over Commerce: A History of US Trade Policy*. Chicago: University of Chicago Press.
- Irwin, Douglas A. and Bown, Chad P. (2019) Trump’s assault on the global trading system. *Foreign Affairs* (September/October).

- Jackson, John H. (1978) Crumbling institutions of the liberal trade system. *Journal of World Trade Law* 12(2): 93–107.
- Johnson, C. Donald (2018) A return to bilateral agreements: An end to the nondiscriminatory multilateral trading system. *Georgia Journal of International and Comparative Law* 46(3): 691–714.
- Kennedy, David (2016) *A World of Struggle: How Power, Law, and Expertise Shape Global Political Economy*. Princeton, NJ: Princeton University Press.
- Kiely, Ray (2017) From authoritarian liberalism to economic technocracy: Neoliberalism, politics and ‘de-democratization’. *Critical Sociology* 43(4–5): 725–745.
- Konings, Martijn (2016) Governing the system: Risk, finance, and neoliberal reason. *European Journal of International Relations* 22(2): 268–288.
- Konings, Martijn (2018a) *Capital and Time: For a New Critique of Neoliberal Reason*. Stanford, CA: Stanford University Press.
- Konings, Martijn (2018b) The logic of leverage: Reflections on post-foundational political economy. *Finance and Society* 4(2): 205–213.
- Lal, Deepak (1984) The political economy of the predatory state. *World Bank Discussion Paper*, June.
- MacLean, Nancy (2017) *Democracy in Chains: The Deep History of the Radical Right’s Stealth Plan for America*. New York: Viking.
- Malone, Scott (2003) The Chinese obsession. *WWD*, 9 December.
- Malone, Scott (2004) Wilbur Ross plans Guatemalan plant. *WWD*, 14 May.
- Matthews, Chris (2016) Donald Trump reveals who is on his economic advisory team. *Fortune*, 5 August.
- May, Christopher (2014) The rule of law as the Grundnorm of the new constitutionalism. In: Gill, Stephen and Cutler, A. Claire (eds) *New Constitutionalism and World Order*. New York: Cambridge University Press, pp. 63–75.
- McCarthy, Shawn (2003) An unlikely ally. *Globe and Mail*, 1 December.
- Miller, Jennifer M. (2018) Let’s not be laughed at anymore: Donald Trump and Japan from the 1980s to the present. *Journal of American-East Asian Relations* 25: 138–168.
- Moore, Stephen and Laffer, Arthur (2018) *Trumponomics: Inside the America First Plan to Revive Our Economy*. New York: All Points Books.
- Mylly, Tuomas (2018) *Intellectual Property and New Constitutionalism*. Cheltenham: Edward Elgar.
- Nash, John (2003) U.S. industrial giant creates coalition to save manufacturing. *Manufacturing & Technology News*, 3 October.
- Navarro, Peter and Autry, Greg (2011) *Death by China: Confronting the Dragon – A Global Call to Action*. Upper Saddle River, NJ: Prentice Hall.
- Navarro, Peter and DiMicco, Dan (2010) An emerging global threat. *Barron’s* 41(22 March).
- Olijnyk, Zena (2004) Man of steel. *Canadian Business* (22 November–5 December).
- Ong, Aihwa (2006) *Neoliberalism as Exception: Mutations in Citizenship and Sovereignty*. Durham, NC: Duke University Press.
- Ostry, Sylvia (2002) The Uruguay Round North-South Grand Bargain: Implications for future negotiations. In: Kennedy, Daniel M. and Southwick, James D. (eds) *The Political Economy of International Trade Law*. New York: Cambridge University Press, pp. 285–299.

- Park, June and Stangarone, Troy (2019) Trump's America First policy in global and historical perspectives: Implications for US–East Asian Trade. *Asian Perspective* 43: 1–34.
- Patterson, Donald W. (2004) Hero or villain? *News & Record* (Piedmont Triad, NC), 11 January.
- Pauwelyn, Joost (2005) The Sutherland Report: A missed opportunity for genuine debate on trade. *Journal of International Economic Law* 8(2): 329–346.
- Petersmann, E.U. (1996–7) Constitutionalism and international organisations. *Northwestern Journal of International Law* 17: 398–469.
- Pistor, Katharina (2019) *The Code of Capital: How the Law Creates Wealth and Inequality*. Princeton, NJ: Princeton University Press.
- Politi, James (2018) Trump trade team draws heavily from one law firm: Skadden. *Financial Times*, 24 September.
- Purdy, Jedediah (2018) Normcore. *Dissent*, Summer.
- Reich, Arie (1997) From diplomacy to law: The juridicization of international trade relations. *Northwestern Journal of International Law & Business* 17(1): 775–849.
- Roberts, Anthea, Moraes, Henrique Choer and Ferguson, Victor (2019) Toward a geoeconomic order. *Journal of International Economic Law* 4: 1–22.
- Robinson, William I. (2014) *Global Capitalism and the Crisis of Humanity*. Cambridge: Cambridge University Press.
- Rodríguez-Garavito, César (2011) Toward a sociology of the global rule of law field: Neoliberalism, neoconstitutionalism, and the contest over judicial reform in Latin America. In: Dezalay, Yves and Garth, Bryant G. (eds) *Lawyers and the Rule of Law in an Era of Globalization*. New York: Routledge, pp. 156–182.
- Rodrik, Dani (2018) Populism and the economics of globalization. *Journal of International Business Policy*. Available at: https://drodrik.scholar.harvard.edu/files/dani-rodrik/files/populism_and_the_economics_of_globalization.pdf (accessed 15 February 2021).
- Sandbu, Martin (2017) Donald Trump's love of manufacturing is misguided. *Financial Times*, 14 February.
- Schneiderman, David (2008) *Constitutionalizing Economic Globalization: Investment Rules and Democracy's Promise*. New York: Cambridge University Press.
- Skeel, David A. Jr. (2003) *Debt's Dominion: A History of Bankruptcy Law in America*. Princeton, NJ: Princeton University Press.
- Slobodian, Quinn (2018a) You live in Robert Lighthizer's world now. *Foreign Policy [Blog]*, 6 August.
- Slobodian, Quinn (2018b) *Globalists: The End of Empire and the Birth of Neoliberalism*. Cambridge, MA: Harvard University Press.
- Sornarajah, Muthucumaraswamy (2011) Mutations of neo-liberalism in international investment law. *Trade, Law and Development* 3(1): 203–232.
- Streeck, Wolfgang (2014) *Buying Time: The Delayed Crisis of Democratic Capitalism*. New York: Verso.
- Streeck, Wolfgang (2016) *How Will Capitalism End?: Essays on a Failing System*. London: Verso.
- Streeck, Wolfgang (2017) The return of the repressed. *New Left Review* 104: 5–18.

- Streeck, Wolfgang (2019) Reflections on political scale. *Jurisprudence* 10(1). DOI: 10.1080/20403313.2018.1554939.
- Tarrow, Sidney (2005) *The New Transnational Activism*. Cambridge: Cambridge University Press.
- Tejada, Carlos (2003) New York investor takes center stage over trade issue. *Wall Street Journal*, 25 November.
- Teubner, Gunther (2012) *Constitutional Fragments: Societal Constitutionalism and Globalization*. Oxford: Oxford University Press.
- Teune, Simon (ed.) (2010) *The Transnational Condition: Protest Dynamics in an Entangled Europe*. New York: Berghahn.
- Tickell, Adam and Peck, Jamie (2003) Making global rules: Globalization or neoliberalization? In: Peck, Jamie and Wai-chung Yeung, Henry (eds) *Remaking the Global Economy: Economic-Geographical Perspectives*. London: SAGE, pp. 163–181.
- Timiraos, Nick and Ballhaus, Rebecca (2018) Navarro’s ties to Nucor highlight Trump advisers’ steel-industry connections. *Wall Street Journal*, 16 March.
- Trump, Donald and King, Larry (1987) CNN interview transcript, 2 September.
- Tucker, Paul (2018) *Unelected Power: The Quest for Legitimacy in Central Banking and the Regulatory State*. Princeton, NJ: Princeton University Press.
- Tzouvala, Ntina (2018) Neoliberalism as legalism: International economic law and the rise of the judiciary. In: Golder, Ben and McLoughlin, Daniel (eds) *The Politics of Legality in a Neoliberal Age*. New York: Routledge, pp. 116–133.
- Van Apeldoorn, Bastiaan (2009) The contradictions of ‘embedded neoliberalism’ and Europe’s multi-level legitimacy crisis: The European project and its limits. In: Van Apeldoorn, Bastiaan, Drahoukoupil, Jan and Horn, Laura (eds) *Contradictions and Limits of Neoliberal European Governance: From Lisbon to Lisbon*. New York: Palgrave, pp. 21–43.
- Vatter, Miguel (2014) Foucault and Hayek: Republican law and liberal civil society. In: Lemm, Vanessa (ed.) *The Government of Life: Foucault, Biopolitics, and Neoliberalism*. New York: Fordham University Press, pp. 163–186.
- Wright, Tom (2019) From Reagan to Trump: The origins of US neoliberal protectionism. *The Political Quarterly*. DOI: 10.1111/1467-923X.12709.

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