# Harvard R1 Doc

## 1nc

### 1NC – OFF

#### First off is topicality

**Our interpretation is that the resolution should define the division of affirmative and negative ground. It was *negotiated* and *announced in advance*, providing both sides with a reasonable opportunity to prepare to engage one another’s arguments.**

**This does not require the use of any particular style, type of evidence, or assumption about the role of the judge — only that the *topic* should determine the debate’s subject matter.**

**“The United States” is a collective term referring to the FG and states**

Edited by John Bilyeu **OAKLEY**, Professor of Law at the University of California, Davis, **AND** Vikram D. **AMAR**, Professor of Law and Associate Dean for Academic Affairs of the School of Law of the University of California at Davis, **‘9** [*American Civil Procedure: A Guide to Civil Adjudication in US Courts*, Kluwer Law International, 2009, page 19

Although it is commonplace today to refer to “the United States” as a single entity and as the subject of statements that grammatically employ singular verbs, it is important to remember that “the United States” remains in many important ways **a collective term**. The enduring legal significance of the fifty states that together constitute the United States, and their essential dominion over most legal matters affecting day-to-day life within the United States, vastly complicates any attempt to summarize the civil procedures within the United States. Within the community of nations, the United States is a geopolitical superpower that **acts through a federal government** granted constitutionally specified and limited powers. The organizing principle of the federal Constitution,1 however, is one of popular sovereignty, with governmental powers distributed in the first instance to republican institutions of government organized autonomously and uniquely in each of the fifty states. Although there are substantial similarities in the organization of state governments, idiosyncrasies abound.

#### Expand the scope of antitrust refers exclusively to formal law

Sinisa Milosevic et al. 18. Commission for Protection of Competition, The Republic of Serbia. Dejan Trifunovic, Faculty of Economics, University of Belgrade, Belgrade, The Republic of Serbia. Jelena Popovic Markopoulos, Commission for Protection of Competition, The Republic of Serbia. “The Impact of the Competition Policy on Economic Development in the Case of Developing Countries”. Economic Horizons, May - August 2018, Volume 20, Number 2, 153 – 167. http://scindeks-clanci.ceon.rs/data/pdf/1450-863X/2018/1450-863X1802157M.pdf

The paper that analyzes the impact of the competition policy on the GDP growth in developing and developed countries in the Solow growth model framework is T. C. Ma’s (2011). The presence and scope of the competition policy is captured by the SCOPE variable that is defined in the paper by K. N. Hylton and F. Deng (2007). The overall effectiveness of the government’s application of policies, not only of the competition policy, is captured by the EFFICIENCY variable that is defined in the paper by D. Kaufmann, A. Kraay and M. Mastruzzi (2009). The results show that the SCOPE variable is not significant and the formal existence of the competition law cannot influence economic growth. The interacting variable of SCOPE x EFFICIENCY is named EFFLAW. For poor countries, the coefficient for this variable is 0.04 and is significant, whereas for rich countries the coefficient is 0.064 and is also significant. Therefore, the competition law must be complemented with the effective enforcement of this policy.

#### The core antitrust laws are The Sherman Act, the Clayton Act, and the Federal Trade Commission Act – topical affs reform one or more of them

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Part II of this Article discusses Congress’s historical balancing and blending of fundamental political, social, moral, and economic values to create a constitutional-like set of flexible laws that can be adapted to unforeseen and changing economic and political circumstances.22 Part II.A. briefly reviews some of the extensive scholarship addressing Congress’s balancing of values and objectives in its core antitrust laws including the Sherman, Clayton, and FTC Acts. Parts II.B. and C. explore the less-studied balancing of political, social, moral, and economic values and objectives in more recent antitrust legislation.23 Part II.B. specifically examines the legislative debates undergirding the passage of the HSR Act. 24 Part II.C. then turns to the debates and discourse that led to the passage of the NCRA in 1984 and the subsequent National Cooperative Production Amendments of 1993 and 2004. 25

**Our Impact is Procedural fairness. – A limited point of stasis is necessary for effective limits which provide equitable ground to both sides – this does not exclude their content but does require them to be topical.**

**Debate as a game only functions if the aff normatively defends topical action—there have to be constraints on debate in order for it to be effective—allowing the aff also allows literally an infinite scope of advocacies outside the resolution.**

**Modest predictability of the resolution is worth potential substantive tradeoff. Limits produce a rigorous *culture of justification* instead of a culture of *assertion* or *presumption*. Without a bridge for subjecting beliefs to a rigorous test, we are left with might-makes-right.**

Cheryl **MISAK** Philosophy @ Toronto **‘8** “A Culture of Justification: The Pragmatist's Epistemic Argument for Democracy” *Episteme* 5 (1) p. 100-104

The charge that Rorty has had to face again and again is that he really is a relativist, holding that one belief is no better than another, and that one must “treat the epistemic standards of any and every epistemic community as on a par” (Haack 1995, 136). Rorty, that is, leaves us with no way of adjudicating claims that arise in different communities. It is argued that this is not only an unsatisfactory view, but it is incompatible with his commitment to his own set of beliefs and with his practice of arguing or giving reasons for them. Peirce would join in this charge, arguing that it is the community of inquirers or reasoners that matter, not this or that local community. One of Rorty’s responses to this clutch of objections is to say that he doesn’t have to treat the epistemic standards of every community as on a par: “I prize communities which share more background beliefs with me above those which share fewer” (Rorty 1995b, 153). There is nothing incoherent about asserting that your community has it right, for all “right” amounts to is what your community agrees upon. I have argued (2000, 12ff) that this kind of comeback puts Rorty in a very difficult position, giving him nothing to say against the likes of Carl Schmitt, the fascist legal philosopher who found it natural to join the Nazi bandwagon. Schmitt, like Rorty, argued that there is no truth and rationality in politics. Rather, politics is the arena in which groups assert themselves, with the strongest coming out on top and the weaker groups disappearing. One makes an existential choice – opts for a conception of the good – and then tries to attain “substantive homogeneity” in the population. Might ends up being right and the elimination of those who disagree with us ends up being a fine method of reaching our political decisions. A democrat or liberal like Rorty has an impossible time in giving us – and himself – reasons for opting for his view rather than his fascist opponent’s view. Once you give up aiming at truth, once you give up aiming at something that goes beyond the standards of your own community, then you give up the wherewithal to argue against the might-is-right view. The charge I am trying to answer here, on behalf of the non-Rortian pragmatist, is that mixing truth and politics is dangerous. One of the points I want to make is that, whatever the dangers are in saying morals and politics aim at the truth, the dangers of denying it are even more alarming. If we were to get rid of the notion of truth, nothing would protect us from the idea that there is nothing to get right, no better or worse action, and no better or worse way of treating others. Nothing would protect us from the Schmittian worldview. Another point is that the pragmatist view encourages something which is downright salutary, not dangerous at all. It encourages a **culture of justification**, a culture the importance of which grows as we face the challenges of living in a global society with worldviews struggling against each other. This thought was prominent in the debate about how the new democratic order in South Africa should be conceived. Here is how Etienne Murienik put it: If the new constitution is a bridge away from a culture of authority, it is clear what it must be a bridge to. It must lead to a culture of justification – a culture in which every exercise of power is expected to be justified; in which the leadership given by government rests on the cogency of the case offered in defense of its decisions, not the fear inspired by the force of its command. The new order must be a community built on persuasion, not on coercion.4 A final point rests on the nature of the kinds of answers the pragmatist envisions. Rorty and Rawls seem to think that any view of truth carries with it the idea that there is one and only one true answer to every question. It is important to see that, whatever the case might be for other views of truth, the pragmatist’s view of truth does not entail anything about the precise nature of right answers. On the Peircean view of truth, it might be true that the best solution to a problem is to compromise in a certain way. Or a question might have a number of equally right answers: it might be true that either A or B or C is an acceptable solution to a problem. That is, bringing truth into politics need not result in a view on which one theory of the good triumphs over the others. Indeed, the pragmatist account of truth does not require agreement at the end of the day (whatever that might mean) and it does not require the consent of all who are affected by a particular decision here and now. The right answer to a question might be one that only a few see is right. A right answer is the one that would be best – would stand up to the evidence and arguments – were we to inquire into the matter as far as we fruitfully could. That is, we are not primarily aiming at agreement in deliberation – we are aiming at getting a view that will stand up to reasons and evidence**.** That said, there may be cases in moral and especially political deliberation in which we do aim for agreement because we think that what will best stand up to reasons in that case is a solution that is agreed upon by all or by all who are affected. But this will be just one kind of case amongst many. Right answers aren’t necessarily answers that are acceptable by all. Nor are right answers necessarily those that resolve a conflict with a compromise, although sometimes a compromise or cooperative solution may indeed be what is required. Nor is bargaining always not conducive to truth – in some cases, that may be exactly what is required. This view of truth does not lead to zeal, oppression, closing off of discussion, or a squashing of pluralism, even if it might happen to be the case that there is only one reasonable conception of the good out there. The idea is that we are always aiming at getting the best answer – whatever that may be – and to do that we need to take into account the views of all. 6 . WHO DECIDES? One of the first questions put to those who would like to think of politics as a species of truth-oriented deliberation is this: why deliberate with the ignorant multitude? Would it not be better to expose our moral and political beliefs only to the reasons and experience of experts? Science, after all, doesn’t work by asking the person in the street what he or she thinks about quantum mechanics. The reason that the pragmatist’s epistemic justification is a justification of democratic politics, rather than of a hierarchical politics, in which an elite makes decisions, is that we do not and will not ever have an identifiable pool of moral and political experts. Dewey saw this clearly. As experts become specialized, “they are shut off from knowledge of the needs which they are supposed to serve” (Dewey 1926/1984, 364). Everyone engages in moral and political deliberation and it is not obvious that having special education makes you better at it – just look at priests, politicians, and moral philosophers/political theorists and ask yourself if they seem especially decent or especially wise when it comes to practical matters. Some people are good at examining moral and political issues, but it’s not clear that they are the ones trained to do so. Even if we could identify genuinely wise people, this kind of expertise is liable to be corrupted merely by being identified – merely by the wise person starting to think of herself as a moral expert.5 And it is far from clear that the rule of the wise would really take the views and experiences of all into account better than the democratic rule of the people. So how do we distinguish deliberating well and deliberating badly if we cannot appeal to education and training? No account of deliberative democracy can ignore the call to make the distinction. The trouble is that, in saying what good, as opposed to poor, deliberation amounts to, one finds oneself facing a justificatory problem: how can we specify what good deliberation is without simply assuming that our current standards of deliberation and inquiry are the gold standards? (This is the deep and central question of pragmatism: how do genuine norms arise out of contingent practices?) It will be unsurprising that I agree with Robert Talisse that the way forward is to focus on an epistemic justification of the whole range of deliberative virtues. Some of the virtues we think important in inquiry are open-mindedness, courage, honesty, integrity, rigor, willingness to listen to the views of others and to seriously entertain challenges to one’s own views, willingness to put oneself in another’s shoes, and the like. These virtues may well have a number of kinds of justifications – justifications, for instance, with their origins in the canons of etiquette or in this or that substantive moral or religious view. Politeness and Christianity (do unto others . . . ), for instance,may both dictate that we should listen to the views of others. But this kind of justification doesn’t break out of the circle of local practices. Talisse argues that the virtues are justified because they lead to true belief. Listening to others is not merely the polite thing to do, but it is also good because we might learn something. The epistemic argument I have presented on Peirce’s behalf gets us this far: we need to expose our beliefs to the views of others if we are to follow a method that will get us good or better or true beliefs. Talisse takes us the next step – there are other characteristics that make one an inquirer who aims at the truth. Honesty is the trait of following reasons and evidence, rather than self-interest. Modesty is the trait of taking your views to be fallible. Charity is willingness to listen to the views of others. Integrity is willingness to uphold the deliberative process, no matter the difficulties encountered. The distinction between deliberating well (having deliberative virtues) and deliberating badly (having deliberative vices), that is, is drawn in terms of whether a method promotes beliefs which are responsive to and fit with the reasons and evidence. 7 . THE SOURCE OF AUTHORITY The pragmatist has offered us a compelling reason to take the views of others seriously and encourage the values associated with deliberative democratic politics. For inquirers must engage in the ongoing project of continually subjecting their beliefs to the tests of further experience and argument. The virtues inherent in a deliberative model of democratic citizenship must be cultivated if we are to come to good beliefs about how to treat others, how to resolve conflicts, and how to arrange society. The model of democratic citizenship which results is one that makes democratic citizenship part of a culture of justification. Citizens search for how best to structure our institutions and how best to live our lives. Democratic citizenship is a quest to get things right, with a genuine engagement in looking for right answers to pressing questions.We are not after mere agreement and we are not after the transformation of initial preferences into something that others can accept. We aim at getting things right – at getting beliefs that would forever stand up to scrutiny. In so aiming, citizens commit themselves to abiding by the decisions produced by the democratic procedure. For those decisions are the best we can do here and now. Here we find the justification of the coercive power of democracies. Eventually there has to be a decision in politics. The question that faces all societies is who decides and who wields the power to coerce once the decision is made? My argument is that as more people deliberate and more reasons and experience go into the mix, it will become more likely that the decisions made will account for the reasons and experience of all. The more likely, that is, that the answer will be right. Decisions produced by a democratic deliberative process are made by a rational method and so they are enforceable.

**Vote for the best interpretation of the resolution—All argumentation within debate is strategic, but the conditional limits of the resolution allow us to explore particular political solutions and establish a stasis point for criticism of the general terms of democratic engagement.**

--You cannot separate the strategic logic of the debate game from the aff’s desire to interpret the words of the resolution in the most self-serving way to give the negative concessionary ground—all interpretations are contingent, but we can debate about their political interpretations—that is negative ground

--Argument testing is pre-requisite to establishing whether the validity of the term as absolutist political interpretation is good or bad—conditional limits allow us to critique and balance the implications of using terms like “military presence”

--This allows a debate to occur PERSPECTIVALLY which means we can use different mechanisms of evidence and critique to propose provisional and contingent political readings.

--(AT: T=arbitrary stasis) no it’s not—it establishes the basis for debate to diverge over the definitions of things like what it means to be democratic, civil, a citizen, etc. but the stasis of the resolution is a provisional agreement that allows that contestation to take place

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As we have seen in the Introduction, the aim of this style of public philosophy is to disclose the conditions of possibility of a historically singular set of problematic practices of governance in the present by means of two methodological steps. The contemporary, non-historical step consists of two critical surveys: of the languages and then of the practices in which the struggles arise, and various solutions are proposed and implemented or not implemented as reforms. These two surveys enable us to understand critically the repertoire of problems and solutions in question, and the correlative field of relations of power in contestation, respectively. The task of this first survey is not to present another solution to the problem but to provide a survey of the language games in which the problem and rival practical and theoretical solutions are articulated. There are many methods available in Anglo-American and Continental political philosophy to carry out such a task. The approach I favour draws inspiration from Wittgenstein, J. L. Austin, and the development of speech-act theory into a historical and contextual pragmatics of modes of argumentation by Terence Ball, Foucault, Quentin Skinner, Stephen Toulmin and others.14 Speaking and writing are viewed pragmatically and intersubjectively, as linguistic activities performed by speakers and writers as participants in language games. Actors in practices of governance and theorists who present rival solutions to a shared political problem are approached as engaged in the intersubjective activities of exchanging reasons and justifications over the contested uses of the descriptive and normative concepts by which the problematic practice and its forms of subjectivity are characterised and disputed. The exchange of reasons in this broad sense of practices of **argumentation is both communicative and strategic,** involving reason and rhetoric, conviction and **persuasion**. Participants exchange practical reasons over the contested criteria for the application of concepts in question (sense), **'including the concepts of 'reason' and 'reasonable'**, the circumstances that warrant the application of the criteria, the range of reference of the concepts and their evaluative force, in order to argue for their solutions and against others. Why should public philosophers take this pragmatic approach of surveying the various theoretical solutions instead of developing a definitive theory themselves? The answer derives from two famous arguments by Wittgenstein. The first is that understanding general terms - such as freedom, equality, democracy, reason, power and oppression- is not the theoretical activity of grasping and applying a definition, rule or theory that states the necessary and sufficient conditions for the application of such general terms in any case. The model of applying a rule or theory to particular cases cannot account for the phenomenon of understanding the meaning of a general term, and so ofbeing able to use it and to give reasons and explanations for its use in various contexts. Secondly, the actual criteria for the application of a general political term are too various, indeterminate and hence open to unpredictable extension to be explicated in terms of an implicit or transcendental set of rules or theory, no matter how complex. When we look at the uses of a general term, what we see is **not a determinate set of essential features** that could be abstracted from practice and set out in a theory along with **rules for their application**. We do not find a set of features which make us use the same word for all cases, but, rather, an open-ended family of uses that resemble one another in various ways. We 'see a complicated network of similarities overlapping and criss-crossing: sometimes overall similarities, sometimes similarities of detail' and these 'family resemblances' among uses of a concept change over time in the course of human conversation.16 The consequence of these two anti-essentialist arguments is that understanding political concepts and problems cannot be the theoretical activity of discovering a general and comprehensive rule and then applying it to particular cases, for such a rule is not to be found and understanding does not consist in applying such a rule even if it could be found. The actual use and understanding of political concepts is not the kind of activity that this model of political theory presupposes: that is, of 'operating a calculus according to definite rules'. Rather, Wittgenstein continues, understanding consists in the practical activity of being able to use a general term in various circumstances and being able to give reasons for and against this or that use. This is a form of practical reasoning: the manifestation of a repertoire of practical, normative abilities, acquired through practice, to use the general term, as well as to go against customary uses, in actual cases. Such a practical skill, like all practical abilities, cannot be exhaustively described in terms of rules, for the application of the term is not **everywhere bounded by rules.** A criterion that functions as an intersubjective rule for **testing assertions** of correct use in some circumstances is **itself questioned**, reinterpreted and tested in **other circumstances**, relative to other criteria that are provisionally held fast. Understanding a general term thus involves **being able to give reasons why it should or should not be used in a particular case**, either to provoke or to respond to a dispute, being able to see the strength of the reasons given against this use by one's interlocutors, and then being able to give further reasons, and so on. This is done by **describing examples** with similar or related aspects, **drawing analogies** or disanalogies of various kinds, finding precedents, **exchanging narratives** and redescriptions, drawing attention to intermediate cases so one can pass easily from the familiar to the unfamiliar cases and see the similarities among them; thereby being both conventional and creative in the use of the criteria that hold our normative vocabulary in place. Wittgenstein illustrates his thesis with the concept of a 'game': Isn't my knowledge, my concept of a game, completely expressed in the explanations I could give? That is, in my describing examples of various kinds of game; shewing how all sorts of other games can be constructed on the analogy of these; saying that I should scarcely include this or that among games; and so on. ' 8 Because the criteria for the application of a **term are not determinate**, no set of reasons or explanations is definitive. There is always a field of possible reasonable redescriptions: illocutionary acts which evoke another consideration, draw attention to a different analogy or example, uncover another aspect of the situation, and so aim to provoke reconsideration of our considered judgments in this and related cases. These are speech-acts which exercise the kind of freedom Nora tries to practise inA Doll's House. Moreover, for the same reasons, the forms of argumentation in which reasons are exchanged are equally **complex**, and their 'reasonable' forms too are **not everywhere bounded by rules** but are also open to **reasonable disagreement**. Accordingly, understanding and clarifying political concepts, whether by citizens or philosophers, will always be a form of practical reasoning; of entering into and clarifying the on-going exchange of reasons over the uses of our political vocabulary. It will not be the theoretical activity of abstracting from everyday use and making explicit the **context-independent rules** for the correct use of our concepts in every case, for the conditions of possibility for such a meta-contextual political theory are not available. When political philosophers enter into political discussions and disputes to help to clarifY the language being used and the appropriate procedures for exchanging reasons, as well as to present reasons of their own, they are not doing anything different in kind from the citizens involved in the argumentation, as the picture of political reflection as a theoretical enterprise would lead us to believe. Political philosophy is rather the methodological extension and critical clarification of the already reflective and problematised character of historically situated practices of practical reasoning. '9 It is therefore an engaged 'public' philosophy and every engaged and thoughtful citizen is also a public philosopher. Public philosophy is democratic. Hence, we can now see why the first step has to start from the ways the concepts we take up are actually used in the practices in which the political difficulties arise. Here we 'bring words back from their metaphysical to their everyday use' to ensure that the work of philosophy starts from 'the rough ground' of civic struggles with and over words, rather than from uncritically accepted and often arcane forms of representation of them, which may result in 'merely tracing round the frame through which we look at' them. 20 On this view, contemporary political theories are approached, not as rival comprehensive and exclusive theories of the contested concepts, but as limited and often complementary accounts of the complex uses (senses) of the concepts in question and the corresponding aspects of the problematic practice to which these senses refer. They extend and clarify the practical exchange of reasons over the problematic practice of governance by citizens, putting forward a limited range of academic reasons, analogies and examples for employing criteria in such-and-such a way, for showing why these considerations outweigh those of other theorists and so on (often of course with the additional claim that these limited uses transcend practice and legislate legitimate use). A theory clarifies one range of uses of the concepts in question and the corresponding aspects of the practice of government, and puts forward reasons for seeing this as decisive. Yet, there is always the possibility of reasonable disagreement, of other theories bringing to attention other senses of the word and other aspects of the situation which any one theory unavoidably overlooks or downplays. Political theories are thus seen to offer **conditional perspectives** on the whole broad complex of languages, relations of power, forms of subjectivity and practices offreedom to which they are addressed. None of these theories tells us the whole truth, yet each provides an aspect of the complex picture. 21 This first form of survey enables readers (and authors) to understand critically both the problem and the proposed solutions. It enables us to see the reasons and redescriptions on the various sides; to grasp the contested criteria for their application, the circumstances in which they can be applied and the considerations that justify their different applications, thereby passing freely from one sense of the concept to another and from one aspect of the practice to another; and to appreciate the partial and relative merits of each proposal. To have acquired the complex linguistic abilities to do this is literally to have come to understand critically the concepts in question. This enables us to enter into the discussions of the relative merits of the proposed solutions ourselves and present and defend our own views on the matter. To have mastered this dialogical technique is to have acquired the 'burdens of judgment' (in a broader sense than Rawls' use of this phrase is normally interpreted) or what Nietzsche called the ability to **reason perspectivally.** 21 This form of practical reasoning is also a descendant of the classical humanist view of political philosophy as a **practical dialogue**. Because it is always possible to invoke a reason and redescribe the accepted application of our political concepts (paradiastole), it is always necessary **to learn to listen to the other side** (audi alteram partem), to learn the conditional arguments that support the various sides (in utramque partem), and so to be prepared to enter into deliberations with others on how to negotiate an agreeable solution (negotium). ' 3 The second contemporary survey is of the concrete practices - the relations of governance and practices of freedom - in which the problems arise and are fought over. The ways relations of power direct the conduct and shape the identities of those subject to them, and the strategies by which the subjects are able to say 'enough' and contest, negotiate and modify these relations, can be analysed in much the same way as language games. Just as participants in any system of practices of governance think and respond within intersubjective language games, which both enable and constrain what they can do with words, so they act and contest within correlative intersubjective relations of power, which both enable and constrain the extent to which they can modify some of these while others remain immobile background relations of domination, except in struggles of direct confrontation. These surveys include the interplay of governance and freedom, the means by which the structure of governance is held in place (economic control of information, technology and resources, the threat or use of direct or indirect military power, the organisation of the time and space of the practice, the sciences of persuasion and control, the manufacturing of consent, the techniques for internalising norms of conduct, agenda setting), and the equally diverse means by which subjects are able to resist, organise networks of support, bring the governors to negotiations and hold them to their agreements. Just as an analytical philosophy of linguistic pragmatics has been developed to survey what can be said, so an analytical philosophy of relations of power and practices of freedom has begun to be developed to survey what can be done. '4 3 HISTORICAL SURVEYS The first survey enables students of politics to understand critically what can be said and done within a set of practices and problematisation. A genuinely critical political philosophy requires a second type of critique that enables participants to free themselves from the horizons of the practices and problematisation to some extent, to see them as one form of practice and one form of problematisation that can then be compared critically with others, and so to go on to consider the possibilities of thinking and acting differently. This second, transformative objective is achieved by means of historical or genealogical surveys of the history of the languages and practices that have been explored and understood from the inside through the first two surveys. The transition from contemporary to historical surveys turns on an argument developed in different ways by almost every member of this school of public philosophy. ' 5 When problems are raised and solutions discussed and relations of power contested and negotiated in a problematic practice, there are always some uses of words (grammar) that are not questioned in the course of the disputation and some relations of power that are not challenged in practice. These provisionally taken-for-granted uses of the shared vocabulary function as the intersubjective warrants or grounds for what is problematised and subject to the exchange of reasons and procedures of validation in the language games, just as settled relations of power and institutionalised practices of freedom function as the intersubjective conditions of the contested aspects of governance and novel forms of freedom. The background shared understandings are the conditions of possibility of the specific problematisation. They both enable and constrain the form of problematisation. As Wittgenstein puts it: All testing, all confirmation and disconfirmation of a hypothesis **takes place already within a system**. And this system is not a more or less arbitrary or doubtful point of departure for all our arguments: no, **it belongs to the essence of what we call an argument**. The system is not so much the point of departure, as the elements in which arguments have their life. 26 This loose **'system of judgments'** or problematisation is **neither universal nor transcendental,** but **provisionally held in place** and **beyond question** by all the **disputation within it**. 27 He calls the inherited agreement in the language in which the testing of problems and solutions takes place (testing of true and false, just and unjust, valid and invalid, reasonable and unreasonable) 'an agreement in form of life' to indicate the extent to which it is anchored in shared ways of acting as well as speaking: 'it is our acting which lies at the bottom of the language-game' .28 Analogously, the corresponding uncontested relations of power that govern ways of acting function as the enabling and constraining conditions of possibility of the practice as a whole, its forms of government and contestation.

### 1NC – OFF

#### The world is too complex for local politics---multipolar global politics, economic instability, and climate change necessitates a collective response that changes the structural conditions of power rather than tinkering around at the margins.

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OVERWHELMED

Why did folk politics arise in the first place? Why is it that folk political tendencies, for all their manifest flaws, are so seductive and appealing to the movements of today? At least three answers present themselves. The first explanation is to see folk politics as a response to the problem of how to interpret and act within an ever more complex world. The second, related explanation involves situating folk politics as a reaction to the historical experiences of the communist and social democratic left. Finally, folk politics is a more immediate response to the empty spectacle of contemporary party politics.

Increasingly, multipolar global politics, economic instability, and anthropogenic climate change outpace the narratives we use to structure and make sense of our lives. Each of these is an example of what is termed a complex system, which features nonlinear dynamics, where marginally different inputs can cause dramatically divergent outputs, intricate sets of causes feedback on one another in unexpected ways, and which characteristically operates on scales of space and time that go far beyond any individual’s unaided perception.23 Globalisation, international politics, and climate change: each of these systems shapes our world, but their effects are so extensive and complicated that it is difficult to place our own experience within them. The global economy is a good example of this. In simple terms, the economy is not an object amenable to direct perception; it is distributed across time and space (you will never meet ‘the economy’ in person); it incorporates a wide array of elements, from property laws to biological needs, natural resources to technological infrastructures, market stalls and supercomputers; and it involves an enormous and intricately interacting set of feedback loops, all of which produce emergent effects that are irreducible to its individual components.24 In other words, the interaction of an economy’s parts produces effects that cannot be understood just by knowing how those parts work in isolation – it is only in grasping the relations between them that the economy can be made sense of. While we might have an idea of what an economy consists of, we will never be able to experience it directly in the same way as other phenomena. It can only be observed symptomatically through key statistical indexes (charting changes in inflation or interest rates, stock indexes, GDP, and so on), but can never be seen, heard or touched in its totality.

As a result, despite everything that has been written about capitalism, we still struggle to understand its dynamics and its mechanisms. Most importantly, we lack a ‘cognitive map’ of our socioeconomic system: a mental picture of how individual and collective human action can be situated within the unimaginable vastness of the global economy.25 Recent decades have seen an increasing complexity in the dynamics that impinge upon politics. We might consider the imminent threat of anthropogenic climate change as a new kind of problem – one that is unamenable to any simple solution and that involves such intricately woven effects that it is hard to even know where to intervene. Equally, the global economy today appears significantly more complex in terms of the mobility of capital, the intricacies of global finance and the multiplicity of actors involved. How well do our traditional political images of the world map onto these changes? For the left at least, an analysis premised on the industrial working class was a powerful way to interpret the totality of social and economic relations in the nineteenth and early twentieth centuries, thereby articulating clear strategic objectives. Yet the history of the global left over the course of the twentieth century attests to the ways in which this analysis failed to attend to both the range of possible liberating struggles (based in gender, race or sexuality) and the ability of capitalism to restructure itself – through the creation of the welfare state, or the neoliberal transformations of the global economy. Today, the old models often falter in the face of new problems; we lose the capacity to understand our position in history and in the world at large.

This separation between everyday experience and the system we live within results in increased alienation: we feel adrift in a world we do not understand. The cultural theorist Fredric Jameson notes that the proliferation of conspiracy theories is partly a response to this situation.26 Conspiracy theories act by narrowing the agency behind our world to a single figure of power (the Bilderberg Group, the Freemasons or some other convenient scapegoat). Despite the extraordinary complexity of some of these theories, they nevertheless provide a reassuringly simple answer to ‘who is behind it all’, and what our own role is in the situation. In other words, they act precisely as a (faulty) cognitive map.

Folk politics presents itself as another possible response to the problems of overwhelming complexity. If we do not understand how the world operates, the folk-political injunction is to reduce complexity down to a human scale. Indeed, folk-political writing is saturated with calls for a return to authenticity, to immediacy, to a world that is ‘transparent’, ‘human-scaled’, ‘tangible’, ‘slow’, ‘harmonious’, ‘simple’, and ‘everyday’.27 Such thinking rejects the complexity of the contemporary world, and thereby rejects the possibility of a truly postcapitalist world. It attempts to give a human face to power; whereas what is truly terrifying is the generally asubjective nature of the system. The faces are interchangeable; the power remains the same. The turn towards localism, temporary moments of resistance, and the intuitive practices of direct action all effectively attempt to condense the problems of global capitalism into concrete figures and moments.

In this process, folk politics often reduces politics to an ethical and individual struggle. There is a tendency sometimes to imagine that we simply need ‘good’ capitalists, or a ‘responsible’ capitalism. At the same time, the imperative to ‘make it local’ leads folk politics to fetishise immediate results and the concrete appearance of action. Delaying a corporate attack on the environment, for instance, is lauded as a success – even if the company simply waits out public attention before returning once again. Moreover, as Rosa Luxemburg pointed out long ago, the fetishisation of ‘immediate results’ leads to an empty pragmatism that struggles to maintain the present balance of power, rather than seeking to change structural conditions.28 Without the necessary abstraction of strategic thought, tactics are ultimately fleeting gestures. Finally, the abjuring of complexity dovetails with the neoliberal case for markets. One of the primary arguments made against planning has been that the economy is simply too complex to be guided.29 The only alternative is therefore to leave the distribution of resources to the market and reject any attempt to guide it rationally.30 Considered in all these ways, folk politics appears as an attempt to make global capitalism small enough to be thinkable – and at the same time, to articulate how to act upon this restricted image of capitalism. By contrast, the argument of this book is that folk-political tendencies are mistaken. If complexity presently outstrips humanity’s capacities to think and control, there are two options: one is to reduce complexity down to a human scale; the other is to expand humanity’s capacities. We endorse the latter position. Any postcapitalist project will necessarily require the creation of new cognitive maps, political narratives, technological interfaces, economic models, and mechanisms of collective control to be able to marshal complex phenomena for the betterment of humanity.

#### Their individual strategy is the simulation of popular insurgency and reifies neoliberal social categorization.

Ingolfur Bluhdorn 7, PhD, Reader in Politics/Political Sociology, University of Bath, “Self-description, Self-deception, Simulation: A Systems-theoretical Perspective on Contemporary Discourses of Radical Change,” Social Movement Studies, Vol. 6, No. 1, 1–20, May 2007, google scholar

Yet the established patterns of self-construction, which thus have to be defended and further developed at any price, have fundamental problems attached to them: ﬁrstly, the attempt to constitute, on the basis of product choices and acts of consumption, a Self and identity that are distinct from and autonomous vis-a`-vis the market is a contradiction in terms. Secondly, late-modern society’s established patterns of consumption are known to be socially exclusive and environmentally destructive. Despite all hopes for ecological modernization and revolutionary improvements in resource efﬁciency (e.g. Weizsa¨cker et al., 1998; Hawkenet al., 1999; Lomborg, 2001), physical environmental limits imply that the lifestyles and established patterns of consumption cherished by advanced modern societies cannot even be extended to all residents of the richest countries, let alone to the populations of the developing world. For the sake of the (re)construction of an ever elusive Self, in their struggle against self-referentiality and in pursuit of the regeneration of difference, late-modern societies are thus locked into the imperative of maintaining and further developing the principle of exclusion (Blu¨hdorn, 2002, 2003). At any price they have to, and indeed do, defend a lifestyle that requires **ever increasing social inequality, environmental degradation, predatory resource wars, and the tight policing of potential internal and external enemies**.14 For this effort, military and surveillance technology provide ever more sophisticated and efﬁcient means. Nevertheless, the principle of exclusion is ultimately still unsustainable, not only because of spiralling ‘security’ expenses but also because it directly contradicts the modernist notion of the free and autonomous individual that late-modern society desperately aims to sustain. For this reason, late-modern society is confronted with the task of having to sustain both the late-modern principle of exclusion as well as its opposite, i.e. the modernist principle of inclusion. Very importantly, the conﬂict between the principles of exclusion and inclusion is not simply one between different individuals, political actors or sections of society. Instead, it is a politically irresolvable conﬂict that resides right within the late-modern individual, the late-modern economy and late-modern politics. And if, as Touraine notes, late-modern society no longer believes in nor even desires political transcendence, the particular challenge is that the two principles can also no longer be attributed to different dimensions of time, i.e. the former to the present, and the latter to some future society. Instead, late-modern society needs to represent and reproduce itself and its opposite at the same time. If considered within this framework of this analysis, the function of Luhmann’s system of protest communication, or in the terms of this article, the signiﬁcance of late-modern societies’ discourses of radical change becomes immediately evident. At a stage when the possibility and desirability of transcending the principle of exclusion has been pulled into radical doubt but when, at the same time, the principle of inclusion is vitally important, **these discourses simulate the validity of the latter as a social ideal**. In other words, latemodern society reconciles the tension between the cherished but exclusive status quo – for which there is no alternative – and the non-existent inclusive alternative – on whose existence it depends – **by means of simulation**. The analysis of Luhmann’s work has demonstrated how the societal self-descriptions produced by the system of protest communication, or late-modern society’s discourses of radical change, fulﬁl this function exactly. They are an indispensable function system not so much because they help to resolve late-modern society’s problems of mal-coordination, but **because by performing the possibility of the alternative they help to cope with the fundamental problem of self-referentiality**. In this sense, late-modern society’s discourses of sustainability, democratic renewal, social inclusion or global justice, to name but a few, suggest that advanced modern society is working towards an environmentally and socially inclusive alternative – genuinely modern – society, but they do not deny the fact that the big utopia and project of late-modern society is the reproduction and further enhancement of the status quo, i.e. the sustainability of the principle of exclusion. Protest movements as networks of physical actors and actions complement the purely communicative discourses of radical change in that they bring their narrative and societal selfdescription to life. Whilst the declarations of institutionalized mainstream politics cannot escape the generalized suspicion that they are purely rhetorical, social movements provide an **arena for** the physical expression and experience of the **authenticity and reality of the alternative** or at least of the reality of its possibility and the authenticity of the commitment to its realization. For late-modern individuals who seek to find their elusive identity in ever new acts of consumption, protest movements offer an opportunity to experience themselves as autonomous, as subjects, as actors, as distinct from and opposed to the all-embracing market. Social movements and the more or less institutionalized discourses of radical change thus transmute from germ cells of the alternative society into reserves of alterity, or theme-parks 14 I. Blu¨hdorn for simulated alterity (Blu¨hdorn, 2005a). This interpretation reflects Luhmann’s suggestion that contemporary discourses of radical change are not so much about the actual implementation of radical social change as about the ‘symbolism of the alternative’. And it now appears that the societal self-descriptions they generate fulfil a vital function not in so far as they increase the reflexivity of late-modern society but in so far as they are arenas for the experience of simulated subjectivity, duality and modernity. They provide an opportunity to reconcile the cherished but exclusive status quo with the equally cherished but unsustainable belief in the inclusive alternative. Protest movements and discourses of radical change are the implantation of the alternative into the system itself, or the simulated reproduction of alterity from the system’s own resources. As the real alternatives to the system are utterly unattractive, disappearing fast, and indeed resisted and annihilated at any price, this internal simulation of alterity is becoming late-modern society’s only remaining way of coping with the threat of self-referentiality.

#### The impact is mass death and global violence.

Adrian Parr 13. Associate Professor of Philosophy and Environmental Studies at the University of Cincinnati. *The Wrath of Capital: Neoliberalism and Climate Change Politics*. Columbia University Press. 145-7.

A quick snapshot of the twenty-first century so far: an economic meltdown; a frantic sell-off of public land to the energy business as President George W Bush exited the White House; a prolonged, costly, and unjustified war in Iraq; the Greek economy in ruins; an escalation of global food prices; bee colonies in global extinction; 925 million hungry reported in 2010; as of 2005, the world's five hundred richest individuals with a combined income greater than that of the poorest 416 million people, the richest 10 percent accounting for 54 percent of global income; a planet on the verge of boiling point; melting ice caps; increases in extreme weather conditions; and the list goes on and on and on.2 Sounds like a ticking time bomb, doesn't it? Well it is.

It is shameful to think that massive die-outs of future generations will put to pale comparison the 6 million murdered during the Holocaust; the millions killed in two world wars; the genocides in the former Yugoslavia, Rwanda, and Darfur; the 1 million left homeless and the 316,000 killed by the 2010 earthquake in Haiti. The time has come to wake up to the warning signs.3

The real issue climate change poses is that we do not enjoy the luxury of incremental change anymore. We are in the last decade where we can do something about the situation. Paul Gilding, the former head of Greenpeace International and a core faculty member of Cambridge University's Programme for Sustainability, explains that "two degrees of warming is an inadequate goal and a plan for failure;' adding that "returning to below one degree of warming . . . is the solution to the problem:'4 Once we move higher than 2°C of warming, which is what is projected to occur by 2050, positive feedback mechanisms will begin to kick in, and then we will be at the point of no return. We therefore need to start thinking very differently right now.

We do not see the crisis for what it is; we only see it as an isolated symptom that we need to make a few minor changes to deal with. This was the message that Venezuela's president Hugo Chavez delivered at the COP15 United Nations Climate Summit in Copenhagen on December 16 09, when he declared: "Let's talk about the cause. We should not avoid responsibilities, we should not avoid the depth of this problem. And I'll bring it up again, the cause of this disastrous panorama is the metabolic, destructive system of the capital and its model: capitalism.”5

#### The alt is pragmatic demands upon the state towards an anti-capitalist project. This is necessary to open space for more radical projects. Their strategy cedes the political.

David Harvey 15. Distinguished Professor of anthropology and geography at the Graduate Center of the City University of New York. “Consolidating Power.” Roar Issue 0, 16. https://roarmag.org/magazine/david-harvey-consolidating-power/.

So, looking at examples from southern Europe – solidarity networks in Greece, self-organization in Spain or Turkey – these seem to be very crucial for building social movements around everyday life and basic needs these days. Do you see this as a promising approach?

I think it is very promising, but there is a clear self-limitation in it, which is a problem for me. The self-limitation is the reluctance to take power at some point. Bookchin, in his last book, says that the problem with the anarchists is their denial of the significance of power and their inability to take it. Bookchin doesn’t go this far, but I think it is the refusal to see the state as a possible partner to radical transformation.

There is a tendency to regard the state as being the enemy, the 100 percent enemy. And there are plenty of examples of repressive states out of public control where this is the case. No question: the capitalist state has to be fought, but without dominating state power and without taking it on you quickly get into the story of what happened for example in 1936 and 1937 in Barcelona and then all over Spain. By refusing to take the state at a moment where they had the power to do it, the revolutionaries in Spain allowed the state to fall back into the hands of the bourgeoisie and the Stalinist wing of the Communist movement – and the state got reorganized and smashed the resistance.

That might be true for the Spanish state in the 1930s, but if we look at the contemporary neoliberal state and the retreat of the welfare state, what is left of the state to be conquered, to be seized?

To begin with, the left is not very good at answering the question of how we build massive infrastructures. How will the left build the Brooklyn bridge, for example? Any society relies on big infrastructures, infrastructures for a whole city – like the water supply, electricity and so on. I think that there is a big reluctance among the left to recognize that therefore we need some different forms of organization.

There are wings of the state apparatus, even of the neoliberal state apparatus, which are therefore terribly important – the center of disease control, for example. How do we respond to global epidemics such as Ebola and the like? You can’t do it in the anarchist way of DIY [do it yourself]-organization. There are many instances where you need some state-like forms of infrastructure. We can’t confront the problem of global warming through decentralized forms of confrontations and activities alone.

One example that is often mentioned, despite its many problems, is the Montreal Protocol to phase out the use of chlorofluorocarbon in refrigerators to limit the depletion of the ozone layer. It was successfully enforced in the 1990s but it needed some kind of organization that is very different to the one coming out of assembly-based politics.

From an anarchist perspective, I would say that it is possible to replace even supra-national institutions like the WHO with confederal organizations which are built from the bottom up and which eventually arrive at worldwide decision-making.

Maybe to a certain degree, but we have to be aware that there will always be some kind of hierarchies and we will always face problems like accountability or the right of recourse. There will be complicated relationships between, for example, people dealing with the problem of global warming from the standpoint of the world as a whole and from the standpoint of a group that is on the ground, let’s say in Hanover or somewhere, and that wonders: ‘why should we listen to what they are saying?’

So you believe this would require some form of authority?

No, there will be authority structures anyway – there will always be. I have never been in an anarchist meeting where there was no secret authority structure. There is always this fantasy of everything being horizontal, but I sit there and watch and think: ‘oh god, there is a whole hierarchical structure in here – but it’s covert.’

Coming back to the recent protests around the Mediterranean: many movements have focused on local struggles. What is the next step to take towards social transformation?

At some point we have to create organizations which are able to assemble and enforce social change on a broader scale. For example, will Podemos in Spain be able to do that? In a chaotic situation like the economic crisis of the last years, it is important for the left to act. If the left doesn’t make it, then the right-wing is the next option. I think – and I hate to say this – but I think the left has to be more pragmatic in relation to the dynamics going on right now.

More pragmatic in what sense?

Well, why did I support SYRIZA even though it is not a revolutionary party? Because it opened a space in which something different could happen and therefore it was a progressive move for me.

It is a bit like Marx saying: the first step to freedom is the limitation of the length of the working day. Very narrow demands open up space for much more revolutionary outcomes, and even when there isn’t any possibility for any revolutionary outcomes, we have to look for compromise solutions which nevertheless roll back the neoliberal austerity nonsense and open the space where new forms of organizing can take place.

For example, it would be interesting if Podemos looked towards organizing forms of democratic confederalism – because in some ways Podemos originated with lots of assembly-type meetings taking place all over Spain, so they are very experienced with the assembly structure.

The question is how they connect the assembly-form to some permanent forms of organization concerning their upcoming position as a strong party in Parliament. This also goes back to the question of consolidating power: you have to find ways to do so, because without it the bourgeoisie and corporate capitalism are going to find ways to reassert it and take the power back.

What do you think about the dilemma of solidarity networks filling the void after the retreat of the welfare state and indirectly becoming a partner of neoliberalism in this way?

There are two ways of organizing. One is a vast growth of the NGO sector, but a lot of that is externally funded, not grassroots, and doesn’t tackle the question of the big donors who set the agenda – which won’t be a radical agenda. Here we touch upon the privatization of the welfare state.

This seems to me to be very different politically from grassroots organizations where people are on their own, saying: ‘OK, the state doesn’t take care of anything, so we are going to have to take care of it by ourselves.’ That seems to me to be leading to forms of grassroots organization with a very different political status.

But how to avoid filling that gap by helping, for example, unemployed people not to get squeezed out by neoliberal state?

Well there has to be an anti-capitalist agenda, so that when the group works with people everybody knows that it is not only about helping them to cope but that there is an organized intent to politically change the system in its entirety. This means having a very clear political project, which is problematic with decentralized, non-homogenous types of movements where somebody works one way, others work differently and there is no collective or common project.

This connects to the very first question you raised: there is no coordination of what the political objectives are. And the danger is that you just help people cope and there will be no politics coming out of it. For example, Occupy Sandy helped people get back to their houses and they did terrific work, but in the end they did what the Red Cross and federal emergency services should have done.

The end of history seems to have passed already. Looking at the actual conditions and concrete examples of anti-capitalist struggle, do you think “winning” is still an option?

Definitely, and moreover, you have occupied factories in Greece, solidarity economies across production chains being forged, radical democratic institutions in Spain and many beautiful things happening in many other places. There is a healthy growth of recognition that we need to be much broader concerning politics among all these initiatives.

The Marxist left tends to be a little bit dismissive of some of this stuff and I think they are wrong. But at the same time I don’t think that any of this is big enough on its own to actually deal with the fundamental structures of power that need to be challenged. Here we talk about nothing less than a state. So the left will have to rethink its theoretical and tactical apparatus.

### Case

#### Neg on presumption---ballot on Tabroom doesn’t solve

#### Institutional access for black women is possible AND strategies against the legal system are critical to redress and tangible benefits.

Hill Collins 09 – Patricia Hills Collins is a distinguished University Professor of Sociology at the University of Maryland, College Park. Accessed May 9,2019. (“Black Feminist Thought: Knowledge, Consciousness and the Politics of Empowerment.” page 277-280 <https://uniteyouthdublin.files.wordpress.com/2015/01/black-feminist-though-by-patricia-hill-collins.pdf>)

Black churches and schools have aimed to prepare African-Americans for full participation in U.S. society when the laws were changed. African-American women have experienced considerable success not only in getting laws changed, but in stimulating government action to redress past wrongs. The Voting Rights Act of 1964, the Civil Rights Act of 1965, and other important federal, state, and local legislation have outlawed discrimination by race, sex, national origin, age, or disability status. This changed legal climate granted African-American women some protection from the widespread discrimination that we faced in the past. At the same time, class-action lawsuits against discriminatory housing, educational, and employment policies have resulted in tangible benefits for many Black women

The structural domain of power encompasses how social institutions are organized to reproduce Black women’s subordination over time. One characteristic feature of this domain is its emphasis on large-scale, interlocking social institutions. An impressive array of U.S. social institutions lies at the heart of the structural domain of power. Historically, in the United States, the policies and procedures of the U.S. legal system, labor markets, schools, the housing industry, banking, insurance, the news media, and other social institutions as interdependent entities have worked to disadvantage African-American women. For example, Black women’s long-standing exclusion from the best jobs, schools, health care, and housing illustrates the broad array of social policies designed to exclude Black women from full citizenship rights. These interlocking social institutions have relied on multiple forms of segregation—by race, class, and gender—to produce these unjust results. For AfricanAmerican women, racial segregation has been paramount. Racial segregation rested on the “separate but equal” doctrine established under the 1896 ruling of Plessy v. Ferguson where the Supreme Court upheld the constitutionality of segregation of groups. This ruling paved the way for a rhetoric of color-blindness (Crenshaw 1997). Under the “separate but equal” doctrine, Blacks and Whites as groups could be segregated as long as the law was color-blind in affording each group equal treatment. Despite the supposed formal equality promised by “separate but equal,” subsequent treatment certainly was separate, but it was anything but equal. As a result, policies and procedures with housing, education, industry, government, the media, and other major social institutions have worked together to exclude Black women from exercising full citizenship rights. Whether this social exclusion has taken the form of relegating Black women to inner-city neighborhoods poorly served by social services, to poorly funded and racially segregated public schools, or to a narrow cluster of jobs in the labor market, the intent was to exclude. Within the structural domain of power, empowerment cannot accrue to individuals and groups without transforming U.S. social institutions that foster this exclusion. Because this domain is large-scale, systemwide, and has operated over a long period of time via interconnected social institutions, segregation of this magnitude cannot be changed overnight. Structural forms of injustice that permeate the entire society yield only grudgingly to change. Since they do so in part when confronted with wide-scale social movements, wars, and revolutions that threaten the social order overall, African-American women’s rights have not been gained solely by gradual reformism. A civil war preceded the abolition of slavery when all efforts to negotiate a settlement failed. Southern states routinely ignored the citizenship rights of Blacks, and even when confronted with the 1954 Brown v. Board of Education Supreme Court decision that outlawed racial segregation, many dug in their heels and refused to uphold the law. Massive demonstrations, media exposure, and federal troops all were deployed to implement this fundamental policy change. The reemergence of White supremacist organizations in the 1990s, many of which recirculate troubling racist ideologies of prior eras, speaks to the deep-seated resentment attached to Black women, among others, working toward a more just U.S. society. Events such as these indicate how deeply woven into the very fabric of American society ideas about Black women’s subordination appear to be. In the United States, visible social protest of this magnitude, while often required to bring about change, remains more the exception than the rule. For U.S. Black women, social change has more often been gradual and reformist, punctuated by episodes of systemwide upheaval. Trying to change the policies and procedures themselves, typically through social reforms, constitutes an important cluster of strategies within the structural domain. Because the U.S. context contains a commitment to reformist change by changing the laws, Black women have used the legal system in their struggles for structural transformation. African-American women have aimed to challenge the laws that legitimate racial segregation. As Chapter 9’s discussion of Black women’s activism suggests, African-American women have used various strategies to get laws changed. Grassroots organizations, forming national advocacy organizations, and event-specific social protest such as boycotts and sit-ins have all been used, yet changing the laws and the terms of their implementation have formed the focus of change. Even the development of parallel social institutions such as Black churches and schools have aimed to prepare African-Americans for full participation in U.S. society when the laws were changed. African-American women have experienced considerable success not only in getting laws changed, but in stimulating government action to redress past wrongs. The Voting Rights Act of 1964, the Civil Rights Act of 1965, and other important federal, state, and local legislation have outlawed discrimination by race, sex, national origin, age, or disability status. This changed legal climate granted African-American women some protection from the widespread discrimination that we faced in the past. At the same time, class-action lawsuits against discriminatory housing, educational, and employment policies have resulted in tangible benefits for many Black women. While necessary, these legal victories may not be enough. Ironically, the same laws designed to protect African-American women from social exclusion have increasingly become used against Black women. In describing new models for equal treatment under the law, Black feminist legal scholar Kimberle Crenshaw argues that the rhetoric of color-blindness was not unseated by the 1954 Brown v. Board of Education ruling. Instead, the rhetoric of color-blindness was reformulated to refer to the equal treatment of individuals by not discriminating among them. Under this new rhetoric of color-blindness, equality meant treating all individuals the same, regardless of differences they brought with them due to the effects of past discrimination or even discrimination in other venues. “Having determined, then, that everyone was equal in the sense that everyone had a skin color,” observes Crenshaw, “symmetrical treatment was satisfied by a general rule that nobody’s skin color should be taken into account in governmental decision-making” (Crenshaw 1997, 284). Within this logic, the path to equality lies in ignoring race, gender, and other markers of historical discrimination that might account for any differences that individuals bring to schools and the workplace. As a new rule that maintains long-standing hierarchies of race, class, and gender while appearing to provide equal treatment, this rhetoric of color-blindness has had some noteworthy effects. For one, observes Black feminist legal scholar Patricia Williams (1995), it fosters a certain kind of race thinking among Whites: Because the legal system has now formally equalized individual access to housing, schooling, and jobs, any unequal group results, such as those that characterize gaps between Blacks and Whites, must somehow lie within the individuals themselves or their culture. When joined to its twin of gender neutrality, one claiming that no significant differences distinguish men from women, the rhetoric of color-blindness works to unseat one important strategy of Black women’s resistance within the structural domain. Black women who make claims of discrimination and who demand that policies and procedures may not be as fair as they seem can more easily be dismissed as complainers who want special, unearned favors. Moreover, within a rhetoric of color-blindness that defends the theme of no inherent differences among races, or of gender-neutrality that claims no differences among genders, it becomes difficult to talk of racial and gender differences that stem from discriminatory treatment. The assumption is that the U.S. matrix of domination now provides equal treatment because where it once overtly discriminated by race and gender, it now seemingly ignores them. Beliefs such as these thus allow Whites and men to support a host of punitive policies that reinscribe social heirarchies of race and gender. In her discussion of how racism now relies on encoded language Angela Davis identifies how this rhetoric of color-blindness can operate as a form of “camouflaged racism”: Because race is ostracized from some of the most impassioned political debates of this period, their racialized character becomes increasingly difficult to identify, especially by those who are unable—or do not want— to decipher the encoded language. This means that hidden racist arguments can be mobilized readily across racial boundaries and political alignments. Political positions once easily defined as conservative, liberal, and sometimes even radical therefore have a tendency to lose their dis tinctiveness in the face of the seductions of this camouflaged racism (Davis 1997, 264). Americans can talk of “street crime” and “welfare mothers,” all the while claiming that they are not discussing race at all. Despite the new challenges raised by the rhetoric of color-blindness and gender neutrality, it is important to remember that legal strategies have yielded and most probably will continue to produce victories for African-American women. Historically, much of Black women’s resistance to the policies and procedures of the structural domain of power occurred outside powerful social institutions. Currently, however, African-American women are more often included in these same social institutions that long excluded us. Increasing numbers of African-American women have gained access to higher education, now hold good jobs, and might be considered middle-class if not elite. These women often occupy positions of authority inside schools, corporations, and government agencies. Achieving these results required changing U.S. laws.

#### Forwarding utopian imaginaries about contingent futures isn’t liberal reformism---it’s an ethos of anticipation that insists the world can always be otherwise.

Wilder 17—Associate Professor of Anthropology at CUNY Graduate Center [Gary, 2017, “Anticipation,” Political Concepts: A Critical Lexicon Issue 3, <https://www.politicalconcepts.org/anticipation-gary-wilder/>, language edited change denoted by brackets] AMarb

There is no doubt that cruel optimism and benevolent pessimism have produced, and leveraged the concept of anticipation in order to prohibit or require certain kinds of citizen action, to legitimize or exempt certain state interventions, to produce docile and anxious subjects who become trapped in states of what Berlant has nicely phrased “animated suspension.”15 The constant exhortation to self-manage, improve, and promote is accompanied by precarity and exhaustion, uncertainty and anxiety, disorientation and meaninglessness. But does this mean that all future-oriented thinking or action is intrinsically ~~disabling~~, normalizing, and depoliticizing? It would be a mistake to reduce futurity as such to a liberal conception of progress, or anticipation to a liberal ideology or affect. Doing so is precisely what has led some of these scholars to draw dubious political conclusions from their own important insights. Think here of Berlant’s assertion of the present as an impasse in relation to which affective beings must focus on survival, maintenance, and adaptation, “without futurity.”16 She dismisses the wish for new images of the good life as a symptom of the current situation.17 Or, consider David Scott’s melancholic ruminations about our being tragically stranded in a post-socialist political present. Adams, Murphy, and Clarke ask us to refuse anticipation as such.18 And Edelman promotes an anti-political opposition to “every realization of futurity,” any aspiration to forge “some more perfect social order,” any action oriented toward future “good.”19 Instead he celebrates jouissance as bound up with the death drive and an absolutist negation of social form.20 By treating the present as one-dimensional and unsurpassable, such criticism accedes to existing arrangements and discounts politics oriented toward a future good life as intrinsically delusional, self-undermining, or conservative. But to abandon good-life imaginaries and future-oriented practices is to erase the crucial space between how things are and how they ought to be. It is no surprise, therefore, that such thinking often turns to (post-political understandings of) affect, bodies, objects, or deep history as the only way to think outside or against existing conditions and ideologies. How then are we to pursue progressive politics when relations of domination are mediated by the idea and reality of progress itself?21 Against the liberal tendency to plan and predict we must insist on a radically open future, and refuse to define that which it might hold. But against the liberal tendency to project present arrangements, forward, we must also fashion images of the good life. Of course this imperative leads immediately to a further challenge. How are we to envision alternative social arrangements when the concepts, frameworks, and forms with which to do so can only really be furnished by an open future that has not yet arrived? This is the very dilemma implied by Marx’s claim that “the social revolution of the nineteenth century cannot take its poetry from the past but only from the future.”22 Radical politics is thereby fated to imagine the unimaginable. And this is the challenge posed by Adorno’s call to contemplate the world from the standpoint of redemption. 3. The Price of Messianism Some thinkers have attempted to challenge liberal progressivism without abandoning futurity by turning to ungrounded utopianism, blank futurism, or Messianic apocalypticism. But such moves also tend to leave present arrangements undisturbed—whether by idly fantasizing about ideal worlds, refusing to name possible alternatives, or either fetishizing or waiting for the sudden event that will produce an absolute rupture. Think here of Bloch’s “principle of hope,” Derrida’s “waiting without expectation,” and Badiou’s “fidelity to the event.”23 We might usefully recall Gershom Scholem’s remarks on “the paradoxical nature” of the Messianic idea in Judaism whereby the wished-for redemption can have no concrete relationship to previous history. As a “transcendence breaking in upon history . . . from an outside source,” he explains, Jewish redemption rejects the Enlightenment idea of historical progress. But it also rules out the possibility of immanent developments or history-making practices. Scholem thus suggests that the “price demanded by Messianism” has been “endless powerlessness in Jewish history . . . There is something grand about living in hope, but at the same time there is something profoundly unreal about it . . . in Judaism the Messianic idea has compelled a life lived in deferment.”24 Although Benjamin invoked this Messianic tradition, his reflections “On the Concept of History” do not imply powerlessness, pessimism, or deferment. Noting the Jewish prohibition on “inquiring into the future,” he endorsed its focus on “remembrance” as a way to “disenchant the future, which holds sway over those who turn to soothsayers for Enlightenment.”25 But Benjamin was less concerned with renouncing futurity as such than with challenging the homogeneous empty clock time and the associated continuum that underlie bourgeois conceptions of predictable futures, automatic progress, and historicist history. Benjamin seeks to break the spell of bourgeois progress by understanding history in terms of “Now-time, which, as a model of messianic time, comprises the entire history of mankind in a tremendous abbreviation.”26 But this was neither a call to adapt to the present nor to wait for a divine irruption. It was a reminder that “every second was the straight gate through which the Messiah might enter.”27 But by Messiah, he means us—contemporary human actors. We can recognize this as a political, and not a strictly theological, claim when we read it alongside of Benjamin’s second thesis: “there is a secret agreement between past generations and the present one . . . our coming was expected on earth . . . like every generation that preceded us, we have been endowed with a weak messianic power on which the past has a claim.”28 In this formulation, living historical actors are themselves quasi-Messianic agents who, at any second and in the name of past generations, might initiate a revolutionary irruption, break the historical continuum, stop clock-time and redeem the world. Benjamin invoked revolutionary Messianism to challenge the political passivity of Social Democrats whose faith in automatic human progress, he argued, had opened the door to fascism and diverted the working classes from making their own history here and now. By exploding the continuum of history and transcending clock time, he believed, they would liberate humanity from the “progressive” processes that had enslaved them and their ancestors. In this way modern society would be emancipated from an infernal history of ongoing catastrophe whereby human actions fueled the quasi-autonomous force that was propelling them blindly into a future over which they had no control.29 At the very least, Benjamin suggested that this revolutionary interruption would end the “storm” of progress, free humans from their “servile integration in an uncontrollable apparatus,” and, maybe even allow actors “to stay, awaken the dead, and make whole what has been smashed” (as the Angel of History wished to, but could not, do).30 But despite the Jewish injunction not to inquire into the future, Benjamin is not only offering a formal definition of revolution as redemptive rupture. We often forget that he also elaborates substantive ideas about what a redeemed, or post-revolutionary, society would entail. He relays that it would mark the end of a “positivist” and “corrupted conception of labor” based in “the Protestant work ethic” which collapses human progress with “technological development” and is “tantamount to the exploitation of nature.”31 In contrast, Benjamin envisions a new form of “cooperative labor” that would “increase efficiency to such an extent that . . . far from exploiting nature, would help her give birth to the creations that now lie dormant in her womb.”32 Emancipated from alienated labor, historical “progress,” and the meaningless tyranny of clock time, human actors (honoring their responsibility to enslaved ancestors) would make their own worlds within a qualitative now-time. Benjamin thus offers us an orientation to futurity that breaks with the logic of deferment contained in both liberal progressivism and blank Messianism. With the idea of a revolutionary rupture that can be initiated in any given second, his insights point to an understanding of anticipation as a kind of political disposition whereby radical actors cultivate a state of readiness for any possibility at every possible moment. But by also offering a positive vision of what a better society might look like, his call to act in the name of oppressed ancestors, provide concrete content to such anticipatory action. Yet, Benjamin does not try to account for how these actors might move from this now to a next-now. Beyond routing future possibilities through past eras, he does not indicate how subjects might orient their action, recognize what might actually be possible or even desirable, or what conditions might facilitate this or that leap. He beautifully triangulates revolutionary classes, past generations, and historical materialists, but does not work out the mediations between radical thinking and revolutionary praxis. He directs our attention to “now time” as cause and consequence of a revolutionary interruption, but does not address the dialectical movement between acting and imagining, naming and discovering, making and seizing. 4. Practicing Anticipation Adorno too sought to overturn the bourgeois conception of progress without paying the price of Messianism. In his 1962 essay, he argues argues that if we are to reclaim a real concept of progress we need to avoid both “atemporal theology” (which expects redemption from a “transcendental intervention”) and “the idolization of history” (as if progress were automatic or human actions necessarily led toward a more perfect world).33 Adorno explains that the term progress promises “an answer to the doubt and the hope that things will finally get better, that people will at last be able to breathe a sigh of relief.”34 Like Benjamin, he insists that “Wherever bourgeois society satisfies the concept it cherishes as its own, it knows no progress; wherever it knows progress, it violates its own law.”35 But rather than simply reject the concept of progress, he seeks to sublate its bourgeois form. He writes, “The nexus of deception surrounding progress reaches beyond itself . . . the devastation wrought by progress can be made good again, if at all, only by its own forces, never by the restoration of the preceding conditions that were its victims.36 He does this by seeking real progress precisely in those places where bourgeois “progress” is interrupted and the bourgeois concept is called into question. He writes, “Progress means: to step out of the magic spell, even out of the spell of progress . . . in that . . . humanity . . . brings to a halt the domination it exacts upon nature . . . In this way it could be said that progress occurs where it ends.”37 One thereby pursues that which progress promises precisely by interrupting or undoing that which purports to be progress (as well as the conceptual framework that reduces progress to domination and misrecognizes domination as progress). Despite Adorno’s reputation for political pessimism and philosophical abstraction (and vice versa), he does not only insist on the possibility of real human progress, but suggests that it must be pursued concretely. He writes, Too little of what is good has power in the world for progress to be expressed in a predictive judgment about the world, but there can be no good, not a trace of it without progress . . . Every individual trait in the nexus of deception is nonetheless relevant to [progress’s] possible end. Good is what wrenches itself free, finds a language, opens its eyes. In its conditions of wresting free, it is interwoven in history that, without being organized unequivocally toward reconciliation, in the course of its movement allows the possibility of redemption to flash up.38 Adorno thus offers an orientation to futurity, at once political and dialectical, that is organized around human action in the present. Beyond the opposition between gradual reformism and revolutionary rupture, through the everyday work of finding and wrenching free bits of good which can be associated with new languages and rewoven into history, the possibility of reconciliation is opened and glimpses of redemption are possible. Adorno thus suggests that these glimpses of future possibility must be pursued concretely. But he also reminds us that these glimpses are no less important than the pursuit. He explicitly links prospect for transformation to acts of political imagination. As with “progress,” Adorno tries to think utopia against “utopia.” In his 1964 exchange with Ernst Bloch, he criticizes ideological forms of “cheap” and “false” utopias which present the given world as already reconciled and realized.39 And he recognizes the value of the (Jewish) prohibition against picturing the future concretely “insofar as we do not know what the correct thing would be.”40 At the same time, he insists that “something terrible happens due to the fact that we are forbidden to cast a picture . . . the commandment against a concrete expression of utopia tends to defame the utopian consciousness and to engulf it.”41 In the West, he explains “people have lost . . . the capability to imagine the totality as something that could be completely different . . . people are sworn to this world as it is and have this blocked consciousness vis-à-vis possibility.”42 Such concessions to the given, he suggests, can only be overcome through some kind of utopian orientation that insists, for example on “the evident possibility of fulfillment” in modern society or that “a life in freedom and happiness would be possible today.”43 But he is equally concerned by the fact that “the idea of utopia has actually disappeared completely from the conception of socialism,” explaining, “the apparatus, the how, the means of a socialist society have taken precedence over any possible content, for one is not allowed to say anything about the possible content. Thereby the theory of socialism that is decidedly hostile toward utopia now tends really to become a new ideology concerned with the domination of humankind.”44 Adorno warns that any claim to know the future should be avoided. Yet he also insists that unless some kind of “picture” of what might be possible can “appear within one’s grasp, then one basically does not know at all what the actual reason for the totality is, why the entire apparatus has been set in motion.”45 He concludes by agreeing with Bloch that there can be no transformation, no socialism, no fulfillment without the utopian-transcendent belief that “something’s missing.”46 In short, Adorno invites critics to undertake a tricky, if not paradoxical, practice of envisioning without defining. This balancing act between identifying concrete possibilities through utopian imagination while not foreclosing outcomes through predictive naming is a crucial dimension of what I am calling anticipation. This orientation to the future breaks with the liberal faith that things will automatically and progressively work themselves out. But does so in ways that differ fundamentally from either “waiting without expectation” or nihilistic calls to accept the impasse of the present, abjure transformative projects, or renounce propositions about a future good life. The concrete utopian orientation to futurity suggested by Adorno resonates with a similar position formulated by Henri Lefebvre, another heterodox Marxist who sought to make sense of late capitalist alienation in the postwar period. In the first volume of his Critique of Everyday Life (1947), Lefebvre argued that material progress had created unprecedented possibilities for the good life, but its benefits were only enjoyed by the few; real power was stolen from community and placed in the hands of an elite, and the domination of things was transformed into domination of humans by other humans.47 He thus describes the colonization of everyday life by capital. But because capitalism develops unevenly, he believed, “traces of ‘another life,’ a community life” organized around different social logics and values, persisted within a heterogeneous modernity.48 At the same time, Lefebvre contended, a paradoxical situation of “backwardsness” emerged in which “life is lagging behind what is possible” — behind the very different set of arrangements that capitalist modernization had actually made possible.49 It is precisely this proximity between, on the one hand, an alienated existence and, on the other, that which is no longer possible and that which is newly possible which, according to Lefebvre, creates opportunities, through everyday practices, for different ways of being to emerge.50 In cities especially, he suggests, alternative modes of living and new forms of solidarity appear in the theater of everyday life.51 In response to optimistic “partisans of Progress,” Lefebvre points out “the decline of everyday life since . . . Antiquity.” But it also differs from nihilistic calls for adapting to the impasse of the present, abjuring transformative projects, or renouncing propositions about a future good life. Conversely, in response to the pessimistic philosophers of decadence, he insists on “the breadth and magnificence of the possibilities which are opening out for man, and which are so really possible . . . (once the political obstacles are shattered).”52 Such anarchist pessimists, he argues, mistakenly accept “this life as the only one possible” and are unable to recognize the potential “greatness” that may shine through alienated forms.53 Rather than focus on the false opposition between progress and decline, Lefebvre directs our attention to the difference between quantitative and qualitative forms of progress. He dismisses as a “childish error” the tendency to base our image of “the [hu]man of the future on what we are now” and “simply granting him a greater quantity of mechanical means and appliances.”54 Rather, he insists, “we should acquire a sense of qualitative changes, of modifications in the quality of life – and above all of another attitude of the human being toward himself.”55 He thus calls on us to envision a future organized around “total life” and a “living totality” in which a “truly human” and “total man” may be realized.56 For Lefebvre, the task of recognizing the possible in the actual requires creative acts of political imagination. But he also criticizes idle speculation about fantastic futures, insisting that understandings of alternatives must emerge through experimental practices. He asserts that “man as a total problem” – “the possibility of the total” and “truly human man” – can only be “posed and resolved on the level of everyday life.”57 Challenging the kind of critique or revolt promoted by “mystics and metaphysicians,” he proposed a dialectical approach that would overcome false oppositions between “everyday life and festival – mass moments and exceptional moments . . . seriousness and play – reality and dreams.”58 According to Lefebvre, everyday life, especially in cities, becomes the scene of a certain utopianism which combines imaginative vision with experimental practices in order to identify and pursue what he called the “possible-impossible.”59 At once future-oriented and now-centered, aesthetic and political, a serious strategy and an end in itself, such everyday practices contribute to what a more human “art of living.”60 We might also call this an art of anticipation in which visionary thinking and experimental acts come together in a type of “play acting” that “explores what is possible.”61 In the late 1950s, Lefebvre further developed this thinking about lived utopianism. Under modern capitalist conditions, he explains, previous modes of envisioning a truly human form of life (whether based on fantasies of natural living or classical antiquity) had either been lost or discredited as fictive or mythical, but new ones had not taken their place. Far from celebrating this development, he regarded it as tragic that the postwar Left had no myth of “the new life” and spoke only in the language of industrial rationalism, technocratic planning, and productivist acceleration.62 But Lefebvre also argued that in the new era of postwar planning there was a resurgence of utopian thinking because “the advanced countries are lagging behind their own possibilities” and are “less able to satisfy those who ought to be happy with it.”63 He writes, “Utopianism lives again . . . It is exploring the possibilities of praxis . . . Imagination is adopting or rediscovering a creative power. It is pooling forces with an obscurely rediscovered spontaneity.”64 And, “If we are to build a revitalized life . . . we must use utopian method experimentally, looking ahead to what is possible and what is impossible and transforming this hypothetical exploration into applicable programs and practical plans.”65 Lefebvre called this orientation a “philosophy of the possible” which attends to “relations with the real and the here-and-now” in order to discover “the opening, by which [we] may enter in a practical way into the ‘possible-impossible’ dialectic.”66 Lefebvre’s call in the late 1950s for a new “revolutionary romanticism” seemed to receive an uncanny answer in what he regarded as “the irruption” of May ’68. For him this unforeseen event “broke into” everyday life even as everyday practices constituted that which was revolutionary about the event.67 For Lefebvre, May ‘68 was neither an unmediated presentist eruption nor the working out of a blueprint for the future. He writes, “A theory of the movement has to emerge from the movement itself, for it is the movement that has revealed, unleashed, and liberated theoretical capacities.”68 His analysis of ‘68 emphasizes spontaneous popular contestation and mass participation, the commitment to transform society as a whole and create new forms of life, and above all the emergence of experiments in self-management which were at once concrete and utopian, practical and performative, actual and prefigurative, political and cultural. For Lefebvre, this “irruption” demonstrated that “everyday existence” cannot be “transcended in one leap” but only through “the process of self-management.”69 He characterized it as an “unthinkable movement” that nevertheless “actually existed” and therefore allowed and compelled people to “think the unthinkable.”70 Not surprisingly, he called May ‘68 a “concrete utopia.”71 The dialectic movement between utopian imagination and experimental practice allowed May ‘68 to make real a supposedly impossible form of life in the “anticipated urban society.”72 He writes, “The specifically utopian function of cultural contestation will thus supersede itself by fulfilling itself in practice.”73 This kind of collective anticipation through concrete utopian experiments in self-management comes through clearly in Kristin Ross’s insightful analysis of the Paris Commune. Ross writes: More important than any laws the Communards were able to enact was simply the way in which their daily workings inverted entrenched hierarchies and divisions . . . The world is divided between those who can and those who cannot afford the luxury of playing with words or images. When that division is overcome, as it was under the Commune . . . what matters more than any images conveyed, laws passed, or institutions founded are the capacities set in motion.74 If social relations are to be radically transformed, Ross suggests, it will not be by teaching people how to be citizens of a future society, but by mobilizing such capacities, which are at once practical and theoretical, political and aesthetic, actual and potential.75 In a similar spirit Massimiliano Tomba examines the “insurgent universality” that was practiced and performed by the more radical and subaltern forces within the French Revolution. He writes, this insurgency not only interrupted the continuum of a specific historical configuration of power, but . . . disclosed and anticipated new political pathways, which indicated alternative trajectories beyond political modernity. These pathways were molten in the red-hot magma of many experiments, abandoned or repressed. The experiment was the virtuous “skidding off course (dérapage)” of the Revolution during which slaves, women and the poor gained voice and acted as if they were citizens.76 More recently, we might consider the category confounding character of the 1979 Iranian Revolution and the everyday practices of “horizontalism” following the 2001 financial crisis in Argentina, in recent Occupy struggles, and autonomous popular movements worldwide. Concrete utopian anticipation has assumed more robust forms in the Zapatista experiment in Chiapas, Mexico and the ongoing Kurdish experiment in Rojava, Syria. 5. Reconstruction, Transfiguration, Improvisation These brief examples should make clear that the politics of anticipation are not only symbolic and performative. An anticipatory dialectic of prefiguration and transfiguration – or the circular relation among envisioning, enacting, and realizing – has been especially well developed within the black radical tradition. Consider, for example, W.E.B. Du Bois’s plan during the early 1930s to organize African Americans into self-managing consumer cooperatives. He took as his staring points the refractory character of the color line (which proved to be invulnerable to rational refutation or legal challenges), the mutually reinforcing relation between racism and poverty, the white supremacy of the American labor movement, and the devastating effect of the Great Depression on the black community. Given this historical condition, Du Bois sought to identify immanent possibilities within alienated forms by turning the fact of segregation into a source of social strength and political education. He argued that if planned and organized, existing networks of black sociality and exchange could ground a new form of solidarity and autonomy through which to confront capitalism and racism. He believed that self-managing cooperatives organized around mutualist lines could create opportunities for work without exploitation, production without profit, exchange without stratification, knowledge production without exclusion – in ways that would reinforce bonds across different social sectors of the black community.77 On one level, Du Bois’s multi-faceted program was a pragmatic response to an immediate predicament. These consumer cooperatives would create a basis for economic survival under conditions of Jim Crow segregation during the Depression. By doing so without depending on either state aid (that might not come) or legal reform (that might not matter), it was also meant to transform formal liberty into substantive freedom. Du Bois emphasized that these economic efforts were meant to complement, and help to realize, rather than replace the existing civil rights struggle. He offered a strategy for achieving full citizenship from a position of economic security, strength, and leverage. But Du Bois’s call for economic self-management was also a concrete utopian project to radically reconstruct American democracy by abolishing the color line and overcoming capitalist social relations. In his view, these self-managing cooperatives would allow black actors to develop alternative forms of labor, exchange, and sociality – the new subjectivities, everyday practices, ethical relations, and spiritual/cultural orientations that would: 1. prepare themselves for the future order they desired, 2. model (to themselves and others) what was possible and what that future might entail (through experimental practices), 3. help to hasten that future by enacting it here and now (to materialize it by envisioning it, and to come to see it through material practices). With this plan for strategic self-segregation, Du Bois was not calling for blacks to withdraw from American society. He was recognizing that their involuntary status as a nation-within-a-nation offered them an opportunity (and perspective) to lead the nation as a whole (beginning with the white working class) on a different path beyond the color line and towards socialist democracy. His program was based on the conviction that racial domination could never be overcome under capitalist conditions and that socialism could never be realized until the color line was abolished.78 It envisioned self-managing black communities playing a vanguard role in a process whereby a whole range of cooperative movements among different communities would form, federate, and help to create a new “cooperative commonwealth” in and beyond America. It thereby anticipated both a multi-racial socialist democracy within America and a new order of international solidarity among self-managing peoples of color against global imperialism. In this way, Du Bois believed that the black freedom struggle could realize American democracy, empower and unite colonized peoples, redeem the West, and emancipate humanity – through concrete everyday practices that anticipated, in all of these ways, a seemingly impossible future already made plausible by present conditions and glimpsed through the subaltern’s privileged critical insight. On the one hand, his plan was a revolutionary rejection of liberal progress. It insisted that no change would come automatically and that real emancipation would not be possible by merely adjusting the existing framework. On the other hand, this was a program for radical transformation that refused the fantasy of sudden revolutionary rupture. Du Bois was mindful of the long black Atlantic history during which each emancipatory break enabled a new forms of domination. He suggested that the process of subjective and objective transformation that he was proposing might take decades, or even generations. It was this long view that helps explain why Du Bois developed this plan during the period when he was writing Black Reconstruction in America, and vice versa. In his 1935 masterwork, Du Bois demonstrates how black slaves interrupted the historical continuum through a “general strike” whereby they fled plantations and withdrew their labor power from the Confederate war effort. He famously recounts how freed slaves experienced emancipation as an apocalyptic rupture. But, as importantly, he demonstrates how an alliance of freed blacks, Southern white workers, and Northern abolition democrats (black and white) was briefly able to leverage the Freedman’s Bureau to open the possibility for an experiment in non-racial socialist democracy that, in challenging the very basis of capitalist private property and American social divisions, far exceeded the intentions of the U.S. government and Northern interests who had supported its creation. Much of his study is devoted to describing the revolutionary attempt to reconstruct the very bases of American democracy through experimental practices made possible by a contingent set of conditions that created a unique historical situation which was seized by an alliance of actors who anticipated – envisioned, performed, pursued – an alternative future in their everyday acts. This nexus of vision, conjuncture, and practices, he suggests, positioned freed blacks to be the vanguard of a socialist revolution and truly democratic society that might have been. But Du Bois explains how this revolutionary “Southern Experiment” was ultimately foreclosed by white working class racism. When white workers allied with the planter class against freed blacks, Northern capital was allowed to destroy the prospect of real democracy (and racial equality) in America and across the imperialist world. Du Bois demonstrates how this process allowed slave emancipation to evolve into a regime of legal segregation and social stigmatization – the very regime into which Du Bois was born and against which he spent his life in militant struggle. Du Bois’s interwar plan for self-managing black cooperatives can thus be read as an untimely attempt to pursue the unrealized promise of the post-Civil War Southern Experiment. In the 1930s Du Bois sought to revitalize the unrealized 1870s project to reconstruct American democracy on multi-racial and socialist lines.79 The anticipatory character of Du Bois’s account of Reconstruction and his program for cooperative self-management may be situated in a long history of black Atlantic concrete utopianism which combined visionary projects with experimental practices. Here we might think of maroon communities throughout the New World slave system, Toussaint Louverture’s 1801 black republic, and the emergence of what Laurent Dubois, following Jean Casimir, called the “counter-plantation” system in post-revolutionary Haiti. Thomas Holt describes how a similar movement for peasant self-sufficiency immediately followed the emancipation of slaves in 19th century Jamaica. As I have argued elsewhere, Aimé Césaire’s and Léopold Senghor’s constitutional struggle to transform imperial France into a postnational democratic federation may be located in this tradition of anticipatory politics. But so too can Frantz Fanon’s account of the new forms of life that emerged through the lived experience of revolutionary struggle for Algerian independence and Patrice Lumumba’s untimely experiment in popular democracy in the Congo. In each of these anticipatory initiatives, we can recognize what Paul Gilroy has called the dialectic of fulfillment and transfiguration. In The Black Atlantic, Gilroy describes a pragmatic “politics of fulfillment” whose “normative content focuses attention on . . . the notion that a future society will be able to realize the social and political promise that present society has left unaccomplished.”80 Gilroy distinguishes this orientation from a utopian “politics of transfiguration” that strives “continually to move beyond the grasp of the merely linguistic, textual, and discursive. . . This politics exists on a lower frequency, where it is played, danced, and acted, as well as sung and sung about, because words . . . will never be enough to communicate its unsayable claims to truth.”81 Gilroy treats black musical expression as an especially rich locus and medium for such utopian acts. Gilroy argues that this “tradition of expression” “refuses to accept that the political is a readily separable domain. Its basic desire is to conjure up and enact the new modes of friendship, happiness, and solidarity that are consequent on the overcoming of the racial oppression.”82 He suggests that these two modes of politics are not mutually exclusive; within the black Atlantic tradition they have long co-existed and complemented each other. But if the politics of fulfillment has generated a black “counter-discourse” through which to make political claims, Gilroy argues, the politics of transfiguration constitutes a “counterculture of modernity” that seeks to expand the very domain and meaning of politics itself – partly by linking it to ethics and aesthetics, imaginative practice and cultural performance, embodied practices and lived memories.83 I would like to underscore the anticipatory dimensions this politics of trasnsfiguration, which conjures and enacts new ways of being and relating. According to Gilroy, it emphasizes the emergence of qualitatively new desires, social relations, and modes of association within the racial community of interpretation and resistance and between that group and its erstwhile oppressors. It points specifically to the formation of a community of needs and solidarity which is magically made audible in the music itself and palpable in the social relations of its cultural utility and reproduction.84 These transfigurative practices create new continuities among politics, ethics, and aesthetics; Gilroy speaks of “grounded ethics” and “grounded esthetics.85 Gilroy thus describes a set of concrete utopian practices that anticipate (by enacting in both form and content) an alternative good life. He writes, progress from the status of slaves to the status of citizens led [western blacks] to enquire into what the best possible forms of social and political existence might be. The memory of slavery, actively preserved as a living intellectual resource in their expressive political culture, helped them to generate a new set of answers to this enquiry. They had to fight – often through their spirituality – to hold on to the unity of ethics and politics sundered from each other by modernity’s insistence that the true, the good, and the beautiful had distinct origins and belong to different domains of knowledge.86 This path from broken present to utopian future, by way of living memory and embodied performance, resonates with the ways that Benjamin conjugated remembrance and rupture. It is indeed likely that Gilroy had both Benjamin and Adorno in mind when he writes, The history and utility of black music. . . enable us to trace something of the means through which the unity of ethics and politics has been reproduced as a form of folk knowledge. This subculture often appears to be the intuitive expression of some racial essence but is in fact an elementary historical acquisition produced from the viscera of an alternative body of cultural and political expression that considers the world critically from the point of view of its emancipatory transformation. In the future, it will become a place which is capable of satisfying the (redefined) needs of human beings that will emerge once the violence – epistemic and concrete – of racial typology is at an end. Reason is thus reunited with the happiness and freedom of individuals and the reign of justice within the collectivity.87 Gilroy affirms that this political orientation converges with Marxism, even if the convergence is also undercut by the simple fact that in the critical thought of blacks in the West, social self-creation through labour is not the centre-piece of emancipatory hopes. For the descendants of slaves, work signifies only servitude, misery, and subordination. Artistic expression, expanded beyond recognition from the grudging gifts offered by the masters as a token substitute for freedom from bondage, therefore becomes the means towards both individual self-fashioning and communal liberation. Poiesis and politics begin to coexist in novel forms [– autobiographical writing, special and uniquely creative ways of manipulating spoken language, and, above all, the music.]88 The important point here is not the extent of Gilroy’s Marxism or the accuracy of his interpretation of Western Marxist desires regarding labor, but that he is describing a tradition of concrete utopianism through which a future good life is anticipated (envisioned, enacted, conjured ) through experimental practices that are at once political, ethical, and aesthetic.89 Gilroy writes eloquently about an “ethics of antiphony” and “the tactics of sound developed as a form of black metacommunication.”90 His attention to music and performance as black radicalism’s privileged media, and to utopian enactment or untimely anticipation as central features of black aesthetics, has been extensively elaborated by Fred Moten. Referring to blackness as “the extended movement of a specific upheaval, an ongoing irruption that annaranges every line,” Moten links this upheaval and irruption to (an ethics, politics, and aesthetics) of “the cut” and “the break.”91 Moten uses this multivalent term to index variously the gap between (as well as the elevated conjunction of): sound and words, music and text, poetry and philosophy, phenomenology and semiotics, experience and expression, scream and message, being and knowing, description and explanation, performance and analysis, showing and naming, deconstruction and reconstruction, objectivity and subjectivity, body and spirit, substance and sign, violence and joy, absence and abundance, visibility and invisibility, tragedy and elegy, singularity and totality, emotion and structure, spontaneity and preparedness, individuality and collectivity, event and process, situatedness and ongoinginess, return and birth, origin and repetition, past and future. It is through this cut, by lingering in this break – at once existential, epistemological, and temporal – that the (radical) work and play of “improvisation,” in and through and for what he calls “ensemble,” unfolds. This is a dazzling intervention on blackness and/as improvisation in the break where form mirrors content, or each reworks the other, in every instant. Among the many ramifying images that Moten offers is that of improvisation as the performance of an “old new language – tragic, hopeful, fallen” that registers “the fantasy of what hadn’t happened yet” and works “to activate the foresight that is not prophecy but description . . . embodied and silently sounded in the music’s knowing echo of shriek and prayer.”92 Descriptive foresight (in an old-new language) of what has not yet happened wonderfully expresses the peculiar political logic of anticipation that I have been trying to outline. Moten explains how this improvisational practice links vision, performance, and action. He relates blackness (and critique) to the practice of “lingering” in the “shattering tremble of the improvising ensemble’s music . . . Not in the interest of an understanding or adequate representation of the action whose performance would occur in this lingering, but in the interest of an enactive invocation, a material prayer, the dissemination of the conditions of possibility of . . . action.”93 In short, Moten conjures a space and practice of imaginative performance and embodied desire that is at once aesthetic, ethical, and political. It recognizes aesthetic performances as political acts and political performances as aesthetic acts within a relational, which is to say ethical, ensemble. For Moten, the practice of improvisation also confounds reified past-present-future distinctions. His discussion does not only imply that such aesthetic-ethical-political practices may anticipate, by enacting, what hasn’t yet happened. It also suggests that they anticipate that which is not yet known, a wish that can only emerge through present practice and performance. He thus links improvisation to the “unsayable claims of black utopian political desire, an unrequited love imaged after the fact.”94 Raising the question of “improvisation’s time and the time of ensemble’s organization” Moten writes of the “attempt . . . to sustain the desire that you anticipate, that you’ll have felt even now, to stop to look up, to sing the inscription.”95 This will and capacity to see and sing the inscription in order to sustain the desire that you anticipate is one way to understand prophecy. In a recent interview Moten remarks, “The prophet is the one who tells the brutal truth, who has the capacity to see the absolute brutality of the already-existing and to point it out and to tell that truth, but also to see the other way, to see what it could be. That double-sense, that double-capacity: to see what’s right in front of you and to see through it to what’s ahead of you.”96 Moten thereby voices an insight that has long been recognized by Jewish Marxist and black radical thinkers – namely that anticipation is less a matter of predicting the future than of “foreseeing the present.”97 In 1940 Walter Benjamin described the paradoxical character of the “prophetic relation to the future” by noting that “the seer’s gaze is kindled by the rapidly receding past . . . the prophet has turned away from the future: he perceives the contours of the future in the fading light of the past as it sinks before him into the night of times.”98 A few years later, during the war that would take Benjamin’s life, Aimé Césaire identified “the ground of poetic knowledge” as “an astonishing mobilization of all human and cosmic forces” in which “all lived experience. All the possibility . . . all the pasts, all the futures . . . Everything is summoned. Everything awaits.”99 And the “visionary” speaker in his 1946 poem declares, “my ear to the ground, I heard Tomorrow pass.”100 Decades later, but in a similar spirit, Edouard Glissant writes about the existence within Caribbean thought and consciousness of “a prophetic vision of the past” based on “the identification of a painful notion of time and its full projection forward into the future.”101 Perhaps people compelled by history to inhabit a painful sense of time are gifted with a prophetic sense of the past and a capacity (and necessity) to foresee the present. Running through these otherwise distinct reflections is the insight that anticipation entails sudden or stolen glimpses across epochal divides. It names the proleptic power of acting “as if” impossible futures were already at hand. 6. Dialectics of Anticipation What links these various concrete utopian experiments, thinkers, and traditions is not only a commitment to radical politics, direct democracy, or autonomous socialism. They also share a distinctive orientation to futurity. Their reflections and actions point beyond both the fiction of liberal progress and the fantasy of apocalyptic rupture. They reject the given order, envision a better world, and act as if the impossible were possible – even while mindful that new forms cannot be planned and implemented but can only emerge practically, experimentally. We can thus think of anticipation as a kind of political disposition whereby radical actors cultivate a state of readiness for any possible possibility and a will to overcome existing arrangements by acting from the standpoint of a not-yet redeemed world. We can think of anticipation as an untimely desire to recognize and pursue alternative possibilities that are enabled by and condensed within present arrangements. From this perspective, anticipation prefigures by enacting the supposedly impossible. It indexes a politico-temporal orientation, rather than an affective state or an ideological discourse. As a critical political concept, anticipation is neither about planning nor waiting. It rejects nihilistic presentism but also avoids the false opposition between liberal progress and apocalyptic rupture. (Or we can say that it rejects liberal progress while avoiding the false opposition between nihilistic presentism and apocalyptic rupture.) Through an immanent critique of actual relations that allows actors to recognize supposedly impossible possibilities, by tacking dialectically between creative imagination and experimental practices, anticipation seeks to balance the dual imperative to insist on an open future and to envision envisioning a good life. We might therefore refer to a dialectics of anticipation marked by the dual imperatives to be open to the impossible and to imagine the possible, to envision and enact, to seize the sudden illumination as it appears and seek to produce it through everyday life. A dialectical concept of anticipation is a calling for that is also a calling forth, an enacted idea that may bring into being what it desires through the performance itself (even as that very image of future possibilities only arises through such performative acts). Anticipatory politics are therefore also aesthetic operations (and vice versa). Neither about optimism nor pessimism, these concrete utopian practices cut across reified distinctions between immanence and transcendence, present and future, actual and possible, instrumental and utopian, imagination and action, strategy and spontaneity, politics and performance. Anticipation signals a readiness to interrupt the continuum and a commitment to live otherwise. They are not only “practices” in the sense of doing, they are forms of practice in the sense of learning, of getting better at – in this case, getting better at being the kind of person, living the kind life, entering into the types of social relations that will only be really possible, or possibly realized, in a future order.

#### Legal avenues are key to build up social movements that challenge power.

Kate Andrias and Benjamin I. Sachs 21, Kate Andrias is Professor of Law, University of Michigan Law School. Benjamin I. Sachs is Kestnbaum Professor of Labor and Industry, Harvard Law School, “Constructing Countervailing Power: Law and Organizing in an Era of Political Inequality,” 130 Yale L.J. 546, January 2021, lexis.

[\*548] INTRODUCTION

Among the painful truths made evident by COVID-19 are the deep inequality of American society and the profound inadequacy of our social-welfare infrastructure. The nation's lack of comprehensive health care, 1Link to the text of the noteits underfunded and inefficient system of unemployment insurance, 2Link to the text of the noteand weak workplace safety and health guarantees, 3Link to the text of the notealong with nearly nonexistent paid sick leave, 4Link to the text of the notedebtor-forgiveness rules, 5Link to the text of the noteand tenant protections 6Link to the text of the noteleave poor and working-class communities--particularly communities of color--dangerously exposed to the ravages of this pandemic, both physical and economic. 7Link to the text of the noteAmerica's weak social safety net is, in turn, a product of a profound failure that has plagued American democracy for decades now: the wealthy exercising vastly disproportionate power over politics and government. 8Link to the text of the note

[\*549] Indeed, public faith in American democracy is at near-record lows, and increasing numbers of Americans report that they no longer feel confident in the health of their democratic institutions. When asked why, many say that money has too much of an influence on politics and that politicians are unresponsive to the concerns of regular Americans. 9Link to the text of the noteResearch supports these fears, showing both that wealthy individuals are spending record sums on electoral politics 10Link to the text of the noteand that elected officials are at best only weakly accountable to nonwealthy constituents. 11Link to the text of the note [\*550] As political scientist Martin Gilens has observed, "[W]hen preferences between the well-off and the poor diverge, government policy bears absolutely no relationship to the degree of support or opposition among the poor." 12Link to the text of the note

Of course, democracy does not require that policymaking always follow majority will or the median voter's preferences. But democracy, as well as the faith citizens have in their government, falters when lawmakers persistently disregard the priorities of nonwealthy citizens.

Much of the legal scholarship (and public commentary) concerned with this democracy deficit focuses on the increased flow of money into electoral politics and advocates for stemming that flow. 13Link to the text of the noteScholars writing in this vein criticize the Supreme Court's jurisprudence, exemplified by Citizens United v. FEC, that has enabled unfettered campaign spending. 14Link to the text of the noteThey offer a range of reforms designed to limit the flow of money into elections, many of which would require a change in the composition of the Supreme Court or the ratification of a constitutional amendment. 15Link to the text of the noteA related group of scholars advocates for shielding the legislative and administrative process from money's influence through, for example, lobbying restrictions and disclosure requirements. 16Link to the text of the note

[\*551] A second robust body of scholarship focuses not on insulating the political process from money but on trying to ensure equal rights of individuals to participate in the governance process through elections. These scholars criticize barriers to equal voting rights, including contemporary uses of gerrymandering and legislation that impose hurdles on individual voters' ability to exercise the franchise or minimize the effective voting power of particular constituents. 17Link to the text of the noteScholars urge both doctrinal and legislative reform that would ensure more equal rights of participation.

In the last few years, a third approach has begun to emerge in the legal scholarship. This approach begins by recognizing the difficulty--both practical and constitutional--of keeping money out of politics. It also recognizes that while equal voting and participation rights are critical to the goal of combatting political inequality, they are not enough to ensure political equality in a system where wealth functions so prominently as an independent source of political influence. Thus, this third approach moves beyond campaign finance and individual participation rights and focuses instead on what we will call countervailing power. In particular, this approach is concerned with the ability of mass-membership organizations to equalize the political voice of citizens who lack the political influence that comes from wealth. 18Link to the text of the note

The beneficial effects of countervailing, mass-membership organizations are well known to theorists and researchers of democracy. 19Link to the text of the notePut simply, such groups increase political equality by building and consolidating political power for the [\*552] nonwealthy, thus serving as counterweights to the political influence of the rich. Mass-membership organizations can serve in this capacity because, at bottom, they aggregate the political resources and political power of people who, acting as individuals, are disempowered relative to wealthy individuals and institutions. 20Link to the text of the noteMore particularly, mass-membership organizations enable pooling of politically relevant resources, including money, among individuals with fewsuch resources; they provide information to decisionmakers about ordinary citizens' views; they navigate opaque and fragmented government structures, thereby enabling citizens to monitor government behavior; and they allow citizens to hold decisionmakers accountable. And, in fact, when citizens are organized into mass-membership associations that are active in the political sphere, researchers find an exception to the general rule that policymakers are disproportionally responsive to the preferences and concerns of the wealthy. 21Link to the text of the note

Over recent decades, however, there has been a decline in broad-based, massmembership organizations of low- and middle-income Americans. 22Link to the text of the noteThis decline in countervailing organizations has exacerbated the political distortions caused by the increase in political spending by the wealthy. But the capacity for countervailing organizations to address the distorting effects of wealth raises a critical question for legal scholars: How can law facilitate the construction of countervailing organizations among the nonwealthy? Put differently, how can law facilitate political organizing among Americans whose voices are drowned out by the distorting effects of wealth? That is the question we address in this Article.

Recently, legal scholars have begun to address related topics. For example, K. Sabeel Rahman and Miriam Seifter have written about ways that participation in administrative processes can improve the organizational strength of citizen groups. Thus, Rahman argues for designing administrative processes in ways that enhance the countervailing power of ordinary citizens, 23Link to the text of the notewhile Seifter urges administrative-law scholars to pay attention to the characteristics of interest groups participating in the administrative process and to consider "looking [\*553] within interest groups," referencing the manner by which interest groups determine the views of their constituents, "to illuminate the quality and nature of participation in administrative governance." 24Link to the text of the noteTabatha Abu El-Haj has urged greater use of universal benefits and targeted philanthropy, to encourage the growth of mass-membership organizations, since both "create reasons to organize on the part of beneficiaries." 25Link to the text of the noteBoth of us have written about the countervailing role that labor organizations can play in politics. 26Link to the text of the noteAnd Daryl Levinson and one of us have written about the ways in which ordinary public policy often has the effect--and at times the intent--of mobilizing political organization around the policy. 27Link to the text of the note

Meanwhile, another group of legal scholars has highlighted the importance of social movements and their organizations in legal change, focusing on how movements shape decisionmaking by courts, legislatures, and administrative agencies. 28Link to the text of the noteIn particular, a rich literature has developed on the relationship between popular mobilization and evolving constitutional principles, 29Link to the text of the noteand on [\*554] how "cause lawyers" can best serve social movements. 30Link to the text of the noteMore recently, there has been a resurgence of scholarship that "cogenerates legal meaning alongside left social movements, their organizing, and their visions." 31Link to the text of the noteThis work builds on an older tradition of critical legal studies and critical race theory that interrogates the limits of traditional legal rights in bringing about progressive social change given the political, economic, and social conditions that systematically disadvantage poor people and people of color. 32Link to the text of the note

To date, however, no one has tackled directly the question that we pose here. 33Link to the text of the noteRather than asking how the enactment of substantive legislation or administrative-participation mechanisms might boost organizing, how social [\*555] movements can or hope to reshape law, or how a focus on traditional legal rights disables fundamental social change, we ask how law could be used explicitly and directly to enable low- and middle-income Americans to build their own socialmovement organizations for political power.

The question is particularly urgent today as the COVID-19 pandemic has exacerbated society's existing inequalities. Working-class communities, especially low- and middle-income people of color, have experienced hardships as a result of the disease to a far greater extent than the wealthy--from massive unemployment to dangerous working conditions, from food insecurity to rising debt and risk of eviction. 34Link to the text of the noteThe suffering wrought by the pandemic, as well as by the financial crisis of 2008, has led to an upsurge in protests by low- and middle-income Americans, particularly among workers, tenants, and debtors. 35Link to the text of the noteAt the same time, endemic violence against Black communities, including the recent killing of George Floyd, has led to widespread organizing around issues of racial justice. 36Link to the text of the noteThese movements demand that government respond to the [\*556] concerns of ordinary Americans and attempt to elicit better treatment from powerful actors. Yet, despite their promise, such movements face significant obstacles in translating their members' anger into robust and lasting political power. 37Link to the text of the noteA pressing task, therefore, is to ask how law can facilitate and protect these new and revived protest movements, helping to create durable organizations that can exercise sustained power in the political economy.

We start from the premise that the robustness of countervailing, mass-membership organizations should be understood as a problem both of and for law. The shape of civil society and organizational life is already a product of legal structures and rules. 38Link to the text of the noteAnd although law has frequently been a tool of oppression, rather than of empowerment, of poor and working-class people and movements, 39Link to the text of the notealternative legal regimes that encourage the growth of and the exercise of power by social-movement organizations of the poor and working class are possible. Indeed, for those who are committed to decreasing political inequality, alternative legal structures that encourage the growth of countervailing organizations are imperative.

In analyzing how legal and institutional reforms could facilitate a different picture of organizational and political life in the United States, we draw from the successes and failures of labor law--the area of U.S. law that most explicitly and directly creates a right to collective organization for working people--while also moving beyond that context to literature considering "how, in what forms, and under what conditions social movements become a force for social and political change." 40Link to the text of the noteWe do not attempt to adjudicate priority among factors that [\*557] contribute to successful organizing, nor do we attempt to build an exhaustive list of such factors. Instead, we consolidate factors that have two attributes: (1) they are likely to contribute to the successful building of membership organizations among poor and working-class people, and (2) their existence or development might be enabled by law.

We recognize that some factors, undoubtedly critical to successful organizing, are beyond the reach of our proposal. For example, sociologists and historians have demonstrated that several structural opportunities helped facilitate the growth of the Civil Rights movement, including the collapse of cotton; the increase in Black migration and electoral strength; and the advent of World War II and the Cold War. 41Link to the text of the noteThese kinds of objective structural conditions, exogenous to movements themselves, are frequently important to movement formation, but they cannot be directly affected by the kinds of legal reforms we suggest. Likewise, sociologists have shown that strategic leadership within organizations is critical to movement success, 42Link to the text of the notebut internal leadership dynamics are not easily affected through legal regulation. 43Link to the text of the note

Three additional principles guide our analysis. First, because small-scale, concrete victories are essential to successful organizing, and because organizing tends to be most successful among people with shared identities and existing relationships, we focus on reforms that enable organizing within particular structures of authority and resource relations. By way of examples, we consider organizing among workers, tenants, debtors, and recipients of public benefits. We pick these contexts in part because they are ones rife with exploitation and [\*558] power imbalances and populated by the relevant income groups, and in part because they are home to important organizing efforts, both historical and contemporary. 44Link to the text of the noteWe do not suggest that these are the only relevant contexts in which our suggestions might be explored, nor do we in any sense imply that broader organizational development encompassing poor and working-class people as a whole is impossible or ineffective. In fact, the context-specific organizing regimes we envision might well facilitate broader community-based and political organization. However, we leave for another day exploration of how the law might directly enable broad-based political organization--say, a political organization of all poor people or a political-party system that incentivizes grassroots participation among nonwealthy individuals. 45Link to the text of the note

Second, we focus on how law can build organization, as opposed to more amorphous configurations of insurgency. The organizations our reforms seek to facilitate are very much social-movement actors, in that they seek to change "elements of the social structure and/or reward distribution of a society." 46Link to the text of the noteBut the goal is to encourage enduring organization that can wield sustained, [\*559] countervailing power. 47Link to the text of the noteThus, our approach rejects the idea that formal structures facilitated by law are necessarily deradicalizing and inimical to social change. 48Link to the text of the note

Finally, our focus is on how law can facilitate organizations of working-class and poor Americans--not on either of two other questions: one, how law could be designed specifically to enhance the political power of communities of color, or two, how law could encourage the formation of interest groups generally. The first question could not be more critical. Just as our government is disproportionately responsive to the wealthy, it is also disproportionately responsive to white people, 49Link to the text of the noteand the crisis of structural racism is perhaps the most acute we face as a nation. As such, a program for building political power among communities of color is just as necessary as a program for building power among workers and the poor. But it is also true that our focus on working and poor Americans ought, in practice, and in part due to the crisis of structural racism itself, to amount to a program for building power among and by communities of color. This is not the exclusive reach of our proposals, and continued attention must be paid to ensure that racial inequities do not infect the political organizing we aspire to enable. But because people of color are over-represented in the sectors of the population that we do address--low-income workers, tenants, government-benefits recipients, debtors--these communities would likely benefit from the success of our proposals. As to the second question, while a more expansive civil society may bring a host of benefits, including greater social cohesion and civic education, this Article's concern is with building organizations that can serve as a countervailing force to the extraordinary power of economic elites in our political economy. 50Link to the text of the note

[\*560] We argue that a legal regime designed to enable this kind of organizing should have several components. First, the law should grant collective rights in an explicit and direct way so as to create a "frame" that encourages organizing. Second, as importantly, though more prosaically, the law should provide for a reliable, administrable, and sustainable source of financial, informational, human, and other relevant resources. Third, the law should guarantee free spaces--both physical and digital--in which movement organization can occur, free from surveillance or control. Fourth, the law should remove barriers to participation, both by protecting all those involved from retaliation--no worker may be fired, no tenant evicted, no debtor penalized, and no welfare recipient deprived of benefits because they are active in or supportive of the movement's efforts--and by removing material obstacles that make it difficult for poor and working people to organize. Fifth, the law should provide the organizations with ways to make material change in their members' lives and should create mechanisms for the exercise of real political and economic power, for example by providing the right to "bargain" with the relevant set of private actors and by facilitating organizational participation in governmental processes. Finally, the law should enable contestation and disruption, offering protections for the right to protest and strike. 51Link to the text of the note

The particulars necessarily vary by context. For example, a law designed to generate organizing among tenants would start by affirmatively granting tenants the right to form and join tenant unions. It would grant such unions the right to access information and landlord property for organizational purposes. It would vest the organization with authority to collect dues payments through deductions from rent payments. It would mandate that landlords negotiate with tenants' organizations over rent and housing conditions. It would ensure that organizations have special rights of participation in administrative processes related to housing policy. And it would provide for the right of tenants to engage in rent strikes and protests, free from retaliation. A law designed to facilitate organizing among debtors would similarly create a collective frame, provide a mechanism for funding, protect against retaliation, mandate bargaining and [\*561] rights of participation in governance, and protect the right to protest and strike, but a debtor-organizing law might not provide for access to physical spaces, instead putting more emphasis on providing information and enabling online organizing.

Some of our proposals will generate resistance--theoretical, legal, and political. And, indeed, we concede that our approach has limitations. For example, we do not attempt to articulate the optimal level of political influence that the organizations in question ought to enjoy, nor a way of measuring when and whether they have become sufficiently strong. As Richard Pildes has written in a related context, we believe it is possible to "identify what is troublingly unfair, unequal, or wrong without a precise standard of what is optimally fair, equal, or right." 52Link to the text of the noteIn addition, the scope of our inquiry is limited to problems of economic inequality. Yet we do not mean in any way to minimize other aspects of inequality, including racial and gender discrimination and hierarchy, which are both inseparable from economic inequality and worthy of separate examination and intervention. To that end, we believe law ought to require inclusion and nondiscrimination among poor and working people's social-movement organizations. 53Link to the text of the note

Finally, we recognize both that our recommendations will not provide a panacea to the imbalance in power that characterizes our political economy and that our proposals will be difficult to enact. Indeed, although we suggest a range of possible reforms and explain how they could be achieved, the goal is to illuminate law's constitutive potential and to suggest a path for further work, not to provide a comprehensive blueprint. 54Link to the text of the noteIn short, analysis of what makes poor and working people's social-movement organizations succeed helps show that law [\*562] can make a difference--and that the absence of such law is a choice, one we believe our society cannot afford to make. 55Link to the text of the note

#### Legal reform is necessary to solve their impacts.

Victor Nee, Professor, Sociology, Cornell University and Hilary Holbrow, PhD Candidate, Cornell, “Why Asian Americans Are Becoming Mainstream,” DAEDALUS v. 142 n. 3, Summer 2013, Ebsco.

Until 1965, immigration from Asia served as the crucible for a politics of exclusion that involved both the legal framework and a social consensus backing a national-origin quota for immigration. In the mid-nineteenth century, the arrival of a sizable Chinese population in communities across the western states provoked widespread nativist sentiment and anti-Chinese hostility. Competition in labor markets spurred union-led protests and violent demands for the government to restrict Chinese immigration. The subsequent passage of the Chinese Exclusion Act of 1882 effectively ended immigration from China, while Chinese residing in America were barred from naturalized citizenship. Japanese immigration to the West Coast, which followed the exclusion of Chinese laborers, incited similar mobilization of nativist sentiment and legislative politics, culminating in the Immigration Act of 1924. This legislation limited free immigration to the United States to those from Northern and Western Europe, with restrictive quotas set for Southern and Eastern Europeans. Immigration from Asia was closed down, and the rule of exclusion extended to a wide range of discriminatory legislation in the western states designed to drive Asians into ra - cially segregated enclaves. It took the emergence of a new political consensus born in the civil rights movement for the federal government to enact the watershed legislation that guided institutional change and extended equal rights and opportunities to nonwhite Americans. This civil rights legislation af½rmed principles of open access to political and economic institutions for all Americans, regardless of race and gender. Concomitantly, Congress passed with bi - partisan support the Immigration Act of 1965, an international counterpart to the far-reaching Civil Rights Act of 1964 and Voting Rights Act of 1965. The Immigration Act repealed national-origin rules and opened legal immigration to all countries. Once legal immigration was open to all countries, documented entry was then directly connected with access to inclusive political and economic institutions. Im - migrants with appropriate visa documents could enter the United States as permanent residents and, through a sequential transition culminating in approved application for naturalized citizenship, could gain access to mainstream American in - stitutions. In combination, these sweeping legal changes have reshaped American society. Though not anticipated by political elites in the 1960s, the new immigration law opened the way for mass immigration from Asia, and as a very unintended consequence, from Latin America as well. And in light of the rapidly changing de - mographic composition of the American population, immigration is once again inspiring national debate. There is again a rising tide of nativist backlash, especially in the states that share borders with Mex ico. The debate has focused on the new immigration from Latin America, the region sending the largest flow of immigrants, many of them unauthorized.1 High-volume Asian immigration to the United States has now been continuous for nearly a half-century, constituting the longest lasting legal immigration from Asia in American history. In an exponential increase over the 1970 census count of 1.5 million, Asian Americans grew to exceed 17.2 million by 2010, making up 5.6 percent of the U.S. population.2 This rapid increase is primarily due to continuous and now accelerating immigration, such that in 2010, foreign-born Asians outnumbered native-born Asian Americans by a ratio of two to one. Since 2008, 40 percent of new immigrants are Asian, up from 27 percent of new arrivals before 2005.3 If present population trends continue, the Asian American population has been estimated to grow to around 9.2 percent of the American population by 2050.4 Unlike previous waves of the nineteenth and early twentieth centuries, the new Asian immigration has not spawned reactive nativist social movements and politics demanding the exclusion of Asians. Rather, Asian immigrants and the second generation are assimilating into the American mainstream more rapidly than earlier immigrants to the United States.5 Whether in integrated residential communities, in colleges and universities, or in mainstream workplaces, Asian Americans’ presence is ever more the rule than the exception. What accounts for their success?

#### Moralism about race leaves activists without any pragmatic strategies for abolition. Only compromise, and union with the racial state can solve.

Frederick Douglass, 1855. Social reformer, abolitionist, orator, writer, and politician. “The Anti-Slavery Movement: A Lecture Before the Rochester Ladies’ Anti-Slavery Society.”30-33. Google Books. Gender modified.

I shall consider, first, the Garrisonian Anti-Slavery Society. I call this the Garrisonian Society, because Mr. Garrison is, confessedly, its leader. This Society is the oldest of modern Anti-Slavery Societies. It has, strictly speaking, two weekly papers, or organs—employs five or six lecturers—and holds numerous public meetings for the dissemination of its views. Its peculiar and distinctive feature is, its doctrine of “no union with slaveholder” This doctrine has, of late, become its bond of union, and the condition of good fellowship among its members. Of this Society, I have to say, its logical result is but negatively, anti-slavery. Its doctrine “no union with slaveholders,” carried out, dissolves the Union, and leaves the slaves and their masters to fight their own battles, in their own way. This I hold to be an abandonment of the great idea with which that Society started. It started to free the slave. It ends by leaving the slave[s] to free himself [themselves]. It started with the purpose to imbue the heart of the nation with sentiments favorable to the abolition of slavery, and [END PAGE 30] ends by seeking to free the North from all responsibility for slavery, other than if slavery were in Great Britain, or under some other nationality. This, I say, is the practical abandonment of the idea, with which that Society started. It has given up the faith, that the slave can be freed short of the overthrow of the Government; and then, as I understand that Society, it leaves the slaves, as it must needs leave them, just where it leaves the slaves of Cuba, or those of Brazil. The nation, as such, is given up as beyond the power of salvation by the foolishness of preaching; and hence, the aim is now to save the North; so that the American Anti-Slavery Society, which was inaugurated to convert the nation, after ten years' struggle, parts with its faith, and aims now to save the North. One of the most eloquent of all the members of that Society, and the man who is only second to Mr. Garrison himself, defines the Garrisonian doctrine thus:

“All the slave asks of us, is to stand out of his way, withdraw our pledge to keep the peace on the plantation; withdraw our pledge to return him; withdraw that representation which the Constitution gives in proportion to the number of slaves, and without any agitation here, without any individual virtue, which the times have eaten out of us, God will vindicate the oppressed, by the laws of justice which he has founded. Trample under foot your own unjust pledges, break to pieces your compact with hell by which you become the abettors of oppression. Stand alone, and let no cement of the Union bind the slave, and he will right himself.”

That is it “Stand alone;” the slave is to “right himself.” I dissent entirely from this reasoning. It assumes to be true what is plainly absurd, and that is, that a population of slaves, without arms, without [END PAGE 31] means of concert, and without leisure, is more than a match for double its number, educated, accustomed to rule, and in every way prepared for warfare, offensive or defensive. This Society, therefore, consents to leave the slave's freedom to a most uncertain and improbable, if not an impossible, contingency.

But, “no union with slaveholders.”

As a mere expression of abhorrence of slavery, the sentiment is a good one; but it expresses no intelligible principle of action, and throws no light on the pathway of duty. Defined, as its authors define it, it leads to false doctrines, and mischievous results. It condemns Gerrit Smith for sitting in Congress, and our Savior for eating with publicans and sinners. Dr. Spring uttered a shocking sentiment, when. he said, if one prayer of his would emancipate every slave, he would not offer that prayer. No less shocking is the sentiment of the leader of the disunion forces, when he says, that if one vote of his would emancipate every slave in this country, he would not cast that vote. Here, on a bare theory, and for a theory which, if consistently adhered to, would drive a man out of the world—a theory which can never be made intelligible to common sense—the freedom of the whole slave population would be sacrificed.

But again: “no union with slaveholders.” I dislike the morality of this sentiment, in its application to the point at issue. For instance: A. unites with B. in stealing my property, and carrying it away to California, or to Australia, and, while there, Mr. A. becomes convinced that he [A] did wrong in stealing my property, and says to Mr. B., “no union with property stealers,” and abandons [B] him, leaving the property in his [B’s] hands. [END PAGE 32]

Now, I put it to this audience, has Mr. A., in this transaction, met the requirements of stringent morality? He, certainly, has not It is not only [A’s] his duty to separate from the thief, but to restore the stolen property to its rightful owner. And I hold that in the Union, this very thing of restoring to the slave his long-lost rights, can better be accomplished than it can possibly be accomplished outside of the Union. This, then, is my answer to the motto, “No union with slaveholders.”

But this is not the worst fault of this Society. Its chief energies are expended in confirming the opinion, that the United States Constitution is, and was, intended to be a slave-holding instrument—thus piling up, between the slave and his freedom, the huge work of the abolition of the Government, as an indispensable condition to emancipation. My point here is, first, the Constitution is, according to its reading, an anti-slavery document; and, secondly, to dissolve the Union, as a means to abolish slavery, is about as wise as it would be to burn up this city, in order to get the thieves out of it. But again, we hear the motto, “no union with slave-holders;” and I answer it, as that noble champion of liberty, N. P. Rogers, answered it with a more sensible motto, namely—“No union with slaveholding.” I would unite with anybody to do right; and with no body to do wrong. And as the Union, under the Constitution, requires me to do nothing which is wrong, and gives me many facilities for doing good, I cannot go with the American Anti-Slavery Society in its doctrine of disunion.

## block

### Case

#### 3.) Refusing to use politics cedes the political, opening a space to be filled by the right. This reentrenches institutional violence- turns case

**Mouffe, Westminster political theory professor, 2009**

(Chantal, “The Importance of Engaging the State”, <http://m.friendfeed-media.com/ef12653960910c6594243a9a98293bfa1e1702ff#page=94>)

It is clear that, once we envisage social reality in terms of ‘hegemonic’ and ‘counter-hegemonic’ practices, radical politics is not about withdrawing completely from existing institutions. Rather, we have no other choice but to engage with hegemonic practices, in order to challenge them. This is crucial; otherwise we will be faced with a chaotic situation. Moreover, if we do not engage with and challenge the existing order, if we instead choose to simply escape the state completely, we leave the door open for others to take control of systems of authority and regulation. Indeed there are many historical (and not so historical) examples of this. When the Left shows little interest, Right-wing and authoritarian groups are only too happy to take over the state. The strategy of exodus could be seen as the reformulation of the idea of communism, as it was found in Marx. There are many points in common between the two perspectives. To be sure, for Hardt and Negri it is no longer the proletariat, but the Multitude which is the privileged political subject. But in both cases the state is seen as a monolithic apparatus of domination that cannot be transformed. It has to ‘wither away’ in order to leave room for a reconciled society beyond law, power and sovereignty. In reality, as I’ve already noted, others are often perfectly willing to take control. If my approach – supporting new social movements and counterhegemonic practices – has been called ‘post-Marxist’ by many, it is precisely because I have challenged the very possibility of such a reconciled society. To acknowledge the ever present possibility of antagonism to the existing order implies recognising that heterogeneity cannot be eliminated. As far as politics is concerned, this means the need to envisage it in terms of a hegemonic struggle between conflicting hegemonic projects attempting to incarnate the universal and to define the symbolic parameters of social life. A successful hegemony fixes the meaning of institutions and social practices and defines the ‘common sense’ through which a given conception of reality is established. However, such a result is always contingent, precarious and susceptible to being challenged by counter-hegemonic interventions. Politics always takes place in a field criss-crossed by antagonisms. A properly political intervention is always one that engages with a certain aspect of the existing hegemony. It can never be merely oppositional or conceived as desertion, because it aims to challenge the existing order, so that it may reidentify and feel more comfortable with that order. Another important aspect of a hegemonic politics lies in establishing linkages between various demands (such as environmentalists, feminists, anti-racist groups), so as to transform them into claims that will challenge the existing structure of power relations. This is a further reason why critique involves engagement, rather than disengagement. It is clear that the different demands that exist in our societies are often in conflict with each other. This is why they need to be articulated politically, which obviously involves the creation of a collective will, a ‘we’. This, in turn, requires the determination of a ‘them’. This obvious and simple point is missed by the various advocates of the Multitude. For they seem to believe that the Multitude possesses a natural unity which does not need political articulation. Hardt and Negri see ‘the People’ as homogeneous and expressed in a unitary general will, rather than divided by different political conflicts. Counter-hegemonic practices, by contrast, do not eliminate differences. Rather, they are what could be called an ‘ensemble of differences’, all coming together, only at a given moment, against a common adversary. Such as when different groups from many backgrounds come together to protest against a war perpetuated by a state, or when environmentalists, feminists, anti-racists and others come together to challenge dominant models of development and progress. In these cases, the adversary cannot be defined in broad general terms like ‘Empire’, or for that matter ‘Capitalism’. It is instead contingent upon the particular circumstances in question – the specific states, international institutions or governmental practices that are to be challenged. Put another way, the construction of political demands is dependent upon the specific relations of power that need to be targeted and transformed, in order to create the conditions for a new hegemony. This is clearly not an exodus from politics. It is not ‘critique as withdrawal’, but ‘critique as engagement’. It is a ‘war of position’ that needs to be launched, often across a range of sites, involving the coming together of a range of interests. This can only be done by establishing links between social movements, political parties and trade unions, for example. The aim is to create a common bond and collective will, engaging with a wide range of sites, and often institutions, with the aim of transforming them. This, in my view, is how we should conceive the nature of radical politics.

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#### 4---Afrofuturism---re-imagining the future just extends neoliberalism’s reach---the political economy has already decided that we exist in the “futurepast” imagined by Afrofuturism---coopts the aff

**James 13** (Robin, Associate Professor of Philosophy at UNC Charlotte. Afrofuturism and Drones. Nov 1, 2013. http://thesocietypages.org/cyborgology/2013/11/01/afrofuturism-and-drones/ //shree)

**Afrofuturism** is a set of theories and practices that critique and **imagine alternatives to Western modernity**. Specifically, Afrofuturism targets the linear, progressive temporality which posits European/Western civilization as “present reality,” as the culmination of historical development, and the “future” vis-a-vis which non-Western cultures are the supposedly primitive “past.” One way Afrofuturists do this is **by scrambling linear progressive temporality**. For example, musician Sun Ra treated Ancient Egypt as both distant past and alien, intergalactic future. Theorist Kodwo Eshun calls this notion of time the “futurepast.” **But, as Nyong’o’s tweets suggest**, **that** sort of **critique might not pack much punch** anymore. **Now that** we **neoliberals have reached** what Francis Fukuyama famously called “**the end of history**,” **when mainstream society seems to exist in the “futurepast” imagined by Afrofuturists** (as Steven Shaviro has argued), **is Afrofuturism** obsolete? Has it become **co-opted?** (**Think**, for example, **of the mainstream industry success of Afrofuturist musicians like Janelle Monae,** Lil **Wayne, Kanye** West, **& Beyonce**.)

**No link turn---simply imagining a new world can’t articulates concrete political demands in the real one---neoliberalism prefers affective approach that lets radicals blow off steam than transform the system**

**Ferrera 12** [Beatrice Ferrara (PhD in "Cultural and Postcolonial Studies of the Anglophone World") is a Teaching Fellow of "Cultural Studies and New Media" at the University of Naples "L'Orientale". She is a research member of the EU Project MeLa\* (www.mela-project.eu). 29 Nov 2012 http://www.darkmatter101.org/site/2012/11/29/%E2%80%9Cmy-measurement-of-race-is-rate-of-vibration%E2%80%9D-afrofuturism-and-the-%E2%80%98molecularization%E2%80%99-of-race/ //shree]

The second part of the essay will investigate **a particular strain of Afrofuturism**: its British version as unfolded in the works of Kodwo Eshun at the Warwick University’s Cybernetic Culture Research Unit (CCRU) (1997-1998),and by Steve Goodman (2010). I will **focus on** how these works---by intermixing cybernetics and philosophy---have displaced the preoccupations concerning ‘discourse’, ‘meanings’ and ‘representations’ linked to the (sub)cultural aspect of Afrofuturism, in favour of **a ‘micropolitical’ approach to black culture**.[4] In particular, I will address this passage by focusing on the main area of experimentation of this strain of Afrofuturism---music.[5] **The focus will be on** the relation between the microphysical level of music and its micropolitical implications, which means the sound and its **appeal to the body** **at the level of** its pre-personal **affects**.[6] I will interrogate here the ambivalent position of this strain of Afrofuturism in relation to the articulation of the question of race. What becomes of this question **when** meanings and **representations are considered** to be **secondary side-effects of wider affective processes? Is such a perspective complicit of** a **dangerous denial** or disavowal of **the necessity to articulate political demands about race**---something **even more dangerous in** the **neoliberal times** we face, as its detractors have often mentioned**?** Or could we find in this British version of Afrofuturism a conception of race so ‘molecularized’ and ‘abstract’ as to allow another modality of politics at its ‘degree zero’ to emerge, in the form of a sensory/sensual politics of ‘abduction’, ‘possession’ and ‘contagion’ which stresses the non-linear causality and the processes of retroaction between technological advancements and socio-cultural phenomena?

#### 5---Black agency---Broader coalitional struggles are key to actualizing reform – simply relying on black agency, while important, does not provide the scale necessary to make a movement effective.

Reed 15 – Professor at the University of Pennsylvania [Adolph, “The James Brown Theory of Black Liberation: We shouldn’t reduce historical narratives solely to questions of black agency. It’s bad history – and can lead to even worse politics,” *Jacobin*, 6 Oct, https://www.jacobinmag.com/2015/10/adolph-reed-black-liberation-django-lincoln-selma-glory/, accessed 23 Feb 2017]

In 1969, after Brown had aligned himself politically with President Richard M. Nixon, he released the paean to black self-help, “I Don’t Want Nobody to Give Me Nothing (Open Up the Door, I’ll Get It Myself).” In the nearly half-century since, especially during the last two decades of neoliberal hegemony, that self-help perspective has become the righteous antiracists’ standard for cultural criticism and political judgment.

Typically under the sign of acknowledging and respecting black people’s agency, it has become unacceptable to suggest that black Americans’ advances have depended significantly on anything other than, against all odds, the perseverance and will of black people themselves and a small cast of white allies.

But this interpretive approach, which blends the several meanings of self-help, is totally consistent with neoliberal premises that eschew collective action in favor of individual voluntarism and deny the significance of social structures in shaping political opportunities. It masks the important fact that every advance black Americans have made toward equality, full citizenship, and racial justice has been enmeshed with broader struggles to advance egalitarian interests.

#### Root Cause Claims are a new link---yes, race is historically constitutive of capitalism as are many other factors, but asserting exploitation of black women’s primacy turns case because it’s a neoliberal move to obscure the mundane specificities that inform material inequalities which undermine informed resistance---only the alt’s materialism can account for this

Reed 12, professor of political science at the University of Pennsylvania and a member of the interim national council of the Labor Party. RACE, CLASS, CRISIS: THE DISCOURSE OF RACIAL DISPARITY AND ITS ANALYTICAL DISCONTENTS, <http://www.sas.upenn.edu/~merlinc/ReedChowkwanyunSR.pdf> //shree. Note by google dictionary: “sui generis” means “unique”)

It should give us pause that these decidedly non-leftist policy prescriptions flow from the leftist frame of choice for analyzing the racial minority experience in the crisis of 2008. In choosing that frame, rather than fundamentally rethinking default approaches in the face of changing historical circumstances, the left has simply dusted off, rinsed, and repeated. This reflex is reinforced by commitment to a pro forma anti-racism that depends on evocations---as in Michelle Alexander’s widely noted recent book, The New Jim Crow62---of regimes of explicitly racial subordination in the past to insist on the moral primacy of simplistic racial metaphor for characterizing inequality in the present. Most charitably, this tendency arises from intensified concerns to defend racial democracy in debates over the legitimacy of race-targeted social policy that have recurred since the late 1970s. Less charitably, it is an expression of an at best self-righteous and lazy-minded expression of the identitarian discourse that has increasingly captured the left imagination in the United States since the 1990s.63 This is moreover an antagonistic alternative to a politics grounded in political economy and class analysis, despite left-seeming defences that insist on the importance of race and class. Its commitment to a fundamentally essentialist and ahistorical racefirst view is betrayed in the constantly expanding panoply of neologisms---‘institutional racism’, ‘systemic racism’, ‘structural racism’, ‘colour-blind racism’, ‘post-racial racism’, etc.---intended to graft more complex social dynamics onto a simplistic and frequently psychologistic racism/anti-racism political ontology. Indeed, these efforts bring to mind Kuhn’s account of attempts to accommodate mounting anomalies to salvage an interpretive paradigm in danger of crumbling under a crisis of authority.64 And in this circumstance as well the salvage effort is driven by powerful material and ideological imperatives. The discourse of racial disparity is, when all is said and done, a class discourse. Even the best of the studies analyzing the racial impact of the crisis, for example, in focusing on racial disparity in subprime mortgage markets and foreclosure rates, sidestep a chance to interrogate the very limitations of the hegemonic commitment to homeownership altogether. More generally, automatic adoption of the racial disparities approach avoids having to conduct the detailed work that would situate ascriptive status within the neoliberal regime of accumulation that mitigates its influence. Repetitiously noting the existence of segregated neighbourhoods and how they decrease property value (real and perceived) and increase the likelihood of subprime mortgage is to identify a result, albeit one that is surely repellent. It does not tell us with much exactitude what institutions, policies, actuarial models, and systems of valuation produce those results, or more generally, what sociologist Mara Loveman describes as the ‘extent a particular essentializing vocabulary is related to particular forms of social closure and with what consequences’.65 It substitutes in its place pietistic hand-wringing and feigned surprise over results that can hardly be surprising. Ironically, it is authors who operate from outside of that frame, and in some cases outside the left entirely, that currently have the most to offer us. Gretchen Morgenson and Joshua Rosner’s Reckless Endangerment traces the short-term roots of the crisis, detailing how a 1990s consensus on pushing homeownership led to a system of tax credits, perverse incentives, refinancing, risky (and often fraudulent) loans, lax regulation, and debt securitization that exploded a decade and a half later. To cast the story primarily in terms of racial disparity is to capture only a sliver of what some have labelled the ‘real estate financial complex’. Doing so misses as well the legitimizing role that disparities rhetoric played in pushing minority homeownership. Focusing so robotically on racially disparate home financing and credit access obscures how these injustices, repugnant as they are, fit into a larger picture of income stagnation and welfare state instability, which gave rise to the increasing need, documented by Hyman, for significant household debt, protracted mortgages, and accelerated re-financing in the first place, all simply to stay afloat. In the accounts we reviewed here, the Kerner Report’s ‘white racism’ remains the enemy, while the Big Kahuna, financialization, wobbles in the background, meriting more an obligatory mention than focused inquiry on how it impacts other phenomena. The misdirection strategies can take if predicated on such an analysis are obvious. Our call to transcend this stifling frame is absolutely not a call to ignore racial exclusion or to declare in abstract terms, as Ellen Wood has, that race is not ‘constitutive of capitalism’ the way class is.66 Rather, we advocate that in analyzing the current situation and how it fits into historical context, left analysts ought to conduct what Ian Shapiro has labelled ‘problem-driven’ research, in his words, ‘to endeavor to give the most plausible possible account of the phenomenon that stands in need of explanation’, in this case racially disparate impacts, instead of forcing it into a stifling, readymade narrative.67 Doing so will break away from analytical sloth and widen strategic options. Doing so also requires jettisoning the hoary, mechanistic race/class debate entirely. We believe that our critique here demonstrates the virtues of a dynamic historical materialist perspective in which race and class are relatively distinct---sometimes more, sometimes less, sometimes incoherently related or even interchangeable---inflections within a unitary system of capitalist social hierarchy, without any of the moralizing, formalist ontological baggage about priority of oppression that undergirds the debate. From this perspective insistence that race, or any other category of ascriptive differentiation, is somehow sui generis and transcendent of particular regimes of capitalist social relations appears to be, as we have suggested here, itself reflective of a class position tied programmatically to the articulation of a metric of social justice compatible with neoliberalism. That is a view that both obscures useful ways to understand the forces that are intensifying inequality and undermines the capacity to challenge them.

#### 3---The alt solves battle fatigue and self-care---solidarity politics is a mode of community care that incorporates, yet exceeds the aff’s call for self-care – constant struggle can be a source of energy, rather than drain which bypasses battle fatigue.

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As long as self-care is discussed as an individual responsibility and additional task, it will be something that middle-class people with leisure time will most easily relate to and will include barriers to the lives of people without time to spare. It becomes one more unchecked box on a to-do list to feel bad about, an unreal expectation, or a far-off dream.

The movement is my self-care not my reason for needing it.

Don Andres awoke every morning at 5:00am to arrive at a street corner to look for work by 6:00am. He’d work a full day of heavy construction and still arrive at the 7:00pm meeting. He’d routinely fall asleep but he was there. Why? Because organizing together to improve conditions, to create alternatives, to band together, was the only option for how care could be anything but alien in his life as a day laborer. Being at the meeting was self-care.

Lack of care is systemic. Therefore resistance to those systems is the highest affirmation of care for oneself and one’s community. Movement work is healing work.

What self-care often misses is the reality that for the majority of people engaged in social justice movements, participation is out of necessity. That a collective effort in the form of social movement is the highest articulation of caring for one’s own self in a world designed to deny your worthiness of care. Too many people discussing self-care overlook the structural barriers that make access to the care they are speaking of impossible without the struggle they often discuss as the cause of their need to ‘take care of themselves.’

Even for someone like myself who has the majority of my materials needs met, I feel most alive, most on fire, most able to go around the clock, when I’m doing political work that feels authentic, feels like it pushes the bounds of authority, and feels like it is directly connected to advancing my individual and our collective liberation.

The truth is that we cannot knit our way to revolution. The issue is not that movements are taxing, because truly they are. It’s called ‘struggle’ for a reason. But they go from strain to overtaxing when we seek to fulfill our political aspirations through vehicles never meant to carry them like in non-political formations or some 501c3s.

The crisis of care is also a crisis of organization. Non-profits are built to do a lot of good, but they have inherent limitations that mean they are rarely built to fulfill our visions of the transformative organizing that would usher in a world where we could feel whole. Most engaged in social movements today are originally driven out of either a concrete material necessity and/or a deep connection to the wrong that accompanies inequality and a drive to make it right. However the majority of organizations available to us today are designed for gentle reforms but not the fundamental transformation our spirits crave. As a result, we try to transform a model unfit to nourish our hearts and then treat that frustration with tonics and diets and stretches instead of placing our efforts in creating a collective space that unleashes our heart’s creative desires.

Maria Poblet of Causa Justa Just Cause once said, “Burnout is not about the amount of hours you work, it is about the amount of political clarity you have.” What that means is that there is no chance of us consistently burning the midnight oil if we don’t at our core believe what we’re working on will get us to a new day and no amount of yoga or therapy or comfort food we supplement our work with will compensate for that. However, if we can see a better world just over the horizon, like a marathon runner nearing a finish line, we can find endless wells to draw upon as we work to usher it in. I have literally gone from being in debilitating pain and only being able to accomplish three hours of work each day to working 18 hour shifts the same week in a completely different context. The difference was not the conditions of my work. It was my connection to my purpose.

The problem with self-care is that there is an underlying assumption that our labor is draining. The deeper question is how do we shape our struggles so that they are life-giving instead of energy-taking processes. When did activities that are aimed to move us closer to freedom stop moving us?

#### 4---structures determine distribution of violence, not interpersonal violence explain battle fatigue---care in locales enact change at the level of map rather than territory, they’re cruelly optimistic because they believe they can transcend hostile societies, but that can only happen thru concrete party platforms---energy doesn’t generate self love but is accumulated as currency

Davis 19 (Elizabeth Davis is a PhD candidate in Social Justice Education at the Ontario Institute for Studies in Education, University of Toronto. Beside(s) Love and Hate: The Politics of Consuming Black Culture. Theory & Event. Volume 22, Number 3, July 2019. Project Muse//shree)

For Wynter, this thinking beside(s) love and hate requires attending to the articulation of feelings with structures of feeling. She describes how the Black Power Movement, and other social movements of the 1960s and '70s, alongside the global anti-colonial movements, enacted a "psychic emancipation" by which subjugated peoples profoundly reimagined their conceptions of themselves (2006, 110). This shift marked a positive reaffirmation of identity exemplified in the slogan "Black is Beautiful." But it was a psychic emancipation, Wynter says, "effected at the level of the map, rather than at the level of the territory. That is, therefore, at the level of the systemic devalorization of blackness and correlated over-valorization of whiteness, which are themselves only proximate functions of the overall devalorization of the human species" (2006, 116). For Wynter, that these feelings effected a global psychic emancipation, does not mean they were the "right feelings." They were an insufficient challenge to the mode of sociogeny of the dominant global order.

To change the mode of sociogeny of a culture, to find the answer "on the objective as well as the subjective level" (Fanon 2008, xv) would take a stance beside(s) the affirmation that Black is Beautiful. A reimagination of the human that in Frank Wilderson's (2010) terms requires recognizing subjective capacity as itself built against blackness. For Wilderson, this imagining is a more difficult task today than in the 1960s and '70s: "though the semantic field on which subjectivity is imagined has expanded phenomenally through the protocols of multiculturalism and globalization theory, Blackness and an unflinching articulation of Redness are more unimaginable and illegible within this expanded semantic field than they were during the height of the FBI's repressive Counterintelligence Program (COINTELPRO)" (2010, 9). For Wilderson (in contrast to contemporary "feelings" of progress) blackness has become less legible, and to decipher the "grammar of [Black] suffering" that underwrites cinematic and political speech rests not on a question of love and hate but, drawing on Saidiya Hartman, of accumulation and fungibility.13

But if there are many different registers and orientations of feeling as it is lived in relation to structures of feeling, what would it be, how [End Page 590] would we know, at what level of feeling we are feeling? Or rather, how might we conceptualize subjective, intersubjective and collective feeling as articulated with the political—in particular historical moments, in social movements, and in the reproduction of the episteme? This unclarity about levels and modes of love, affirmation, and celebration of blackness, is one origin story of how both Jared Sexton and Fred Moten come to need to state that "Afro-pessimism is 'not but nothing other than' black optimism" (Moten 2013, 742; Sexton 2011, 37). Afro-pessimism is the insistence on thinking with and through the "subjectivity under erasure" (Wilderson 2010, xi) that is blackness, and black optimism is an orientation and opening up towards the possibilities of black life. They hold in tension that black social death and black social life do not negate each other (Sexton 2011, 28–29). If the misrecognition that would posit them as opposites marks a scene of dissensus, then it is not through the identity of black optimism and Afro-pessimism that an ethics is possible, but as Moten would have it, recognizing the difference between the two as infinitesimal: "…if Afro-pessimism is the study of [the impossibility of loving blackness], the thinking that I have to offer […] moves not in that impossibility's transcendence but rather in its exhaustion" (Moten 2013, 738).

Exhaustion, of the im/possibility of loving blackness, would take all of the steam out of the engines of progress that narratively frame representation—where consumption is conflated with both legibility and love. For who is to say that the white woman didn't love blackness who came up to Billie Holiday in an L.A. nightclub to request that she sing "Strange Fruit" by saying: "Why don't you sing that sexy song you're so famous for? You know, the one about the naked bodies swinging in the trees" (Davis 1998, 195). The point being not to validate such a love, but to be weary and wary of the terms of engagement by which "love" must be idealized and defended.

Economies of white enjoyment of black life have defined the brutal processes of racialization forged in the Middle Passage that shape who and how we are (Hartman 1997). In the "afterlife of slavery" (Hartman 2006), if we are to apprehend that term, we are obliged to study how these libidinal and affective economies are articulated with the formal economy. What neoliberal capitalist politico-economics has done best is to erode our capacity to imagine things differently. It feels like we have less with which to imagine ways of being together outside our current circuits of production, distribution, exchange, consumption. That Harriet Tubman is slated to be the new face of the US twenty-dollar bill calls me quite clearly to reject the prevailing notion that relations of consumption are good enough kinds of relations. [End Page 591]

#### 5---Cap turns self-expression of identity thru psychic alienation---incorporates subjects into the rat race of self innovation regardless of their willingness---amplifies battle fatigue

Srnicek & Williams 15**---**Nick Srnicek is a Lecturer at City University London and a PhD from the London School of Economics; Alex Williams is a Lecturer at City University London [*Inventing the Future: Postcapitalism and a World Without Work*, Verso Books, p. 137-142]

As we have seen, neoliberalism propagated its ideology through a division of labour---academics shaping education, think tanks influencing policy, and popularisers manipulating the media. The inculcation of neoliberalism involved a full-spectrum project of constructing a hegemonic worldview. A new common sense was built that came to co-opt and eventually dominate the terminology of ‘modernity’ and ‘freedom’---terminology that fifty years ago would have had very different connotations. Today, it is nearly impossible to speak these words without immediately invoking the precepts of neoliberal capitalism.

We all know today that ‘modernisation’ translates into job cuts, the slashing of welfare and the privatisation of government services. To modernise, today, simply means to neoliberalise. The term ‘freedom’ has suffered a similar fate, reduced to individual freedom, freedom from the state, and the freedom to choose between consumer goods. Liberal ideas of individual freedom played an important role in the ideological struggle with the USSR, priming the population of the Western world to mobilise behind any ideology that purported to value individual freedoms. With its emphasis on individual freedoms, neoliberalism was able to co-opt elements of movements organised around ‘libertarianism, identity politics, [and] multiculturalism’.55 Likewise, by emphasising freedom from the state, neoliberalism was able to appeal to anarcho-capitalists and the movements of desire that exploded in May 1968.56 Lastly, with the idea of freedom being limited to a freedom of the market, the ideology could co-opt consumerist desires. At the level of production, neoliberal freedom could also recruit emerging desires among workers for flexible labour---desires that were soon turned against them.57 In struggling for and successfully seizing the ideological terrain of modernity and freedom, neoliberalism has managed to wind its way inexorably into our very self-conceptions. In arrogating the meaning of terms such as modernisation and freedom, neoliberalism has proved itself to be the single most successful hegemonic project of the last fifty years.

Neoliberalism has thus become ‘the form of our existence---the way in which we are led to conduct ourselves, to relate to others and to ourselves’.58 It is, in other words, not just politicians, business leaders, the media elite and academics who have been enrolled into this vision of the world, but also workers, students, migrants---and everyone else. In other words, neoliberalism creates subjects. Paradigmatically, we are constructed as competitive subjects---a role that encompasses and surpasses industrial capitalism’s productive subject. The imperatives of neoliberalism drive these subjects to constant self-improvement in every aspect of their lives. Perpetual education, the omnipresent requirement to be employable, and the constant need for self-reinvention are all of a piece with this neoliberal subjectivity.59 The competitive subject, moreover, straddles the divide between the public and the private. One’s personal life is as bound to competition as one’s work life. Under these conditions, it is no surprise that anxiety proliferates in contemporary societies. Indeed, an entire battery of psychopathologies has been exacerbated under neoliberalism: stress, anxiety, depression and attention deficit disorders are increasingly common psychological responses to the world around us.60 Crucially, the construction of everyday neoliberalism has also been a primary source of political passivity. Even if you do not buy into the ideology, its effects nevertheless force you into increasingly precarious situations and increasingly entrepreneurial inclinations. We need money to survive, so we market ourselves, do multiple jobs, stress and worry about how to pay rent, pinch pennies at the at the grocery store, and turn socialising into networking. Given these effects, political mobilisation becomes a dream that is perpetually postponed, driven away by the anxieties and pressures of everyday life.

At the same time, we should recognise that this production of subjectivity was not simply an external imposition. Hegemony, in all its forms, operates not as an illusion, but as something that builds on the very real desires of the population. Neoliberal hegemony has played upon ideas, yearnings and drives already existing within society, mobilising and promising to fulfill those that could be aligned with its basic agenda. The worship of individual freedom, the value ascribed to hard work, freedom from the rigid work week, individual expression through work, the belief in meritocracy, the bitterness felt at corrupt politicians, unions and bureaucracies---these beliefs and desires pre-exist neoliberalism and find expression in it.61 Bridging the left–right divide, many people today are simply angry at what they see as others taking advantage of the system. Hatred for the rich tax evader combines easily with disgust for the poor welfare cheat; anger at the oppressive employer becomes indistinguishable from anger at all politicians. This is linked with the spread of middle-class identities and aspirations---desires for home ownership, self-reliance and entrepreneurial spirit were fostered and extended into formerly working-class social spaces.62 Neoliberal ideology has a grounding in lived experience and does not exist simply as an academic puzzle.63 Neoliberalism has become parasitical on everyday experience, and any critical analysis that misses this is bound to misrecognise the deep roots of neoliberalism in today’s society. Over the course of decades, neoliberalism has therefore come to shape not only elite opinions and beliefs, but also the normative fabric of everyday life itself. The particular interests of neoliberals have become universalised, which is to say, hegemonic.64 Neoliberalism constitutes our collective common sense, making us its subjects whether we believe in it or not.65