## Off

### T

#### Interpretation – affirmative teams should have to defend hypothetical implementation of topical plan that increases prohibitions of anti-competitive business practices by the private sector by at least expanding the scope of core antitrust laws.

#### 1—“Core antitrust laws” are the Sherman, Clayton, and FTC Acts.

Boyce 21 - (\*Sonia Pfaffenroth, \*\*Justin Hedge, and \*\*\*Monique Boyce; \*formerly Deputy Assistant Attorney General for Civil and Criminal Operations @ the Antitrust Division of the Department of Justice’s now legal Partner @ Arnold & Porter \*\*Antitrust Counsel @ Arnold & Porter \*\*\*Senior Associate @ Arnold & Porter; published 2021, Arnold & Porter, "EC’s Reinterpretation of EUMR Article 22 Increases Enforcement Risk for Small Transactions," 8-21-2021) url: https://www.arnoldporter.com/-/media/files/perspectives/publications/2021/06/the-antitrust-counselor--june-2021--aba-als-corp-c.pdf

At the federal level, there are three core antitrust laws: (1) the Sherman Act, in which Section 1 outlaws “every contract, combination, or conspiracy in [unreasonable] restraint of trade,” and Section 2 outlaws any “monopolization, attempted monopolization, or conspiracy or combination to monopolize”;1 (2) the Federal Trade Commission Act, which prohibits “unfair methods of competition” and “unfair or deceptive acts or practices”;2 and (3) Section 7 of the Clayton Act, which prohibits mergers and acquisitions where the effect “may be substantially to lessen competition, or to tend to create a monopoly.”3 Criminal violations of the Sherman Act carry a maximum penalty of a $100 million fine for corporations, and a maximum penalty of 10 years in prison and a $1 million fine for individuals. A prevailing plaintiff in a civil suit can recover treble damages and attorneys’ fees. But federal law currently does not provide for civil penalties when the government brings an antitrust case, only injunctive relief.

#### 2—“Prohibition” is a legal restriction.

Duhaime’s Law Dictionary N.D. –  Referred to by the Oxford University law library (Bodleian), School of Law, University of Oxford, Oxford, England, as a recommended research resource for law students (“Prohibition Definition”, Duhaime’s Law Dictionary, <https://www.duhaime.org/Legal-Dictionary/Term/Prohibition>, No Date)

Prohibition Definition:

A legal restriction against the use of something or against certain conduct.

#### Violation – the aff doesn’t defend the end point of increasing prohibitions that expand the scope of core antitrust laws

#### Prefer our interpretation:

#### 1---Fairness – the aff interp destroys it – not requiring a plan text decks stasis by allowing aff teams to change the 1AC throughout the debate, explodes the burden of negative research by unlimiting it to anything tangentially related to the resolution, and nullifies all topic-specific neg prep by forcing teams to rely on concessionary ground

#### 2---Truth Testing – only a topic with predictable limits produces clash-filled debates, which is the only internal link to any benefit debate can offer – rigorously testing positions allows debaters to improve their own advocacies and how to defend them, which creates more ethical and effective worldviews – but that becomes impossible without specific resolutional ties

#### Our model of debate doesn’t trade off with personal convictions, but it does make debaters stronger advocates

**Hodson**, professor of education – Ontario Institute for Studies @ University of Toronto, **‘9**

(Derek, “Towards an Action-oriented Science Curriculum,” Journal for Activist Science & Technology Education, Vol. 1, No. 1)

\*\*note: SSI = socioscientific issues

Politicization of science education can be achieved by giving students the opportunity to confront real world issues that have a scientific, technological or environmental dimension. By grounding content in socially and personally relevant contexts, an issues-based approach can provide the motivation that is absent from current abstract, de-contextualized approaches and can form a base from which students can construct understanding that is personally relevant, meaningful and important. It can provide increased opportunities for active learning, inquiry-based learning, collaborative learning and direct experience of the situatedness and multidimensionality of scientific and technological practice. In the Western contemporary world, technology is all pervasive; its social and environmental impact is clear; its disconcerting social implications and disturbing moral-ethical dilemmas are made apparent almost every day in popular newspapers, TV news bulletins and Internet postings. In many ways, it is much easier to recognize how technology is determined by the sociocultural context in which it is located than to see how science is driven by such factors. It is much easier to see the environmental impact of technology than to see the ways in which science impacts on society and environment. For these kinds of reasons, it makes good sense to use problems and issues in technology and engineering as the major vehicles for contextualizing the science curriculum. This is categorically not an argument against teaching science; rather, it is an argument for teaching the science that informs an understanding of everyday technological problems and may assist students in reaching tentative solutions about where they stand on key SSI.

#### Framework has to be a voting issue – integrity of the game is a precondition for voting, and we’ve all implicitly agreed fairness is good by abiding by other norms like speech times and order – not voting for fairness causes judge biases which are worse

#### All arguments are framework arguments---exclusion args rely on a false dichotomy because debate requires continual judgment about which arguments are persuasive and which can be dismissed even though this usually happens implicitly---the role of the negative is always to say that it was bad for the aff to say what they did--- we don’t have the power to impose a norm, only to persuade you that their argumentative practices should be rejected

Amanda Anderson 6, Andrew W. Mellon Professor of Humanities and English at Brown University, Spring 2006, “Reply to My Critic(s),” Criticism, Vol. 48, No. 2, p. 281-290

Lets first examine the claim that my book is "unwittingly" inviting a resurrection of the "Enlightenment-equals-totalitarianism position." How, one wonders, could a book promoting argument and debate, and promoting reason-giving practices as a kind of common ground that should prevail over assertions of cultural authenticity, somehow come to be seen as a dangerous resurgence of bad Enlightenment? Robbins tells us why: I want "argument on my own terms"-that is, I want to impose reason on people, which is a form of power and oppression. But what can this possibly mean? Arguments stand or fall based on whether they are successful and persuasive, even an argument in favor of argument. It simply is not the case that an argument in favor of the importance of reasoned debate to liberal democracy is tantamount to oppressive power. To assume so is to assume, in the manner of Theodor Adorno and Max Horkheimer, that reason is itself violent, inherently, and that it will always mask power and enforce exclusions. But to assume this is to assume the very view of Enlightenment reason that Robbins claims we are "thankfully" well rid of. (I leave to the side the idea that any individual can proclaim that a debate is over, thankfully or not.) But perhaps Robbins will say, "I am not imagining that your argument is directly oppressive, but that what you argue for would be, if it were enforced." Yet my book doesn't imagine or suggest it is enforceable; I simply argue in favor of, I promote, an ethos of argument within a liberal democratic and proceduralist framework. As much as Robbins would like to think so, neither I nor the books I write can be cast as an arm of the police. Robbins wants to imagine a far more direct line of influence from criticism to political reality, however, and this is why it can be such a bad thing to suggest norms of argument. Watch as the gloves come off: Faced with the prospect of submitting to her version of argument roughly, Habermass version-and of being thus authorized to disagree only about other, smaller things, some may feel that there will have been an end to argument, or an end to the arguments they find most interesting. With current events in mind, I would be surprised if there were no recourse to the metaphor of a regular army facing a guerilla insurrection, hinting that Anderson wants to force her opponents to dress in uniform, reside in well-demarcated camps and capitals that can be bombed, fight by the rules of states (whether the states themselves abide by these rules or not), and so on-in short, that she wants to get the battle onto a terrain where her side will be assured of having the upper hand. Lets leave to the side the fact that this is a disowned hypothetical criticism. (As in, "Well, okay, yes, those are my gloves, but those are somebody elses hands they will have come off of.") Because far more interesting, actually, is the sudden elevation of stakes. It is a symptom of the sorry state of affairs in our profession that it plays out repeatedly this tragicomic tendency to give a grandiose political meaning to every object it analyzes or confronts. We have evidence of how desperate the situation is when we see it in a critic as thoughtful as Bruce Robbins, where it emerges as the need to allegorize a point about an argument in such a way that it gets cast as the equivalent of war atrocities. It is especially ironic in light of the fact that to the extent that I do give examples of the importance of liberal democratic proceduralism, I invoke the disregard of the protocols of international adjudication in the days leading up to the invasion of Iraq; I also speak about concerns with voting transparency. It is hard for me to see how my argument about proceduralism can be associated with the policies of the Bush administration when that administration has exhibited a flagrant disregard of democratic procedure and the rule of law. I happen to think that a renewed focus on proceduralism is a timely venture, which is why I spend so much time discussing it in my final chapter. But I hasten to add that I am not interested in imagining that proceduralism is the sole political response to the needs of cultural criticism in our time: my goal in the book is to argue for a liberal democratic culture of argument, and to suggest ways in which argument is not served by trumping appeals to identity and charismatic authority. I fully admit that my examples are less political events than academic debates; for those uninterested in the shape of intellectual arguments, and eager for more direct and sustained discussion of contemporary politics, the approach will disappoint. Moreover, there will always be a tendency for a proceduralist to under-specify substance, and that is partly a principled decision, since the point is that agreements, compromises, and policies get worked out through the communicative and political process. My book is mainly concentrated on evaluating forms of arguments and appeals to ethos, both those that count as a form of trump card or distortion, and those that flesh out an understanding of argument as a universalist practice. There is an intermittent appeal to larger concerns in the political democratic culture, and that is because I see connections between the ideal of argument and the ideal of deliberative democracy. But there is clearly, and indeed necessarily, significant room for further elaboration here. There is a way to make Robbins’s point more narrowly which would run something like this: Anderson has a very restricted notion of how argument should play out, or appear, within academic culture, given the heavy emphasis on logical consistency and normative coherence and explicitness. This conception of argument is too narrow (and hence authoritarian). To this I would reply simply that logical consistency and normative coherence and explicitness do not exhaust the possible forms, modes, and strategies of argumentation. There is a distinction to be made between the identification of moves that stultify or disarm argument, and an insistence on some sort of single manner of reasoned argument. The former I am entirely committed to; the latter not at all, despite the fact that I obviously favor a certain style of argument, and even despite the fact that I am philosophically committed to the claims of the theory of communicative reason. I do address the issue of diverse forms and modes of argument in the first and last chapters of the book (as I discuss above), but it seems that a more direct reflection on the books own mode of argumentation might have provided the occasion for a fuller treatment of the issues that trouble Robbins. Different genres within academe have different conventions, of course, and we can and do make decisions all the time about what rises to the level of cogency within specific academic venues, and what doesn't. Some of those judgments have to do with protocols of argument. The book review, for example, is judged according to whether the reviewer responsibly represents the scholarship under discussion, seems to have a good grasp of the body of scholarship it belongs to, and convincingly and fairly points out strengths and weaknesses. The book forum is a bit looser-one expects responsible representation of the scholarship under discussion, but it can be more selectively focused on a key set of issues. And one expects a bit of provocation, in order to make the exchange readable and dramatic. But of course in a forum exchange there is an implicit norm of argument, a tendency to judge whether a particular participant is making a strong or a weak case in light of the competing claims at play. Much of our time in the profession is taken with judging the quality of all manner of academic performance, and much of it has to do with norms of argument, however much Robbins may worry about their potentially coercive nature.

## On

### Frame Subtraction

#### The 1AC’s value stands on its own---responding to it with abstract judgement is a hollow validation that siphons off political energy and draws them into the oppressive gaze of the academy---vote Negative to decline affirmation

Phillips 99(Dr. Kendall R. Phillips, Professor of Communication at Central Missouri State University) “Rhetoric, Resistance, and Criticism: A Response to Sloop and Ono”, Philosophy & Rhetoric, Volume 32, Number 1, p. 96-101

My **concern** with this movement **centers around** an issue that Sloop and Ono seem to take as a given, namely, **the role of the critic**. On one hand, calling for the systematic investigation of existing marginalized discourses is a natural extension both of critical rhetoric (see McKerrow 1989, 1991) and of the general ideological turn in criticism (see Wander 1983). On the other hand, **the ease of transition from criticism in the service of resistance to criticism of resistance may obscure the need to address some fundamental issues regarding the general function of rhetorical criticism in an uncertain and contentious world.** Beyond licensing the critic to engage in political struggle, Sloop and Ono advocate the pursuit of covert resistant discourses. Such a move not only stretches our understanding of rhetoric and criticism, but also alters significantly the relationship between critic and out- law. **Critical interrogation of dominant discursive practices in the service of political/cultural reform is supplanted in favor of positioning covert out- law communities as objects of investigation. Invited to seek out subversive discourses, the critic is positioned as the active agent of change and the out-law discourse becomes merely instrumental. Rather than academic criticism acting in service of everyday acts of resistance, everyday acts of resistance are put into the service of academic criticism.** Rhetorical resistance That we are "caught within conflicting logics of justice that are culturally struggled over" (Sloop and Ono 1997, 50) and that rhetoric is employed in these struggles seems an uncontroversial statement. Despite the theoretical miasma surrounding judgment, Sloop and Ono accurately note, the material process of rendering judgments (and of disputing the logics of litigation) continues in the world of actually practiced discourse. In the materially contested world, rhetoric is utilized both by those seeking to secure the grounds of dominant judgment and by those seeking to undermine or supplant dominant cultural logics with some out-law notion of justice. The distinction between these two cultural groups, "in-law" and out- law, however, deserves some consideration prior to any discussion of the role of the critic as implied in the out-law discourse project. The discourse of the dominant or those within the bounds of superordinate logics of litigation is reminiscent of Michel De Certeau's (1984) strategic discourse. For De Certeau, strategies are utilized by those who have authority by virtue of their proper position. Strategies exploit the institutionally guaranteed background consensus by which power relations (and litigations) are maintained and advanced. In contrast, tactics are utilized by those having no proper place of authority within the discursive economy who must seek opportunities whereby the discourse of the dominant might be undermined and contested. To extend Sloop and Ono's definition, out-law discourses are those that can (and, by their analysis, do) take advantage of situations (e.g., race riots) to disrupt the regularity of dominant cultural groups. The ongoing struggle between strategically instituted cultural dominants and the "out-law always lurk[ing] in the distance" (66) is acknowledged, even celebrated, by Sloop and Ono. What their acknowledgment fails to provide, however, is a clear need for critical intervention. Indeed, quite the reverse is presented: It is the critic (particularly the left-leaning critic) who needs out-law discourse. While the struggles over justice, equality, and freedom have gone on, the left-leaning critics are those who have theoretically excluded themselves from the disputes. The study of out-law dis- courses, then, provides a means to reinvigorate the intellectual and re-institute (academic) leftist thinking into popular political struggles (53-54). Thus, Sloop and Ono's project incorporates three types of rhetoric: the rhetoric of the in-law, presumably the traditional object of critical attention; the rhetoric of the out-law, the study of which may transform our understanding of judgment as well as reinvigorate leftist democratic critiques; and the rhetoric of the critics who, having lost their political po- tency, can exploit the discourse of the out-law to promote ideological struggles. It is to this critical rhetoric that I now turn. Resistance criticism Sloop and Ono (1997) clearly state the relationship they envision between the rhetorical critic and out-law discourse: "Ultimately, we will argue that the role of critical rhetoricians is to produce 'materialist conceptions of judgment,' using out-law judgments to disrupt dominant logics of judgment" (54; emphasis added). Here the critic seeks out vernacular discourse (60), focuses on the methods and values embodied in these communities (62), listens to and evaluates the out-law community (62-63), and chooses appropriate discourses for the purpose of disrupting dominant practices (63). Essentially, it is the critic who seeks out marginalized discourses and returns them to the center for the purpose of provoking dominant cultural groups (63). Despite acknowledging the efficacy of out-law discourses, Sloop and Ono assume that the critiques generated and presented by the out-law community have only minimal effect. The irony, and indeed arrogance, of this assumption is evident when they claim: "There are cases, however, when, without the prompting of academic critics, out-law discourses serve local purposes at times and at others resonate within dominant discourses, disrupting sedimented ways of thinking, transforming dominant forms of judgment" (60; emphasis added). Sloop and Ono seem to suggest that such locally generated critiques are the exception, whereas the political efficacy of the academic critic is the rule. This seems an odd claim, given that the justification for their out-law discourse project is the lack of politically viable academic critique and the perceived potency of out-law conceptions of judgment. **Their suggestion that out-law communities are in need of the academic critic contradicts not only the already disruptive nature of existing out-law discourses** (the grounds for using out-law discourse), but also the impotence of contemporary critical discourse (the warrant for studying out-law discourse). By this I do not mean that the critiques and theories generated by academically instituted intellectuals have not been incorporated into subversive discourses. Just as out-law discourses inevitably mount critiques of dominant logics, so, too, the perspectives on rhetoric and criticism generated by academics are used in resistance movements. Feminist critiques of patriarchy, queer theories of homophobia, postcolonial interrogations of race have found their way into the service of resistant groups. The key distinction I wish to make is that the existence of criticism (academic or self-generated) in resistance does not necessitate Sloop and Ono's move to a criticism of resistance. What **Sloop and Ono fail to offer is an adequate argument for "taking public speaking out of the streets and studying it in the classroom, for treating it less as an expression of protest" (Wander 1983, 3) and more as an object for analysis and reproduction within the political economy of the academy.** Philip Wander made a similar charge against Herbert Wicheln's early critical project, and this concern should remain at the forefront of any discussion aimed at expanding the scope and function of criticism. **Sloop and Ono offer numerous directives for the critic without addressing whether the critic should be examining out-law discourses in the first place.** While it is too early to suggest any definitive answer to the question of criticism of resistance, some preliminary arguments as to why critics should not pursue out-law discourses can be offered: (1) Hidden out-law discourses may have **good reasons to stay hidden**. Sloop and Ono specifically instruct us that "the logic of the out-law must constantly be searched for, brought forth" (66) and used to disrupt dominant practices. But **are we to believe that** all out-law discourses are prepared to mount such a challenge to the dominant cultural logic? Or, indeed, that the **members of out-law communities are prepared to be brought into the arena of public surveillance** in the service of reconstituting logics of litigation? It seems highly unlikely that all divergent cultural groups have developed equally, or that all members of these groups share Sloop and Ono's "imperial impulse" (51) to promote their conceptions and practices of justice. (2) Academic critical discourse is not transparent. Here I allude to the overall problem of translation (see Foucault 1994; Lyotard 1988; Lyotard and Thebaud 1985; Zabus 1995) as an extension of the previous concern. Critical discourse cannot become the medium of commensurability for divergent language games. Are we to believe that the "use" of out-law dis- course by critics to disrupt dominant practices can fail to do violence to these diverse/divergent logics? Are out-law discourses merely tools to be exploited and discarded in the pursuit of returning leftist academic dis- course to the center? (3) Perhaps the academic translation of out-law discourse could be true to the internal logic of the out-law community. **And, perhaps the re-presentation of out-law logic within the academic community will bestow a degree of legitimacy on the out-law community. Nonetheless, the effect of legitimizing out-law discourse is unknown and potentially destructive. In an effort to siphon the political energy of out-law discourse into academic practice, we may ultimately destroy the dissatisfaction that serves as a cathexis for these out-law discourses. It seems possible that academic recognition might take the place of struggle for material opportunities (see Fraser 1997). But, will academic legitimation create any material changes in the conditions of out-law communities**? I mean to suggest, not that it is better to allow the out-law community to suffer for its cause, but rather that incorporating the struggle into an (admittedly) impotent academic critique does not offer a prima facie alternative. (4) Criticism of resistance denies the practical and theoretical importance of opportunity. Returning to De Certeau's notion of tactics, the crucial element of these discursive moves is their use of opportunity to disrupt the proper authority of the dominant. The kairos of intervention provides the key to undermining "in-law" discourses. But when is the "right moment in time" for the academic reproduction of out-law discourse? Mapping the points of resistance (ala Foucault and Biesecker) entails interrogating "in-law" discourses for their incongruities and contradictions, not turning the academic gaze upon those communities waiting for an opportunity. Out-laws do not lurk in the forefront (66), hoping to be exposed by academic critics; they wait for the right moment for their disruption. Rhetoricians can provide rhetorical instructions for seeking opportunities and for exploiting these opportunities (literally making the culturally weaker argument the stronger), but this does not justify interrogating (intervening in) the cultural logics of the marginalized. The concerns raised here are not designed to dismiss Sloop and Ono's provocative essay. The divergent critical logic they outline deserves careful consideration within the critical community, and it is my hope that the concerns I raise may help to further problematize the relationship between resistance and rhetorical criticism. Rhetorical criticism As I have suggested, my purpose is to use the provocative nature of Sloop and Ono's project to extend disputes regarding the ends of rhetorical criticism. Diverging perspectives on the ends of criticism have been categorized by Barbara Warnick (1992) as falling along four general lines: artist, analyst, audience, and advocate. Leah Ceccarelli (1997) discerns similar categories around the aesthetic, epistemic, and political ends of rhetorical criticism. The out-law discourse project presents clear ties to the notion of critic as advocate. **For Sloop and Ono, the critic is an interested party, discerning (and at times disputing) the underlying values and forces contained within a discourse. Additionally, however, the out-law discourse critic is an analyst focusing on the hidden, aberrant texts of the out-law and "rendering] an incoherent or esoteric text comprehensible"** (Warnick 1992, 233). Now, I am not suggesting that a critic must serve only one function or that the roles of advocate and analyst are mutually exclusive; rather**, these entanglings of power** (political ends) **and knowledge** (epistemic ends) are inevitable. My concern is that we not neglect the complexity of these entanglements. **Turning covert out-law discourses into objects of our analyses runs the risk of subjecting them both to the gaze of the dominant and to the power relations of the academy**. As the works of Michel Foucault (especially 1979, 1980) aptly illustrate, practices presented as extending such noble goals as emancipation and humanity may endow institutions of confinement and objectification. Any justification for studying out-law dis- course because doing so may extend our political usefulness in the pursuit of emancipatory goals must not obscure the already existing power relations authorizing such studies. Our attempts to extend our domains of knowledge and expertise (authority) must not be pursued unreflexively.

**The Aff deploys the phrase “monopoly” to describe the discussion of land. It *occludes the aff’s alternate perspectives on the world* AND simultaneously *secures a system of neoliberal violence*.**

**Saltman 07** Kenneth J. Saltman is an associate professor in the Department of Education Policy Studies and Research of the School of Education at DePaul University, Chicago, Illinois. “Schooling in Disaster Capitalism: How the Political Right Is Using Disaster To Privatize Public Schooling” - Teacher Education Quarterly, Spring 2007 - #E&F - https://files.eric.ed.gov/fulltext/EJ795160.pdf

In education, neoliberalism has pervasively infiltrated with radical implications, remaking educational practical judgment and forwarding the privatization and deregulation program. The steady rise of privatization and the shift to **business language** and logic can be understood through the extent to which neoliberal ideals have succeeded in taking over **educational debates.** Neoliberalism appears in the now common sense framing of education through presumed ideals of upward individual economic mobility (the promise of cashing in knowledge for jobs) and the social ideals of global economic competition. In this view national survival hinges upon educational preparation for international economic supremacy. The preposterousness of this assumption comes as school kids rather than corporate executives are being blamed for the global economic race to the bottom. The "TINA" thesis (There Is No Alternative to the Market) that has come to dominate politics throughout much of the world has infected **educational thought** as omnipresent **market terms** such as "accountability," "choice," "efficiency," "competition," **"monopoly,"** and "performance" **frame** educational **debates.** Nebulous terms borrowed from the business world such as "achievement," "excellence," and "best practices" conceal ongoing struggles over competing values, visions, and ideological perspectives. (Achieve what? Excel at what? Best practices for whom? And says who?) The only questions left on reform agendas appear to be how to best enforce knowledge and curriculum conducive to individual upward mobility within the economy and national economic interest as it contributes to a corporately managed model of globalization as perceived from the perspective of business. This is a dominant and now commonplace view of education propagated by such influential writers as Thomas Friedman in his books and New York Times columns, and such influential grant-givers as the Bill and Melinda Gates Foundation.

**Our model teaches a form of engagement that corrects flaws in political strategies. Rejecting our approach is normatively worse for the Aff’s own cause.**

**Williams ‘15**

Douglas Williams is a third-generation organizer, He earned his BA in Political Science at the University of Minnesota at Morris and his MPA at the University of Missouri Columbia, where he was also a Thurgood Marshall Fellow and a Stanley Botner Fellow. He is currently a doctoral student in political science at Wayne State University in Detroit, where his research centers around public policy as it relates to disadvantaged communities and the labor movement. From the article: “The Dead End of Identity Politics” - From: The South Lawn - March 10, 2015 – Internally quoting Freddie DeBoer, Lecturer, Purdue University. DeBoer holds a PhD in Rhetoric and Composition from Purdue and an MA in English, concentration in Writing and Rhetoric from The University of Rhode Island, Modified for potentially objectionable language. In one instance a capital “B” was adjusted to a lower case “b” in a manner that boosted readability, but did not alter context. https://thesouthlawn.org/2015/03/10/the-dead-end-of-identity-politics/

Freddie **DeBoer** makes a great point in his piece on what he calls “critique drift“: “This all largely descends from a related condition: **many in the** broad online **left** have adopted a norm where being an ally means that you never critique people who are presumed to be speaking from your side, and especially if they are seen as speaking from a position of greater oppression. I understand the need for solidarity, I understand the problem of undermining and derailing, and I recognize why people feel strongly that those who have traditionally been silenced should be given a position of privilege in our conversations. B(b)ut critique drift demonstrates why a healthy, functioning political movement can’t forbid tactical criticism of those with whom you largely agree. Because critical vocabulary and political arguments are common intellectual property which gain or lose power based on their communal use, never criticizing those who misuse them ultimately disarms (hampers) the left. **Refusing** to say ‘***this*** is a real thing, but you are not being fair or helpful in making ***that*** accusation right now’ alienates potential allies, contributes to the burgeoning backlash against social justice politics, and prevents us from making the most accurate, cogent critique possible.”

----- (Williams is now no longer quoting DeBoer)

Look, I am Black. Also, sometimes, I can be wrong. Those two things are not mutually exclusive, and yet we have gotten to a point where any critique of tactics used by oppressed communities can result in being deemed “sexist/racist/insert oppression here-ist” and cast out of the Social Justice Magic Circle. And listen, maybe that is cool with some folks. Maybe the revolution that so many of these types speak about will simply consist of everyone spontaneously coming to consciousness **and there will be no need for coalitions**, give-and-take, or contact with people who do not know every word or phrase that these groups use as some sort of litmus test for the unwashed. But for the rest of us who reside in a reality-based world, where every social interaction is not tailored for your idiosyncratic indignations, we know that casting folks out for the tiniest of offenses will lead to a Left that will forever be marginalized and ineffective. I have stated before that the kind of people who put out these lists and engage in the kind of identitarian caterwauling that has become rote copy on the Internet might actually want that, as a world where left-wing activism is made potent and transformative will be one where they cannot simply take comfort in their cocoon of self-righteousness. But damn them when I can turn on my computer and see one Black person after another being gunned down by police. Damn them when we have a president that can sit there with a straight face and speak the words of freedom and liberation while using the power at his disposal to deny those very concepts to others. And damn them when we can get thousands of words on Patricia Arquette drunk at a party or how it is privileged to not like the same musicians that they do, but we cannot seem to get any thoughts on how the biggest moment for communities of color since the 1960s is being squandered in a hail of intergenerational squabbling. And do not even get me started on people writing articles that malign long-standing activist organizations without a whiff of evidence that there has been any wrongdoing on their part.

#### We can defend the rest of their advocacy and negate only certain parts. 2NR consolidation is the best alt:

#### -our model teaches a form of engagement that corrects flaws in political strategies. Rejecting our approach is worse for the Aff’s cause

#### - negating the whole aff makes only the most extreme stances strategic, like prejudice is good. We should debate framing strategies rather than impact turns to injustice

### Case

#### To get past capitalism we must let go of capitalism as a reference point, turns case

Healy and Graham in 2007 (Stephen [Professor of Human Geography at the University of Durham] and Julie [Professor of Geography, Associate Department Head for Geography @U Mass]; BUILDING COMMUNITY ECONOMIES: A POSTCAPITALIST PROJECT OF SUSTAINABLE DEVELOPMENT; in D. Ruccio, ed, *Economic* *Representations: Academic and Everyday*; kdf)

The point, then, is that the difference between complementarity and simple relationality is *a matter of perspective.* A relational vision that insists on the importance, possibilities, and relative autonomy of a community economy does not require us to deny the existence, importance, or power of capitalism. To move beyond the capitalocentric imaginary simply requires that we let go of capitalism as the reference point against which we gauge our successes and failures and understand our possibilities of action and becoming**.** When capitalist firms rather than foreordained structures of dominance and subordination, we are free to become simply one site of economy rather than embodying the law of economy, we know we have made the “leap of faith” that is required to see things differently. When we recognize relationships, including ones with capitalist firms and the natural environment, as ethical projects to take on the ethical and political project of constructing an environmentally sustainable community economy.¶ While a vision of relationality does not suggest any particular way that capitalist institutions and practices will interact with non-capitalist ones, it opens the possibility of a variety of interactions. Once capitalism is no longer in the position of constraining every goal and action, the logic of relationality (which does not foreclose) allows that capitalism may even enable the building of a community economy and performing environmental stewardship.An innovative project in the Pioneer Valley provides an example of this seemingly unlikely convergence, one that brings into play our two development strategies of marshaling surplus and creating well-being directly.

#### No totalizing theories of power — colonialism is contingent

Busbridge, 18—Research Fellow at the Centre for Dialogue, La Trobe University (Rachel, “Israel-Palestine and the Settler Colonial ‘Turn’: From Interpretation to Decolonization,” Theory, Culture & Society Vol 35, Issue 1, 2018, dml)

Scholars have long reckoned with the ambivalence of the settler colonial situation, which is simultaneously colonial and postcolonial, colonising and decolonising (Curthoys, 1999: 288). Given the generally dreadful Fourth World circumstances facing many Indigenous peoples in settler societies, it could be argued that there is good reason for such pessimism. The settler colonial paradigm, in this sense, offers an important caution against celebratory narratives of progress. Wolfe (1994), it must be recalled, wrote the original articulation of his thesis precisely against the idea of ‘historical rupture’ that dominated in Australia post-Mabo, and was thus as much a scholarly intervention as it was a political challenge to the idea of Australia having broken with its colonial past. Nonetheless, the fatalism of the settler colonial paradigm—whereby decolonisation is by and large put beyond the realms of possibility—has seen it come under considerable critique for reifying settler colonialism as a transhistorical meta-structure where colonial relations of domination are inevitable (Macoun & Strakosch, 2013: 435; Snelgrove et al., 2014: 9). Not only does Wolfe’s ontology erase contingency, heterogeneity and (crucially) agency (Merlan, 1997; Rowse, 2014), but its polarised framework effectively ‘puts politics to death’ (Svirsky, 2014: 327). In response to such critiques, Wolfe (2013a: 213) suggests that ‘the repudiation of binarism’ may just represent a ‘settler perspective’. However, as Elizabeth Povinelli (1997: 22) has astutely shown, it is in this regard that the totalising logic of Wolfe’s structure of invasion rests on a disciplinary gesture where ‘any discussion which does not insist on the polarity of the [settler] colonial project’ is assimilationist, worse still, genocidal in effect if not intent. Any attempt to ‘explore the dialogical or hybrid nature of colonial subjectivity’—which would entail working beyond the bounds of absolute polarity—is disciplined as complicit in the settler colonial project itself, leaving ‘the only nonassimilationist position one that adheres strictly and solely to a critique of [settler] state discourse’. This gesture not only disallows the possibility of counter-publics and strategic alliances (even limited ones), but also comes dangerously close to ‘resistance as acquiescence’ insofar as the settler colonial studies scholar may malign the structures set in play by settler colonialism, but only from a safe distance unsullied by the messiness of ambivalences and contradictions of settler and Native subjectivities and relations. Opposition is thus left as our only option, but, as we know from critical anti-colonial and postcolonial scholarship, opposition in itself is not decolonisation.

#### Only infusing the methodology and interrogation into legal solutions ruptures the intelligibility of settler colonialism and creates meaningful progress and reinterpretation of the liberal rights they criticize

Bhandar 13 – lecturer at Kent Law School and Queen Mary School of Law – her areas of research and teaching include property law, equity and trusts, indigenous land rights, post-colonial and feminist legal theory, multiculturalism and pluralism, critical legal theory, and critical race theory Brenna, “Strategies of Legal Rupture: the politics of judgment” [http://www.forensic-architecture.org/wp-content/uploads/2013/02/BHANDAR-Brenna.-Strategies-of-Legal-Rupture.pdf] //

In this article, my aim is to consider the use of law as a political strategy of rupture in colonial and post - colonial nation states. The question of whether and how to use law in order to transform and potentially shatter an existing political - legal order is one that continues t o plague legal advocates in a variety of places, from Australia, to India, to Canada to Israel/Palestine. For example, the struggle for the recognition of indigenous rights in the context of colonial settler regimes has often produced pyrrhic victories. 21 T he question of indigenous sovereignty is ultimately quashed, and aboriginal rights are paradoxically recognised as an interest that derives from the prior occupation of the land by aboriginal communities but is at the same time parasitic on underlying Crow n sovereignty; an interest that can be justifiably limited in the interests of settlement. 22 Thus, the primary and inescapable question remains: how does one utilise the law without re - inscribing the very colonial legal order that one is attempting to break down? 23 I argue that this is an inescapable dilemma; as critical race theorists and indigenous scholars have shown, to not avail ourselves of the law in an effort to ameliorate social ills, and to promote and protect the rights of oppressed minorities is to essentially abrogate one’s political responsibilities. Moreover, the reality of political struggle (particularly of the anti - colonial variety) is that it is of a diffuse and varied nature, engaging multiple different tactics in order to achieve its ends.¶ The notion of the ruptural defence emerges from the work of Jacques Vergès, a French advocate and subject of a film by Barbet Schroder entitled Terror’s Advocate . The film is as much a portrait of Vergès ’ life as it is a series of vignettes of armed anti - colonial and anti - imperial struggle during the decades between the late 1940s and the 1980s. I should say at the beginning that I do not perceive Vergès as a heroic figure or defender of the oppressed; we can see from his later decisions to defend Klaus Barbie, for instance, that his desire to reveal the violence wrought by European imperial powers was pursued at any cost. But in tracing the development of what Vergès called the ruptural defence, the film takes us to the heart of the inescapable paradoxes and contradictions involved in using law as a means of political resistance in colonial and post - colonial contexts. I want to explore the strategy of rupture as developed by Vergès but also in a broader se nse, to consider whether there is in this defence strategy that arose in colonial, criminal law contexts, something that is generalisable, something that can be drawn out to form a notion of legal rupture more generally.¶ To begin then, an exploration of Vergès’ ‘rupture defence’, or rendered more eloquently, a strategy of rupture. At the beginning of the film, Vergès comments on his strategy for the trial of Djamila Bouhired, a member of the FLN, who was tried in a military court for planting a bomb in a cafe in Algiers in 1956. Vergès states the following in relation to the trial:¶ The problem wasn’t to play for sympathy as left - wing lawyers advised us to do, from the murderous fools who judged us, but to taunt them, to provoke incidents that would reac h people in Paris, London, Brussels and Cairo...¶ The refusal to play for sympathy from those empowered to uphold the law in a colonial legal order hints at the much more profound refusal that lies at the basis of the strategy of rupture, which we see unf old throughout the film. In refusing to accept the characterisation of Djamila’s acts as criminal acts, Vergès challenges the very legal categories that were used to criminalise, condemn and punish anti - colonial resistance. The refusal to make the defendan ts’ actions cognisable to and intelligible within the colonial legal framework breaks the capacity of the judges to adjudicate in at least two senses. First, their moral authority is radically undermined by an outright rejection of the legal terms of refer ence and categories which they are appointed to uphold. The legal strategy of rupture is a politics of refusal that calls into question the justiciability of the purported crime by challenging the moral and political jurisdiction of the colonial legal order itself.¶ Second, the refusal of the legal categorisation of the FLN acts of resistance as criminal brought into light the contradictions inherent in the official French position and the reality of the Algerian context. This was not, as the official line would have it, simply a case of French criminal law being applied to French nationals. The repeated assertion that the defendants were independent Algerian actors fighting against colonial brutality, coupled with repeated revelations of the use of torture on political prisoners made it impossible for the contradictions to be “rationally contained” within the normal operations of criminal law. The revelation and denunciation of torture in the courtroom not to prevent statements or admissions from being admis sable as evidence (as such violations would normally be used) but to challenge the legitimacy of the imposition of a colonial legal order on the Algerian people made the normal operation of criminal law procedure virtually impossible . 24 And it is in this ma king impossible of the operation of the legal order that the power of the strategy of rupture lies. ¶ In refusing to render his clients’ actions intelligible to a colonial (and later imperial) legal framework, Vergès makes visible the obvious hypocrisy of the colonial legal order that attempts to punish resistance that employs violence, in the same spatial temporal boundaries where the brute violence of colonial rule saturates everyday life. In doing so, this is a strategy that challenges the monopoly of le gitimate violence the state holds. Vergès aims to render visible the false distinction between common crimes and political crimes, or more broadly, the separation of law and politics. 25 The ruptural defence seeks to subvert the order and structure of the tr ial by re - defining the relation between accuser and accused. This illumination of the hypocrisy of the colonial state questions the authority of its judiciary to adjudicate. But more than this, his strategy is ruptural in two senses that are fundamental to the operation of the law in the colonial settler and post - colonial contexts. The first is that the space of opposition within the legal confrontation is reconfigured. The second, and related point, is that the strictures of a legal politics of recognition are shattered.¶ In relation to the first point, a space of opposition is, in the view of Fanon, missing in certain senses, in the colonial context. A space of opposition in which a genuinely mutual struggle between coloniser and colonised can occur is de nied by spatial and legal - political strategies of containment and segregation. While these strategies also exhibit great degre es of plasticity 26 , the control over such mobility remains to a great degree in the hands of the colonial occupier. The legal strat egy of rupture creates a space of political opposition in the courtroom that cannot be absorbed or appropriated by the legal order. In Christodoulidis’ view, this lack of co - option is the crux of the strategy of rupture.¶ This strategy of rupture also poin ts to a path that challenges the limits of a politics of recognition, often one of the key legal and political strategies utilised by indigenous and racial minority communities in their struggles for justice. Claims for recognition in a juridical frame ine vitably involve a variety of onto - epistemological closures. 27 Whether because of the impossible and irreconciliable relation between the need for universal norms and laws and the specificities of the particular claims that come before the law, or because of the need to fit one’s claims within legal - political categories that are already intelligible within the legal order, legal recognition has been critiqued, particularly in regards to colonial settler societies, on the basis that it only allows identities, legal claims, ways of being that are always - already proper to the existing juridical order to be recognised by the law. In the Canadian context, for instance, many scholars have elucidated the ways in which the legal doctrine of aboriginal title to land im ports Anglo - American concepts of ownership into the heart of its definition; and moreover, defines aboriginality on the basis of a fixed, static concept of cultural difference. The strategy of rupture elides the violence of recognition by challenging the legitimacy of the colonial legal order itself.¶ In an article discussing Vergès’ strategy of rupture, Emilios Christodoulidis takes up a question posed to Vergès by Foucault shortly after the publication of Vergès’ book, De La Stratégie Judiciare, as to wh ether the defence of rupture in the context of criminal law trials in the colony could be generalised more widely, or whether it was “not in fact caught up in a specific historical conjuncture.” 28 In exploring how the strategy of rupture could inform practices and theory outside of the courtroom, Christodoulidis characterises the strategy of rupture as one mode of immanent critique. As individuals and communities subjected to the force of law, the law itself becomes the object of critique, the object that ne eds to be taken apart in order to expose its violence. To quote from Christodoulidis:¶ Immanent critique aims to generate within these institutional frameworks contradictions that are inevitable (they can neither be displaced nor ignored), compelling (they necessitate action) and transformative in that (unlike internal critique) the overcoming of the contradiction does not restore, but transcends, the ‘disturbed’ framework within which it arose. It pushes it to go beyond its confines and in the process, fam ously in Marx’s words, ‘enables the world to clarify its consciousness in waking it from its dream about itself’. 29¶ Christodoulidis explores how the strategy of rupture can be utilised as an intellectual resource for critical legal theory and more broadl y, as a point of departure for political strategies that could cause a crisis for globalised capital. Strategies of rupture are particularly crucial when considering a system, he notes, that has been so successful at appropriating, ingesting and making its own, political aspirations (such as freedom, to take one example) that have also been used to disrupt its most violent and exploitative tendencies. Here Christodoulidis departs from the question of colonialism to focus on the operation of capitalism in po st - war European states. It is also this bifurcation that I want to question, and rather than a distinction between colonialism and capitalism, to consider how the colonial (as a set of economic and political relations that rely on ideologies of racial diff erence, and civilisational discourses that emerged during the period of European colonialism) is continually re - written and re - instantiated through a globalised capitalism. As I elaborate in the discussion of the Salwa Judum judgment below, it is the combi nation of violent state repression of political dissent that finds its origins (in the legal form it takes) during the colonial era, and capitalist development imperatives that implicate local and global mining corporations in the dispossession of tribal p eoples that constitutes the legal - political conflict at issue.¶ After the Trial: From Defence to Judgment¶ In response to a question from Jean Lapeyrie (a member o f the Action Committee for Prison - Justice) during a discussion of De La Stratégie Judiciare published as the Preface to the second edition, Vergès remarks that there are actually effective judges, but that they are effective when forgetting the essence of what it is to be a judge. 31 The strategy of rupture is a tactic utilised to subvert the order and structure of a trial; to re - define the very terms upon which the trial is premised. On this view, the judge, charged with the obligation to uphold the rule o f law is of course by definition not able to do anything but sustain an unjust political order.¶ In the film Terror’s Advocate , one is left to wonder about the specificities of the judicial responses to the strategy deployed by Vergès. (Djamila Bouhired , for instance, was sentenced to death, but as a result of a worldwide media campaign was released from prison in 1962). While I would argue that the judicial response is clearly not what is at stake in the ruptural defence, I want to consider the potentia lity of the judgment to be ruptural in the sense articulat ed by Christodoulidis, discussed above. Exposing a law to its own contradictions and violence, revealing the ways in which a law or policy contradicts and violates rights to basic political freedoms , has clear political - legal effectsand consequences. Is it possible for members of the judiciary to expose contradictions in the legal order itself, thereby transforming it? Would the redefinition, for instance, of constitutional provisions guaranteeing r ights that come into conflict with capitalist development imperatives constitute such a rupture? In my view, the re - definition of the limitations on the guarantees of individual and group freedom that are inevitably and invariably utilised to justify state repression of rights in favour of capitalist development imperatives, security, or colonial settlement have the potential to contribute to the re - creation of political orders that could be more just and democratic.¶ We may be reluctant to ever claim a ju dgment as ruptural out of fear that it would contaminate the radical nature of this form of immanent critique. Is to describe a judgment as ruptural to belie the impossibility of justice, the aporia that confronts every moment of judicial decision - making? I want to suggest that it is impossible to maintain such a pure position in relation to law, particularly given its capacity (analogous to that of capital itself) for reinvention. Thus, I want to explore the potential for judges to subvert state violence e ngendered by particular forms of political and economic dispossession, through the act of judgment. In my view, basic rights protected by constitutional guarantees (as in the Indian case) have been so compromised in the interests of big business and develo pment imperatives, that re - defining rights to equality, dignity and security of person, and subverting the interests of the state - corporate nexus is potentially ruptural, in the sense of causing a crisis for discrete tentacles of global capitalism.¶ At th is juncture, we may want to explicitly account for the specific differences between criminal defence cases and Vergès‘ basic tactic, which is to challenge the very jurisdiction of the court to adjudicate, to define the act of resistance as a criminal one, and constitutional challenges to the violation of rights in cases such as Salwa Judum . While one tactic seeks to render the illegitimacy of the colonial state bare in its confrontation with anti - colonial resistance, the other is a tactic used to re - define the terms upon which political dissent and resistance take place within the constitutional bounds of the post - colonial state**.** These two strategies appear to be each other’s opposite; one challenges the legitimacy of the state itself through refusing the ju risdiction of the court to criminalise freedom fighters, while the other calls on the judiciary to hold the state to account for criminalising and violating the rights of its citizens to engage in political acts of dissent and resistance. However, the common thread that situates these strategies within a singular political framework is the fundamental challenge they pose to the state’s monopoly over defining the terms upon which anti - colonial and anti - capitalist political action takes place. ¶ Here I will turn to consider a post - colonial context in which the colonial is continually being re - written, juridically speaking, in light of neo - liberal economic imperatives unleashed from the late 1980s onwards. A recent judgment of the Indian Supreme Court provide s an opportunity to consider a moment in which capitalist development imperatives and the exploitation of tribal peoples by the state of Chattisgarh are put on trial by a group of three plaintiffs. The judgment provides, amongst other things, an opportunit y to consider the strategy of the plaintiffs and also the judicial response. As I argue below, this judgment presents an instance of rupture precisely because the fundamental freedoms of the people of Chattisgarh are redefined by the Court in such a way as to challenge and condemn the capitalist development imperatives that have put their lives and livelihoods at risk.¶ Salwa Judum¶ The Indian Supreme Court rendered judgment in the case of Nandini Sundar and others v the State of Chhattisgarh on July 5th, 2011. In this case, Sundar, a professor of Sociology at the Delhi University, along with Ramachandra Guha, an eminent Indian historian, and Mr. E.A.S. Sarma, former Secretary to Government of India and former Commissioner, Tribal Welfare, Government of And hra Pradesh, petitioned the Supreme Court of India alleging, inter alia , that widespread violations of human rights were occurring in the State of Chattisgarh, on account of the ongoing Naxalite/Maoist insurgency and the counter - insurgency activities of th e State government and the Union of India (or the national government). More specifically, the petitioners alleged that the State was in violation of Articles 14 and 21 of the Indian Constitution. Article 14 guarantees equality before the law of each citiz en and freedom from discrimination on the basis of race, religion, caste, sex or place of birth. Article 21 of the Constitution guarantees the protection of life and personal liberty.¶ While a comprehensive overview of the Naxalbari movement is beyond the scope of this article, I provide a very brief description of the movement here, by way of explaining the political and legal background of the judgment. The Naxalites are revolutionary communists (Maoists) who split from the Communist Party of India short ly after independence. The movement includes a social base comprised of “landless, small peasants with marginal landholdings,” and adivasis. 32 Bhatia notes that in the state of Bihar, many people join the movement in order to pursue short - term goals, such as better education, food and housing, and employment, with revolution a distant concept if not altogether foreign to more immediate objectives of radical change. 33 Regardless of whether revolution is the immediate or long - term objective of members of the N axalite movement, it is clear that along with economic and social rights lies the desire for freedom from violence and fear in a political context described by some as semi - feudal. One young Naxalite described the hangover of feudal attitudes towards lowe r castes by stating “the landlord’s moustache has got burnt but the twirl still remains.” 34¶ With a powerful and unrelenting presence in tribal areas, arguably amongst the most impoverished parts of the country, Naxalites have engaged in nonviolent and dir ect armed action against state and national governments intent on pursuing capitalist modes of development at the expense of the poor, throughout nine different states in India. Specifically, the Naxals have focused on land rights, minimum wages for labour ers, common property resources and housing rights. 35 The strategy of armed resistance has met with criticism across the political spectrum 36 , and it is difficult to gauge the level of support for the Naxalites amongst left and progressive communities in Indi a. However, the ascription by India’s Prime Minister Manmohan Singh to the Naxals as the “singlest greatest threat to India’s national security” 37 was the precursor to a vicious campaign of repression called Operation Greenhunt that has attracted criticism by political progressives.¶ This is the background to the petition brought by Sunder, Guha and Sarma. The petition alleged, inter - alia, the widespread violation of human rights of people of Dantewada District and neighboring areas in Chattisgarh. Specifica lly, the petitioners alleged that the State of Chattisgargh was supporting the activities of an armed vigilante group called ‘Salwa Judum’ (‘Purification Hunt’ in the Gondi language). The State was actively promoting the Salwa Judum through the appointment of Special Police Officers. The government of Chattisgargh, along with the Union of India government, was alleged to have employed thousands of ‘special police officers’ as a part of their counter - insurgency strategies. The SPOs, a category that finds its origins in colonial policing legislation 38 , are members of the tribal communities, and are often minors. The SPOs, as the Court notes, are armed by the State and given little or no training, to fight the battles against the Naxalites. At the time the Court passed down its judgment, 6500 tribal youth have been conscripted into the Salwa Judum (para 44). He writes that the “wholesale militarisation of the movement since the 1990s has culminated in a vanguard war trapped in an expanding culture of counterinsur gency.” 3¶ The State of Chattisgargh recruits SPOs (also known as Koya Commandos) under the provisions of the Chattisgargh Police Act 2007. Under this Act, the SPOs, as the Court notes, “enjoy the ‘same powers, privileges and perform same duties as coordinate constabulary and subordinate of the Chattisgargh Police.” 40 The Union Government of India sets the limit of the number of SPOs that each state can appoint for the purposes of reimbursement of an honorarium under the Security Rated Expenditure Scheme. The State argued on its behalf that the SPOs receive two months of training covering such things as the use of arms, community policing, UAC and Yoga training, and the use of scientific and forensic aids in policing. 41 The Union Government argued that the SPOs “have played a useful role in the collection of intelligence, protection of local inhabitants and ensuring security of property in d isturbed areas.” 42 Despite these attempts at a defence, the Court found in favour of the petitioners.¶ The Court contrasts the provisions of the 2007 Act that provide for the conditions under which the Superintendant of Police may appoint “any person” as an SPO with the parallel provisions in the British era legislation. They find that the 2007 Act, unlike its predecessor, fails to delimit the circumstances under which such appointments can be made. The circumstances however, do include “terrorist/extremist” incidents, and the Court thus finds that the SPOs are “intended to be appointed with the responsibilities of engaging in counter - insurgency activities.” 43 The Court agrees with the allegations of the petitioners, that thousands of tribal youth are being ap pointed by both the State and Union governments to engage in armed conflict with the Naxalites, and that this placing the lives of tribal youth in “grave danger.” 44 Given that youth being conscripted have very low levels of education and are often illiterat e, and that they themselves have likely been the victims of state and Naxal violence, the Court found that they could not “under any conditions of reasonableness” assume that the youth are exercising the requisite degree of free will and volition in relati on to their comprehension of the conditions of counter - insurgency and the consequences of their actions, and thus, were not viewed by the court as freely deciding to join the police force as SPOs. 45 After a very thorough analysis of the conditions under whi ch tribal youths become SPOs and the use and abuse of the SPOs by the State, the Court found the State of Chattisgarh to be in violation of Articles 14 and 21 of the Constitution by appointing tribal youth as SPOs engaged in counter - insurgency.¶ The Court ’s findings in relation to the SPOs are remarkable insofar as they account for the socio - economic conditions and lived realities of the tribal youth. In their judgment, however, they go much further than engaging a contextualised and nuanced approach to the interpretation of the rights to equality, life and personal liberty. They enquire into the causes of Naxalite violence, and in doing so, hold capitalist development imperatives to account; the constitutional rights of tribals and others dispossessed of t heir lands and livelihoods are being violated in the interests of capital. Drawing on academic work critical of globalisation, the Court quotes the following:¶ ‘[T]he persistence of “Naxalism ”, the Maoist revolutionary politics, in India after over six decades of parliamentary politics is a visible paradox in a democratic “socialist” India.... India has come into the twenty - first century with a decade of departure from the Nehruvian socialism to a free - market, rapidly globalizing economy, which has created new dynamics (and pockets) of deprivation along with economic growth. Thus the same set of issues, particularly those related to land, continue to fuel protest politics, violent agitator pol itics, as well as armed rebellion....’ 46¶ The Court recognises that the capitalist development imperatives of the state are the cause of the armed resistance when they state that the problem lies not with the people of Chattisgarh, nor those who question th e conditions under which the conflict has been produced, but “[t]he problem rests in the amoral political economy that the State endorses, and the resultant revolutionary politics that it unnecessarily spawns.” 47 Quoting from a report written by an expert g roup appointed by the Planning Commission of India, the Court takes note of the “irreparable damage” caused to marginalised communities by the development paradigm adopted by the national governmen t since independence . 48 The economic development pursued has “inevitably caused the displacement” of these communities and “reduced them to a sub - human existence”. 49 The Expert Group also noted their surprise at the refusal of the State to recognise the reasons for the political dissent expressed by the Naxalites, a nd the disruption of law and order. The Court adopts this observation, and notes that:¶ Rather than heeding such advice [to address the dehumanisation wreaked by capitalist development policies], which echoes the wisdom of our Constitution, what we have wi tnessed in the instant proceedings have been repeated assertions of inevitability [sic] of muscular and violent statecraft. 50¶ Following this remarkable assertion of Constitutional values that are opposed to the state violence used to repress political dis sent, the Court accounts for the violence rendered by capitalist development imperatives:¶ The culture of unrestrained selfishness and greed spawned by modern neo - liberal economic ideology, and the false promises of ever increasing spirals of consumption l eading to economic growth that will lift everyone, under - gird this socially, politically and economically unsustainable set of circumstances in India in general, and Chattisgarh in particular.” 51¶ The exploitation of natural resources violate principles t hat are “fundamental to governance” and this violation eviscerates the promise of equality before the law, and dignit y of life (Article 21) . 52 Capitalist development imperatives and neo - liberalism “necessarily tarnish” and “violate in a primordial sense” Ar ticles 14 and 21 of th e Indian Constitution . 53 The Court thus positions the rights to equality and dignity in opposition to capitalist development imperatives, and most significantly, do not find that the violation can be justifiably limited. Economic polic ies that violate the spirit of the Constitution, and run counter to the “primary task of the state” which is to provide security for all of its citizens “without violating human dignity” cause levels of social unrest that ultimately amount to an “abdicatio n of constitutional r esponsibilities” . 54 In their finding that neo - liberal ideology amongst other economic policies are the root causes of the social unrest and Naxal militancy, the Court re - values the constitutional and human rights of its citizens and as serts a radically different vision of the role of the state in promoting and protecting democracy. Based on the spirit of the Constitution as enacted at the time of independence, the Court clearly puts forth a view that the conditions for democracy begin w ith state protection and enhancement of human dignity and equality, education, and freedom from violence, rights and values that are contrary to the capitalist economic policies embraced by the State of Chattisgarh.¶ Constitutional rights claims, whether we are looking at state of the art constitutions in Canada, South Africa or elsewhere, do not often go beyond a liberal conception of rights. And indeed, utilising human rights as a means of provoking political ruptures (as opposed to ameliorating existin g conditions) surely seems like a rather bankrupt endeavor, in light of how rights to freedom and liberty have been effectively co - opted by market imperatives. 55 The ISC judgment thus seems all the more compelling, in its condemnation of developmental terro rism, and capitalist greed. The judgment finds in favour of the petitioners. In doing so, they explicitly critique the capitalist model of development that has impoverished so many millions of people. They express the view that people do not rise up in arm ed insurgency against the state without cause, and find the failure of the State to affirmatively fulfill its obligation to protect the life and liberty of the SPOs is a breach and violation of the Constitution. They find, significantly, that the very econ omic policies pursued by the government, coupled with the treatment of tribals as nothing more than cannon fodder in the war against the Naxalites, have dehumanised those most vulnerable t o poverty. The Court adopts the words of Joseph Conrad in their cond emnation of the impoverishment and exploitation of the tribals by both the state and union governments. Drawing parallels with Conrad’s characterisation of the colonial exploitation of the Congo in the late 19th and early 20th centuries, the Court relates the “vilest scramble for loot that ever disfigured the history of human conscience” to the “scouring of the earth by the unquenchable thirst for natural resources by imperialist powers”. 56¶ The Court also alludes to the virulent auto - immune reaction that e xists like a germ, waiting to explode, amongst the tribal youths. With no established mechanism for getting the arms back from the tribal youths, the Court predicts the possibility of these youths becoming “roving groups of armed men endangering the societ y, and the people in those areas as a third front.” They write that it “entirely conceivable that those youngsters refuse to return the arms Consequently, we would then have a large number of armed youngsters, running scared for their lives, and in violati on of the law. It is entirely conceivable that they would then turn against the State, or at least defend themselves using those firearms, against the security forces themselves; for their livelihoo d, and subsistence...” 57¶ In finding the government responsible for the socio - economic conditions that have led to revolutionary activity, and in condemning their brutal and inhumane use of tribal youth in the armed struggle against the Naxalites, (caused, in the view of the Court, by policies of privatisation tha t leave the state ideologically and actually incapable of dealing with the social unrest) the Court engages in an immanent critique of the political ideology and legal policies of the government. In critiquing the violence of capitalist development imperat ives pursued by the state, and the inhumane violence utilised by the state to counter its natural consequences (armed unrest), the Court re - invests concepts of liberty, life, and equality with political meaning that goes beyond their usual liberal interpel lations. The concept of security is reinterpreted with the interests of the poor in mind, the market logic of efficiency condemned as a guiding principle and objective of government policy.¶ Conclusion¶ Outside of a criminal or military law context, a strategy of rupture might involve an exposure of the contradictions that inhere in colonial, capitalist legal orders that eviscerate the potentiality that rights hold to enable ind ividuals to live lives free of fear, violence and exploitation. In considering how this rupture might occur through the act of judgment, it may be through challenging the authority of the state to engage its citizens in ways that violate political and ethi cal norms of freedom. In the judgment analysed here, the Court seizes the power to define the constitutional norms and crucially, the meaning of the rights to life, personal liberty and security. They engage an act of radical re - definition of democratic ri ghts with the lived conditions of the poorest communities at the forefront of their analysis.¶ In this judgment the Indian Supreme Court redefines the imperatives of security as a State obligation to its citizens, to “secure for our citizens conditions of social, economic, and political justice for a ll who live in India...” . 58 Without this, the Court notes that the State will not have achieved human dignity for its citizens. This, for the court, is an essential truth, and “policies which cause vast disaffectio n amongst the poor” not only exist in opposition to this truth but are also “necessarily destructive of national unity and integration” . 59 The Court thus identifies Indian democracy as what is at stake in the revaluing and reinterpretation of rights to life and security of the person.¶ In directing their analysis at the ways in which neo - liberal capitalism as a political and economic rationality “has launched a frontal assault on the fundaments of liberal democracy, displacing its basic principles of consti tutionalism, legal equality, political and civil liberty, political autonomy, and universal inclusion with market criteria...”, 60 the ISC attempts to recuperate the deracinated vision of democracy that Indian corporateers and government ministers appear to ha ve in mind. Surely, in a time when even the most basic conditions for a democracy that attends to the political, social and economic needs of the common, those with basic common needs of education, freedom of association and movement, freedom from deprivat ion and dispossession, are absent, charting such legal terrain opens a space for political rupture.¶ In considering whether legal judgments can be ruptural in the sense elucidated by Christodoulidis, and reflecting on Sundar et al , it is clear that an ind ependent judiciary does have the power to disturb the monopoly of violence exercised by the government, and to transcend this disturbed framework by offering a radically different interpretation of security and freedom. Security as the insurance of egoism reflects a Benthamite definition of law’s raison d’être as nothing other than the security of private property. The law exists in order to provide security for the property - owning classes, security for their actual wealth and also feelings of security; the law provides freedom from the fear of loss. In moving far from Benthamite concerns with the protection of private property, the Court redefines security, a concept fundamental to law’s being, and more particularly, a concept too often used and abused in t he interests of private corpora tions . ¶ Although this use of the law does not refuse the authority of the court in the way that Vergès’ strategy of rupture did in the colonial - criminal law context, it most certainly redefines the ambit of what is an intel ligible rights claim. By bringing the socio - economic conditions of the adivasis and tribal peoples to the forefront of their interpretations of the rights at issue , the Court opens the space for a legal consciousness that can no longer remain caught up in a fantasy about it’s own effectiveness in actually protecting the rights of the poorest and most vulnerable. This movement by the Indian Supreme Court charts an av enue that holds promise for the anti - colonial struggles of legal advocates elsewhere.