# 1NC vs Texas DK

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### 1NC – T – USFG

#### Interpretation: Topical affirmatives must instrumentally defend an increase by the United States federal government in prohibitions on anticompetitive business practices by expanding the scope of core antitrust laws

#### United States federal government means the three branches of government

USA.gov 13 "USA.gov is the U.S. government's official web portal" http://www.usa.gov/Agencies/federal.shtml

U.S. Federal Government - The three branches of U.S. government—legislative, judicial, and executive—carry out governmental power and functions.

#### “Expand the scope” means broadening the range of claims that can be brought by plaintiffs

Barrera 96 – J.D., Wayne State University Law School

Lise A. Barrera, “Is the Courtroom the New Front for the Resolution of Publishing Disputes?,” The Wayne Law Review, Vol. 42, Summer 1996, LexisNexis

It is important to note the distinction between the expansion of the scope of section 43(a) and the standard that courts apply in granting relief to claims under this section. The scope of section 43(a) allows plaintiffs to claim the section provides them with protection and thus should grant them relief. The expansion of the scope allows a much broader range of claims to be brought legitimately under section 43(a). Once the scope of the statute allows the claim to be brought, the courts apply a standard to the claim in order to determine whether a plaintiff should be granted relief.22 The standard applied is also the product of years of judicial interpretation. While the scope of section 43(a) is expanding, however, the standard for relief seems to be becoming higher and harder to meet.

#### The “core antitrust laws” are the Sherman and Clayton Acts

Felsenfeld 93 – Professor of Law, Fordham University School of Law

Carl Felsenfeld, “The Bank Holding Company Act: Has It Lived Its Life?,” Villanova Law Review, Vol. 38, January 1993, LexisNexis

It is well established that, despite the "extensive blanket of state and federal regulation of commercial banking, much of which is aimed at limiting competition,"480 the United States' core antitrust statutes (the Sherman and Clayton Acts) apply to banks.481 There is respectable opinion that "existing antitrust laws are fully adequate to guard against anticompetitive mergers or acquisitions, or other anticompetitive activity, in the banking industry."482 A proposal to remove the BHCA, however, is not a suggestion that only the Sherman and Clayton Acts would impose antitrust limitations on banks. The other bank laws and regulations would continue in effect.483

#### Two impacts ---

#### 1] The process of research---debates on a narrow and predictable set of issues create a sustainable research incentive, where the negative knows a finite set of issues debates can come down to, and focus on researching those---that competitive incentive is shattered when the Aff can come in and say anything to make that research irrelevant

#### It’s intrinsically valuable---this forces us to dive deep into scholarship, and builds the ability to research effectively and identify relevant information. Any action, whether pessimistic or optimistic, requires knowing how to research information and come to well-defended conclusions about the would

#### 2] Games cannot operate unless both sides can be confident in advance they have a chance of winning---leaving the neg guessing until the round starts about what they need to do to win locks in losses, makes research futile, and creates a game without rules that’s meaningless and unenjoyable

### 1NC – Antitrust C/A

#### Counteradvocacy – use logistics in the form of economic regulations to prohibit anticompetitive nascent acquisitions by dominant tech platforms pursuant to the rule of reason

#### Prefer a tailored defense of competition policy—it is compatible with broader anti-neoliberalism, but wholesale rejection is an awful idea

Coniglio, antitrust attorney in the Washington, DC office of Sidley Austin LLP, ‘20

(Joseph V., “Economizing the Totalitarian Temptation: A Risk-Averse Liberal

Realism for Political Economy and Competition Policy in a Post-Neoliberal Society,” 59

Santa Clara L. Rev. 703)

The implication of the foregoing is that the most pressing task for competition policymakers may not involve a rethinking of first principles. The principles of neoliberal competition policy may have ultimately been proven justified by an unprecedented period of economic growth, technological progress and reductions in poverty, and should presumably remain operative as long as they remain the best framework for bringing about these ends. Neither, as we have suggested, must the capitalist entrepreneur be lost in the process. The totalitarian temptation to submit to general state control of the economy-whether it be in the form of communism from below or fascism from above should be resisted so as to preserve and build upon the great prosperity Western Civilization has managed to achieve.

This statement will no doubt be highly unsatisfactory to many critics of neoliberalism who seek more fundamental and revolutionary changes. Surely, they suggest, there must be some principled basis for critiquing the neoliberal status quo with which so many are frustrated. Indeed, there very well may be, and none of the arguments in this article should be understood to the contrary. The goal of this article has been limited to a tailored defense of neoliberal principles only as they relate to competition policy, broadly understood. It does not suggest that neoliberal monetary, trade, and fiscal policies are also sound-let alone a neoliberal social order, where all the core institutions within society are organized according to the neoliberal principles of wealthmaximization, empiricism, and the rest.129 This is to say that even if neoliberalism is a sound theory as applied to the area of competition policy, neoliberal monetary policy, for example, may be problematic and a just target for contemporary critics. Similarly, claiming that competition policy should be enforced using a consumer welfare standard does not mean that all the organs of law and civil society should be oriented to maximize wealth or consumer welfare, even if this economic inquiry is nonetheless informative. 30 It is well known that several prominent neoliberals have expanded the neoliberal policy apparatus beyond the regulation of market capitalism with which antitrust is concerned to domains typically understood to be beyond a purely utilitarian purview.' 3 ' However, whatever the merits of these broader neoliberal policy programs, the competition policy baby, so to speak, should not be thrown out with the bathwater.

Consider the charge that neoliberal policies have increased wealth inequality in the United States. Some commentators attempt to link this increased inequality with a decline in competition'3 2 and, by implication, consumer welfare competition policy. Notwithstanding the interest such theories appeared to have garnered from highly distinguished economists and policymakers, such as Nobel Laureate Joe Stiglitz,133 one might alternatively consider whether increasing wealth inequality and the resultant social strife are far more a result of policies in other areas, such as monetary policy. 134 At the same time as Chicago School antitrust policy took root, the American economy began to undergo sustained expansions in the money supply and reductions in interest rates that, at least in theory, disproportionately reward the owners of financial assets, who are more likely to be wealthy. 135

Indeed, after the financial crisis, monetary policy engaged in a truly unprecedented expansion, with the Federal Reserve lowering interest rates to zero and increasing its balance sheet from approximately $900 billion before the crisis to $4.5 trillion after, most of which constituted either troublesome mortgage-backed securities or treasury bonds. 36 The share of wealth of the world's richest people roughly doubled. 37 At the same time, however, one would seem to look in vain for any shift toward an increased laissez faire competition policy during the Obama administration. Indeed, antitrust enforcement under the Obama administration arguably increased relative to the George W. Bush administration, even if only at the margins and not in the area of monopolization. 3

#### Prospect of big tech acquisition dampens innovation

Allensworth, Professor of Law at Vanderbilt Law School, ‘21

(Rebecca, “Antitrust’s High-Tech Exceptionalism,” 130 Yale L.J. 588)

E. Whither Innovation?

As a theoretical matter, big tech’s refusals to deal and predatory copying suppress innovation. A retailer with a new idea for a household product will be less inclined to invest in producing it if he knows Amazon can appropriate the returns. A developer with a better “app for that” will be less likely to bring it to market if she believes Apple or Facebook might someday remove it from their platforms. And if a rival search company cannot hope to keep its data private from Google, it will not invest in building a better search engine to try to take on the giant.

Whether big tech stifles innovation as an empirical matter is less clear, but there is anecdotal evidence that it does. During a recent hearing following the House Judiciary Committee’s investigation into competition abuses among high-tech firms, Representative Cicilline read a quote that he said was typical of the entrepreneurs he interviewed: “If someone came to me with an idea for a website or a web service today, I’d tell them to run. Run as far away from the web as possible.”111 Venture capital, while booming overall,112 is shy about funding projects that might compete with Big Tech. The best-case scenario for a start-up is acquisition by one of the big four—a lucrative payday, for sure, but nothing compared to what could come from actually toppling a dominant firm. This puts a ceiling on the upside, and with the ever-present risk of failure, it likely leads to under-investment in new ideas. As one funder put it, “[w]e don’t touch anything that comes too close to Facebook, Google or Amazon.”113

CONCLUSION: “ANTITRUST IS GREEDY”

The promise that we saw in high tech during its first boom—that it would change the way we work, communicate, shop, and play—has largely been realized. Few can argue with the efficiencies that digital communication and commerce have brought to our lives and markets. But, as Professor Herbert Hovenkamp has said, “antitrust is greedy.”114 It wants not only efficiency in end products, but efficiency in the competitive process that brings them about. During the dot-com era, American antitrust institutions became enthralled with the idea that encouraging the development of dynamic, innovative products required compromising our commitment to dynamic, innovative markets. That compromise contributed—in a way that is often overlooked—to the current competition crisis in big tech.

#### Tech behemoths won’t take DOD contracts. Competition incentives would encourage smaller firms to develop AI for the sole purpose of defense needs.

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3. Are smaller vendors more likely to produce innovative products that meet the Pentagon’s needs?

Tech industry leaders have relatively **little incentive** to work with the Pentagon. Their companies already enjoy **broad customer bases** and financial independence from U.S. government contracts—including those **at the Pentagon**.89 DOD contracts involve **applying** AI technology in varied, complex, and **operationally demanding** environments with **low tolerance** for error. Similarly, industry has **little motivation** to take on unique DOD **data management** and privacy requirements, such as data compartmentalization, protection against deceptive or compromised data inputs, and strict **data accountability** provisions complicating **algorithm training**.90 Finally, some commercial AI advances will easily convert into Pentagon applications. Others will require significant, difficult adaption and productization.

Antitrust action could create **smaller AI firms** targeting DOD business as their “**niche**.” With the Pentagon as their **sole customer**, these firms could focus on its unique needs, tailoring broader AI innovations for the Pentagon through **productization** and **organizational adaptation**. They could follow the example of **Palantir**, which makes 50 percent of its revenue from **government contracts**,91 or Kratos (60 percent).92 In the last five years, a **number of companies** have emerged in this mold, including Anduril Labs (2017), Shield AI (2015), Descartes Labs (2014), and Uptake (2014). As smaller firms’ primary, high-value customer, the Pentagon can **dictate** their innovation objectives, ultimately yielding AI applications better suited to **defense needs**.

#### Military AI ushers in the erosion of conventional deterrence – developing it is necessary to prevent great power wars.

Brose ’19 – Senior Fellow at the Carnegie Endowment for International Peace [Christian; Senior Fellow at the Carnegie Endowment for International Peace; 2019; "The New Revolution in Military Affairs"; Foreign Affairs; <https://www.foreignaffairs.com/articles/2019-04-16/new-revolution-military-affairs>

Yet if ever there were a time to **get serious** about the coming revolution in **military affairs**, it is **now**. There is an emerging consensus that the United States' top **defense-planning priority** should be **contending** with **great powers** with **advanced militaries**, primarily **China**, and that **new technologies**, once intriguing but speculative, are now both **real** and **essential** to **future military advantage**. Senior military leaders and defense experts are also starting to agree, albeit belatedly, that when it comes to these threats, the United States is **falling dangerously behind**.

This reality demands more than a revolution in technology; it requires a revolution in thinking. And that thinking must focus more on how the U.S. military fights than with what it fights. The problem is not **insufficient spending** on defense; it is that the U.S. military is being countered by **rivals** with **superior strategies**. The United States, in other words, is playing a **losing game**. The question, accordingly, is not how **new technologies** can improve the U.S. military's ability to do what it already does but how they can enable it to operate in **new ways**. If American defense officials do not answer that question, there will still be a **revolution in military affairs**. But it will primarily **benefit others**.

It is still possible for the United States to adapt and succeed, but the scale of change required is enormous. The **traditional model** of U.S. **military power** is being **disrupted**, the way Blockbuster's business model was amid the rise of Amazon and Netflix. A military made up of **small numbers** of **large**, **expensive**, **heavily manned**, and **hard-to replace** systems will not **survive** on **future battlefields**, where swarms of **intelligent machines** will deliver violence at a **greater volume** and **higher velocity** than **ever before**. Success will require a **different kind of military**, one built around **large numbers** of **small**, **inexpensive**, **expendable**, and **highly autonomous** systems. The United States has the money, human capital, and technology to assemble that kind of military. The question is whether it has the imagination and the resolve.

NEW TECHNOLOGIES, OLD PROBLEMS

**Artificial intelligence** and other emerging technologies will change the way **war is fought**, but they will not change its nature. Whether it involves longbows or source code, war will always be violent, politically motivated, and composed of the same three elemental functions that new recruits learn in basic training: move, shoot, and communicate.

Movement in warfare entails hiding and seeking (attackers try to evade detection; defenders try to detect them) and penetrating and repelling (attackers try to enter opponents’ space; defenders try to deny them access). But in a world that is becoming one giant sensor, hiding and penetrating—never easy in warfare—will be far more difficult, if not impossible. The amount of data generated by networked devices, the so-called Internet of Things, is on pace to triple between 2016 and 2021. More significant, the proliferation of low-cost, commercial sensors that can detect more things more clearly over greater distances is already providing more real-time global surveillance than has existed at any time in history. This is especially true in space. In the past, the high costs of launching satellites required them to be large, expensive, and designed to orbit for decades. But as access to space gets cheaper, satellites are becoming more like mobile phones—mass-produced devices that are used for a few years and then replaced. Commercial space companies are already fielding hundreds of small, cheap satellites. Soon, there will be thousands of such satellites, providing an unblinking eye over the entire world. Stealth technology is living on borrowed time.

On top of all of that, quantum sensors—which use the bizarre properties of subatomic particles, such as their ability to be in two different places at once—will eventually be able detect disruptions in the environment, such as the displacement of air around aircraft or water around submarines. Quantum sensors will likely be the first usable application of quantum science, and this technology is still many years off. But once quantum sensors are fielded, there will be nowhere to hide.

The future of movement will also be characterized by a return of mass to the battlefield, after many decades in which the trend was moving in the opposite direction—toward an emphasis on quality over quantity—as technology is enabling more systems to get in motion and stay in motion in more places. Ubiquitous sensors will generate exponentially greater quantities of data, which in turn will drive both the development and the deployment of artificial intelligence. As machines become more autonomous, militaries will be able to field more of them in smaller sizes and at lower costs. New developments in power generation and storage and in hypersonic propulsion will allow these smaller systems to travel farther and faster than ever. Where once there was one destroyer, for example, the near future could see dozens of autonomous vessels that are similar to missile barges, ready to strike as targets emerge.

Technology will also transform how those systems remain in motion. Logistics—the ability to supply forces with food, fuel, and replacements—has traditionally been the limiting factor in war. But autonomous militaries will need less fuel and no food. Advanced manufacturing methods, such as 3-D printing, will reduce the need for vast, risky, and expensive military logistics networks by enabling the production of complicated goods at the point of demand quickly, cheaply, and easily.

In an even more profound change, space will emerge as its own domain of maneuver warfare. So far, the near impossibility of refueling spacecraft has largely limited them to orbiting the earth. But as it becomes feasible to not just refuel spacecraft midflight but also build and service satellites in space, process data in orbit, and capture resources and energy in space for use in space (for example, by using vast solar arrays or mining asteroids), space operations will become less dependent on earth. Spacecraft will be able to maneuver and fight, and the first orbital weapons could enter the battlefield. The technology to do much of this exists already.

THE MILITARIES OF TOMORROW

Technology will also radically alter how militaries shoot, both literally and figuratively. Cyberattacks, communication jamming, electronic warfare, and other attacks on a system’s software will become as important as those that target a system’s hardware, if not more so. The rate of fire, or how fast weapons can shoot, will accelerate rapidly thanks to new technologies such as lasers, high-powered microwaves, and other directed-energy weapons. But what will really increase the rate of fire are intelligent systems that will radically reduce the time between when targets can be identified and when they can be attacked. A harbinger of this much nastier future battlefield has played out in Ukraine since 2014, where Russia has shortened to mere minutes the time between when their spotter drones first detect Ukrainian forces and when their precision rocket artillery wipes those forces off the map.

The militaries of the future will also be able to shoot farther than those of today. Eventually, hypersonic munitions (weapons that travel at more than five times the speed of sound) and space-based weapons will be able to strike targets anywhere in the world nearly instantly. Militaries will be able to attack domains once assumed to be sanctuaries, such as space and logistics networks. There will be no rear areas or safe havens anymore. Swarms of autonomous systems will not only be able to find targets everywhere; they will also be able to shoot them accurately. The ability to have both quantity and quality in military systems will have devastating effects, especially as technology makes lethal payloads smaller.

Finally, the way militaries communicate will change drastically. Traditional communications networks—hub-and-spoke structures with vulnerable single points of failure—will not survive. Instead, technology will push vital communications functions to the edge of the network. Every autonomous system will be able to process and make sense of the information it gathers on its own, without relying on a command hub. This will enable the creation of radically distributed networks that are resilient and reconfigurable.

Technology is also inverting the current paradigm of command and control. Today, even a supposedly unmanned system requires dozens of people to operate it remotely, maintain it, and process the data it collects. But as systems become more autonomous, one person will be able to operate larger numbers of them single-handedly. The opening ceremonies of the 2018 Winter Olympics, in South Korea, offered a preview of this technology when 1,218 autonomous drones equipped with lights collaborated to form intricate pictures in the night sky over Pyeongchang. Now imagine similar autonomous systems being used, for example, to overwhelm an aircraft carrier and render it inoperable.

Further afield, other technologies will change military communications. Information networks based on 5G technology will be capable of moving vastly larger amounts of data at significantly faster speeds. Similarly, the same quantum science that will improve military sensors will transform communications and computing. Quantum computing—the ability to use the abnormal properties of subatomic particles to exponentially increase processing power—will make possible encryption methods that could be unbreakable, as well as give militaries the power to process volumes of data and solve classes of problems that exceed the capacity of classical computers. More incredible still, so-called brain-computer interface technology is already enabling human beings to control complicated systems, such as robotic prosthetics and even unmanned aircraft, with their neural signals. Put simply, it is becoming possible for a human operator to control multiple drones simply by thinking of what they want those systems to do.

Put together, all these technologies will displace decades-old, even centuries-old, assumptions about how militaries operate. The militaries that embrace and adapt to these technologies will dominate those that do not. In that regard, the U.S. military is in big trouble.

A LOSING GAME

Since the end of the **Cold War**, the United States' approach to **projecting military force** against regional powers has rested on a series of **assumptions** about how conflicts **will unfold**. The U.S. military assumes that its forces will be able to move **unimpeded** into forward positions and that it will be able to **commence hostilities** at a time of **its choosing**. It assumes that its forces will operate in **permissive environments**-that adversaries will be **unable to contest** its **freedom of movement** in any domain. It assumes that **any quantitative advantage** that an adversary may possess will be **overcome** by its own **superior ability** to **evade** detection, **penetrate** enemy defenses, and **strike targets**. And it assumes that U.S. forces will suffer **few losses** in combat.

These **assumptions** have led to a force built around relatively **small numbers** of **large**, **expensive**, and **hard-to-replace** systems that are optimized for moving undetected close to their targets, shooting a limited number of times but with extreme precision, and communicating with impunity. Think stealth aircraft flying right into downtown Belgrade or Baghdad. What's more, systems such as these depend on **communications**, **logistics**, and **satellite networks** that are almost **entirely defenseless**, because they were designed under the **premise** that no adversary would ever be able to **attack them.**

This military enterprise and its underlying suppositions are being called into question. For the past two decades, while the United States has focused on **fighting wars** in the **Middle East**, its competitors-especially **China**, but also **Russia**-have been dissecting its way of war and **developing** so-called anti-access/area-denial (or A2/AD) capabilities to **detect U.S. systems** in **every domain** and **overwhelm them** with large salvos of precision fire. Put simply, U.S. rivals are fielding **large quantities** of **multimillion-dollar weapons** to destroy the United States' **multibillion-dollar military** systems.

China has also begun work on **megaprojects** designed to **position it** as the **world leader** in **artificial intelligence** and other advanced technologies. This undertaking is not exclusively military in its focus, but every one of these **advanced-technology megaprojects** has **military applications** and benefits the **People's Liberation Army** under the doctrine of "**military-civil fusion**." Whereas the U.S. military still largely treats its data like engine exhaust-a **useless byproduct**-China is moving with **authoritarian zeal** to stockpile its data like **oil**, so that it can power the **autonomous** and **intelligent** military systems it sees as **critical** to **dominance** in **future warfare**.

The United States' position, **already dire**, is **rapidly deteriorating**. As a 2017 report from the rand Corporation concluded, "U.S. forces could, under plausible assumptions, lose the **next war** they are **called upon to fight**." That same year, General Joseph Dunford, chairman of the Joint Chiefs of Staff, sounded the alarm in stark terms: "In **just a few years**, if we do not **change** the **trajectory**, we will **lose** our qualitative and quantitative **competitive advantage**."

The **greatest danger** for the United States is the **erosion of conventional deterrence**. If leaders in **Beijing** or **Moscow** think that they might **win a war** against the United States, they will run **greater risks** and **press their advantage**. They will take actions that steadily undermine the United States' commitments to its allies by casting doubt on whether Washington would really send its military to defend the Baltics, the Philippines, Taiwan, or even Japan or South Korea. They will try to **get their way** through **any means necessary**, from coercive diplomacy and economic extortion to meddling in the domestic affairs of other countries. And they will steadily harden their **spheres of influence**, turning them into areas ever more **hospitable** to **authoritarian ideology**, **surveillance states**, and **crony capitalism**. In other words, they will try, as the military strategist Sun-tzu recommended, to "win without fighting."

### 1NC – Anti-Domination K

#### The aff’s embrace of planned failure rejects the left’s ability to reclaim institutional power – that forecloses our ability to solve climate change, fascism, and inequality

Dorman 16

Peter Dorman, Faculty in the Political Economy Department at Evergreen State College, “The Climate Movement Needs to Get Radical, but What Does that Mean?,” Nonsite. May 26, 2016. http://nonsite.org/editorial/the-climate-movement-needs-to-get-radical-but-what-does-that-mean

2. The cultural turn has gone too far. Of course, the deciphering of discourses has much to recommend it; all social action takes place in a context of meanings—shared, contested or both. It’s remarkable, however, that a high profile book that claims to be about radical social change, and which has won widespread approval across the leftward half of the political spectrum, could sidestep any sustained consideration of wealth and power altogether.

Why have governments failed to act to counter the threat of catastrophic climate change? Is it solely because of faulty thinking, or could it be that there exists a gross imbalance of power in every modern capitalist country, such that business interests are firmly in control? What institutions wield this power and what methods do they use? Crucially, how can those who struggle for democratic collective action contest this power? What types of organizations can be effective? What structural changes should be prioritized to rebalance power and enable rational solutions to overriding problems like climate change? I wouldn’t fault Klein for failing to provide answers—who has? What is astonishing, however, is that the questions are never posed, not even in passing. What does it mean to espouse radical politics and never take up the issue of power?

But a second absence is even more telling. At variou–s points Klein refers to the need for a price to be placed on carbon; it clearly is not her main interest, since she devotes no space at all to the political struggle required to achieve this, but she recognizes it is an important part of the story. What’s missing, however, is any serious consideration of how much money this will be, out of whose pockets it will be extracted and to whose pockets it will be transferred. I cannot emphasize how extraordinary it is for a book to be ostensibly about capitalism but pay so little attention to money.

The reality is that carbon revenues will be immense. If even approximately sufficient global action is undertaken, the sums will be in the trillions of dollars. And despite Klein’s moral calculus, the actual, real-life operation of carbon pricing will guarantee that it is the public at large—everyone who purchases a good or service with a carbon energy component—that will pay it. This is visible in gasoline taxes today, which consumers pay at the pump; a carbon price, whether it is engineered by a tax or a cap on permits, will be the same sort of tax writ very, very large. Such a tax will be regressive, and lower income people will effectively be taxed at a higher rate.

This is potentially catastrophic on multiple levels. It is intolerable from a social justice perspective in an age of rampaging inequality. It would also be impossible to disguise from voters, making it difficult to impossible to get majority support for a stiff carbon price. Klein blithely recommends using this new source of revenue to finance green investments, but she doesn’t inquire whose money is being spent, nor does she consider that, in practice, governments will simply shift a lot of the investments they would have made anyway over to this new revenue spigot, freeing up more money for their other pet projects. The one word that sums up Klein’s attitude toward this trillion-dollar question is uninterested.

Of course, there are ways to turn around the economics of carbon pricing. The money can be returned to the public on an equal per capita basis, which would have the effect of turning an otherwise regressive transfer system into a progressive, inequality-reducing one. Given the amount of money at stake, this will require a massive political mobilization, but it is worth fighting for. To repeat, however, the purpose of bringing up this issue is not to proselytize for a different system of carbon pricing, but simply to point out the glaring incongruity of an ostensibly radical, anti-capitalist book (a rather long one at that) which ignores the single most important principle for how things work in a capitalist society: follow the money!

3. The left has adapted to powerlessness. This Changes Everything practically exudes triumphalism, especially in the final hundred pages or so. Vibrant, righteous movements are springing up everywhere, we are told, and through their proliferation they will change the world.

Except, of course, they won’t. They do not have the means to change the world to something different, only to obstruct the bits of the existing world they can get their bodies in front of. That is important to do, and it can play a crucial role in a larger movement to contest power—if that movement can come into existence. If no larger movement arises, the local fires will be put out one by one. A radical political vision cannot abjure politics, and it is politics which is missing from Klein.

Here it is necessary to step back and consider the historical context. In the English-speaking world, and to a lesser extent in other wealthy, capitalist countries, the past several decades have seen profound defeat and demobilization on the left. In no country is there a mass political party with a program to transform the existing political economic order into something else. Unions, where they have any clout at all, have been fighting a rearguard struggle to retain as many of the gains of former times as they can. Of course, there have also been substantial victories for racial, gender and other social equalities and a general drift toward less authoritarian cultural norms. But the core institutions of wealth and power are more firmly entrenched now than they have been in generations, and the left as a political force is hardly noticeable.

How have those who still identify with the left coped with this epoch of powerlessness? There are many answers, but all of them express some form of disengagement. For instance, redefining politics as the performance of moral virtue rather than the contest for power can provide consolation when political avenues appear to be blocked. Activities of this sort are evaluated according to how expressive they are—how good they make us feel—rather than any objective criterion of effectiveness in achieving concrete goals or altering the balance of political forces. This is how I would interpret Blockadia, for instance, in the absence of a broader movement that includes both direct action and political contestation: Klein can devote page after page to how righteous these activists are without any attention to whether they have had or have any prospect of having an impact on carbon emissions. Their very activism constitutes its own victory, which is convenient if the more conventional sort of victory is believed to be out of reach. (It is bad form to even bring this up: why, some will ask, am I dwelling on the negative with so much positive energy to celebrate?)

Another response is to collapse social change into personal choices over lifestyle and philosophy. If you believe that the threat of climate change can be defeated by a shift to more modest consumption habits and rejection of the false intellectual gods of globalization and economic growth, one individual at a time, then each moment of conversion constitutes its own little victory. The reader of Klein’s book, feeling a sense of unity with that consciousness and its program to downshift consumption, can experience this victory first hand. This is very gratifying, and it reinforces the message that powerlessness in conventional terms is irrelevant, since the change we are part of is at a deeper level than governments and their laws or corporations and their assets. After all, what can be more subversive than thinking new thoughts?

One of Klein’s favorite adaptations is the conflation of wishes and operative political programs. Again and again she holds up statements of intent—protect Mother Earth, treat all people equally, respect all cultures, live simple, natural, local lives—as if they were proposals whose implementation would have these outcomes. It’s all ends and no means. This is a double convenience: first it eliminates the need to be factual and analytical about programs, since announcing the goal is sufficient unto itself, and second, it evades the disconcerting problem of how to deal with the daunting political challenge of getting such programs (if they even exist) enacted and enforced. I believe the treatment of goals as if they were programs is the underlying reason for the sloppiness of this book on matters of economics and law. Klein can say we should finance a large green investment program by taxing fossil fuel profits, or we should simultaneously shrink the economy and increase the number of jobs, because in the end it doesn’t matter whether these or other recommendations could actually prove functional in the real world. The truth lies in the rightness of the demand, not the means of fulfilling it. But this too is an adaptation to powerlessness.

To close, I wish to emphasize that this critique is ultimately not directed at a single individual. On the contrary, even if we consider only this one book, it is clear that its writing was a team effort; the long acknowledgments section identifies both paid assistants and an army of internal reviewers. But what I find diagnostic is the warm reception it received from virtually every media outlet on the English-speaking left. This suggests that Klein is moving with the political tide and not against it, and that the problems that seemed obvious to me were either invisible to her reviewers or regarded as too insignificant to bring up. The view that capitalism is a style of thinking, progress is a myth, and political contestation is irrelevant to “true” social change belongs not just to this one book but to all the commentators who found nothing to criticize. That’s the real problem.

#### Embracing the state’s ability to coordinate logistics is key to substantive equality – political commitments should embrace anti-domination as a method of redressing disparities in power – turns the K

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K. Sabeel Rahman, “Book Review: Reconstructing the Administrative State in an Era of Economic and Democratic Crisis,” *Harvard Law Review*, vol. 131, 2018, pp. 1682-1689, https://harvardlawreview.org/wp-content/uploads/2018/04/1671-1712\_Online.pdf.

A. Privatization and the Challenge of Contesting Economic and Social Structure

The regulatory state did not simply come into being because of the complexity of modern governance; rather, in its key moments of institutional innovation and development, the rise of modern administration has always been closely tied to substantive aspirations to counteract inequalities, hierarchies, and disparities of power generated by a changing social and economic order. As Michaels writes, the socioeconomic upheavals of industrialization led an "increasingly inclusive and mobilized public" to demand "greater protection from the vagaries, deceptions, and dangers of the marketplace" (p. 41). As a result, a "State newly tasked with these weighty and extensive responsibilities (and newly attuned to the disciplining effects of a more demanding, empowered, and diverse electorate) could no longer get away with being small or amateurish" (p. 41). The outcome of these demands was a burst of institutional innovation and state formation that created the explosion of new administrative bodies, commissions, and bureaucrats in the Progressive Era, accelerating with President Roosevelt's New Deal. While Michaels is certainly right to highlight the ways in which the professionalization and proceduralization of these new administrative powers were central to their legitimation, the rise of the modern regulatory state -- and its political and normative valence -- has to be understood in context of these substantive aspirations and concerns arising from the industrial economy.

The upheavals of industrialization generated more than simple economic dislocation; they provoked a deep political crisis. 26 Late nineteenth-century thinkers, lawyers, and reformers saw industrial capitalism as a fundamental threat to existing institutions and political ideals. Industrialization produced widespread immiseration, dislocation, and precarity. 27 But it also produced very clear and threatening new forms of economic power: the power of managers over workers and the rise of new corporate titans like J.P. Morgan, the Vanderbilts, and the Rockefellers, whose corporate control over finance, rail, oil, and other foundational goods and services placed whole towns and business sectors at their mercy. 28 At the same time, political institutions themselves were already viewed as captured, corrupt, or otherwise incapable of meeting these challenges: legislative corruption was a widespread concern, and a conservative judiciary posed a threat to basic state police powers aimed at protecting workers, health, and safety -- and curbing these new forms of corporate power. 29 This context generated social movements across the country, from the Farmers' Alliance (which would become the widespread Populist movement), to the largely urban, middle-class Progressive movement, to the growing organized labor movement. 30

While these movements were themselves highly diverse and heterogeneous in their members and demands, they shared a common set of ideas: that the industrial economy was a highly unequal one shaped by new forms of domination and power, and that for economic and political liberty to survive industrialization, new institutions would have to be created to empower the public and check the excesses of industrialization. First, the problem of industrial capitalism was not just one of income inequality or maldistribution. More critically, it was a problem of economic power. 31 For antitrusters and crusaders like Louis Brandeis, a key problem was that a variety of private actors, from monopolies and trusts, to finance, to corporations more broadly, had accumulated a degree of quasi-sovereign control over the economic vitality and well-being of individuals and communities -- yet were not subject to the kinds of checks and balances and norms of public justification that would have accompanied equivalent exercises of public power. 32 This problem of economic power also appeared in Progressive Era critiques of the market system itself. On this view, as thinkers like Robert Hale and John Dewey suggested, what might appear as impersonal "market forces" that, for example, drove wages down or prices up, were in fact the cumulative result of thousands of microscale transactions and bargains, each of which took place under (legally determined) disparities of power. Law constructed markets -- and thus shaped market forces themselves. 33

Second, if the problem of capitalism was really a problem of power, then the remedy required the construction of new forms of civic capacity empowered to contest such private and market power. Thus, for Progressive Era reformers, a key challenge was the challenge of action-ability. 34 As Dewey put it in his influential book, The Public and Its Problems, the problem of the modern public was that it was too scattered, diffuse, and disorganized, incapable of asserting its interests in the face of the pressures of the industrial economy. 35 By its very nature, economic inequality in an industrializing economy could not be counteracted at an individual level; the background disparities of power were systemic and could be altered only by equally systemic changes to the background rules of the marketplace itself. Indeed, this was one of the central insights of legal realist scholars and progressive economists like John Commons, Robert Hale, Richard Ely, and others, who saw the prospects for economic equity as requiring expansive efforts to restructure the background rules of the market itself. 36 By creating new institutions like regulatory bodies, reformers made it more possible to act on these seemingly powerful and diffuse forces; by situating these bodies in a larger context of public-oriented, democratic politics, these agencies could fairly be seen as agents of the public good. Thus, private power would be made contestable and governable by democracy. 37

These are the kinds of aspirations that fueled the experimentation with the expansion of the administrative state: starting at the state and local level with the efforts by cities to municipalize private utility companies and by state governments to create railroad oversight commissions and agencies to address labor, poverty, and public health, and then reaching the federal level as the Progressive Era Administrations of Presidents Theodore Roosevelt and Woodrow Wilson began to experiment with antitrust and economic regulatory oversight. 38 As Professor William Novak has convincingly argued, this proliferation of state and local regulatory experiments shaped a generation of legal scholars and policymakers, giving rise to the modern techniques of administrative governance and making the later New Deal creation of the modern administrative state possible. 39 The rise of administration, then, was inextricably related to the rise of democracy, in two related senses: first, the building of state regulatory capacity provided the democratic public as a whole with new tools through which to make a vision of socioeconomic order possible; second, these tools were at the outset oriented, at least in part, toward a substantive vision of democratic accountability and equality, not just of governmental actors, but perhaps even more importantly, of private economic actors whose unchecked private and market power posed a threat to democratic opportunity.

This relationship between democratic political agency and capacity, substantive ideals of democratic equality, and the administrative state also animated important episodes of regulatory institutional development and innovation in the mid- and late twentieth century. As the growing literature on "administrative constitutionalism" suggests, the frontline battles for economic, racial, and gender equality often involved the building and deploying of bureaucratic capacity, and internal battles between social movements and bureaucrats. 40 It was through the creation of regulatory institutions that labor rights, nondiscrimination protections, and access to federal welfare programs from Medicare to poverty assistance were made possible. Furthermore, it was through the pressures exerted on these bureaucracies by social movements that these regulatory tools were gradually repurposed toward enforcing and implementing equity- and inclusion-enhancing programs.

Consider, for example, Professor Karen Tani's recent work on the administration of welfare rights. As Tani documents, the development of a modern welfare rights regime involved a hard-fought shift away from a view of welfare as charitable support for the needy to welfare as a right that was an entitlement owed to members of the polity. 41 This shift had to be negotiated and was driven in large part by bureaucrats within the Social Security Administration, who asserted their specific vision of welfare as entitlement over the resistance of local welfare system administrators. To make the idea of welfare rights a reality, these bureaucrats experimented with implementing greater process protections for claimants. 42 These federal officers also developed new approaches to training and hiring bureaucrats, socializing them into a way of doing their day-to-day work that took as an axiom this more robust commitment to welfare as entitlement. 43 The success or failure of this effort turned not so much on the role of judicial interpretations of constitutional doctrine or presidential directives, but rather on more bureaucratic concerns: jurisdictional turf battles between local and state administrators more hostile to expanded welfare benefits and federal agencies seeking to expand access, difficulties of sourcing enough trained personnel who shared this larger mission, and the like. 44

A similar story can be told about the construction of equal access to Medicare. As Professor David Smith details in his historical account, it was the politics of regulation that constructed the reality of equal access to Medicare as a universal entitlement. 45 This outcome was neither obvious, nor predetermined. Rather, it was the contingent result of a complex interplay of bureaucratic innovation, social movement pressure, and regulatory policymaking. As Smith argues, in the early days of Medicare, there was a very real threat that the program would be administered in racially discriminatory and exclusionary ways. 46 The health system emerging in the mid-twentieth century reflected the legacy of racial exclusion and hierarchy in the Jim Crow South, marked by segregated and geographically concentrated hospital systems, and driving vastly divergent health outcomes and mortality rates between whites and African Americans. 47 Civil rights movement groups like the NAACP, Southern Christian Leadership Conference, Student Nonviolent Coordinating Committee, and Congress of Racial Equality, made the integration of hospitals and the healthcare system a key focal point -- taking the lead from African American health professionals who drove these campaigns. 48 Pressure from civil rights leaders led to a major shift in Department of Health, Education, and Welfare leadership and culture. By December 1965, the agency issued a new internal memo that declared its mission to include the compliance with an enforcement of civil rights goals, through the administering of Medicare funding for hospital systems. 49 The agency created an Office of Equal Health Opportunity in February 1966 to enforce Title VI compliance for any hospital receiving Medicare payments. 50 This new office in turn hired teams of investigators, coordinating with civil rights groups to train them and to identify hospitals that might be violating civil rights requirements. 51

The rise of the administrative state was thus not a politically neutral endeavor. The checks and balances that legitimate administrative authority in essence make possible (but do not guarantee) the contestation of deep forms of economic and social inequality, subordination, or hierarchy. This is not to say that administrative authority is always equality or inclusion promoting -- hardly. But in a reality where background economic, social, and historical conditions already encode structural disparities of wealth, opportunity, power, and influence, eliminating regulatory agencies and tools that are potentially capable of addressing these disparities (even if they are not always deployed in these ways) precludes much of equality- or inclusion-promoting public policy from getting off the ground in the first place. The dismantling of administrative institutions, then, is similarly nonneutral. Scholars of the administrative process have long warned of the dangers of special interest capture of regulatory agencies, which would cause administrative authority to be redirected to serve some interests over others. 53 But agencies can also be captured and neutered through inaction -- through what political scientists call "drift," where highly resourced and sophisticated players are able to produce substantive policy change simply by holding existing rules in place in the face of changing external conditions. 54 Dismantling agencies altogether would be an even more extreme form of opposition to these potential uses: rather than trying to capture or simply neuter the agency, more radical efforts to deconstruct regulatory institutions cut off the very possibility by eliminating the regulatory capacity itself, a kind of complete and total capture through deconstruction.

This substantive valence of administrative power and its potential deconstruction adds an important layer to Michaels's critique of privatization. Michaels alludes to the ways in which privatization risks permanently dismantling institutional tools and capacities that are difficult to rebuild. As Michaels warns, under privatization, "we will have hollowed out the government sector to such an extent that we may well lack the capacity, infrastructure, and know-how to reclaim that which has increasingly been outsourced or marketized" (p. 12). He rightly notes that privatization emerged as a "pivot[]" strategy in the Reagan era, a "second-best" to dismantling regulatory bodies themselves (p. 97). This is a problem in particular because "the Market, at least in its pure, idealized state, is not democratic, deliberative, or juridical. . . . It is the world of Schumpeter and Coase, not Montesquieu or Madison" (p. 5). Private corporate governance, meanwhile, cannot replicate the kinds of checks and balances that the separation of powers principles require (p. 164).

Dismantling administration and returning to private ordering is therefore troubling for democracy in three senses. First, given prior background structural patterns of exclusion and disparities of wealth, power, and opportunity, a return to private economic and social ordering is by definition a return to economic inequality, social hierarchy, and exclusion. Second, the dynamics of market competition or of corporate governance cannot replicate or replace public institutions of democracy or of checks and balances. They operate fundamentally differently and are not substitutes. Third, a dismantling of regulatory institutions removes some of the most vital and effective mechanisms through which we as a democratic public seek to contest and reshape these background structural inequities and exclusions: without tools of general administrative policymaking and enforcement, these structural inequities are harder to overcome and reshape.

#### Unfettered neoliberalism leads to mass violence and environmental destruction --- institutional change is key

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(William, “Economics vs. the Economy,” http://www.greattransition.org/publication/economics-vs-the-economy)

Economic theories, though social constructions, can reflect reality to varying degrees. **In the face of** dire environmental challenges, **adopting a** realistic theory **is key to the** survival of global civilization. The neoliberal emphasis on limitless growth and monetary flows, a relic of nineteenth century thinking, **abstracts away from biological conditions**. By contrast, ecological economics—as distinct from environmental economics, which remains wedded to the neoliberal growth paradigm—understands the economy as a subsystem of the ecosphere and envisions a steady-state economy embedded **within natural constraints**. Achieving this equitably **will require significant redistribution** of wealth and income, reduction of material throughput, and a transition away from fossil fuels. Although the neoliberal paradigm remains dominant, its lack of fitness to current realities gives hope that an ecological alternative could ascend.

Social Constructs and Social Reality

Is there anything we can say about economics that takes us beyond pure “conjecture”? How can we tell whether one theorist’s interpretation of the economic process **is any “better” than another’s?**

These questions are not as simple as they seem. Of the many unique qualities that set Homo sapiens apart from other sentient beings, one of the most important is that we humans tend to create our own “realities.” To be more precise, we make up stories about almost everything, give tenacity to these stories through social discourse and repetition, and then “act out” the stories as if they were reality. Tribal myths, religious doctrines, political ideologies, academic paradigms, and grand cultural narratives are just some of the fabrications that can make or ruin individual lives and set the course for whole societies. Sociologists call the general phenomenon the “social construction of reality” (though it would be more accurate to refer to the social construction of shared perceptions). The fact of “social construction” provides a useful frame through which to assess the relative merits of neoliberal growth economics versus Herman Daly’s steady-state ecological economics for a full world.1

To begin, it is important to distinguish between “the economy” and “economics.” Both are made-up concepts, but with a significant difference. We define the economy as that set of activities by which human agents identify, develop/exploit, process, and trade in scarce resources. It generally encompasses everything associated with the production, allocation, exchange, and consumption of valuable goods and services, including the behavior of various agents engaged in economic activity. Different economies vary considerably in sophistication and organizational structure. However, **all economies are** real phenomena; people in every human society from primitive tribes through modern nation-states engage in economic activities as defined.

“Economics,” by contrast, **is pure abstraction**. It is that academic discipline dedicated to dissecting, analyzing, modeling, and otherwise describing the economy in simplified terms. Academic economists engage in the social construction of formalized models—verbal and arithmetic “paradigms”—about how the real economy works.

In fact, economists have advanced various competing economic paradigms to describe our modern, techno-industrial, mainly capitalist national and global economies. These differ substantially in terms of foundational principles, analytic tools, systemic scope, conclusions, and policy implications, particularly where the biophysical “environment” is concerned. This diversity should be no surprise: whatever their seeming conceptual elegance and analytic rigor, every economic paradigm is, at bottom, a socially-constructed figment of the human imagination, one that necessarily reflects the starting beliefs, values, and assumptions of its authors. And beliefs, values, and assumptions vary a great deal.

These insights should give us pause. Paradigms of all kinds, even those with demonstrably sketchy origins, assert enormous power over expressed human behavior. Indeed, it is truly remarkable that individuals and whole societies live in the real biophysical world guided by the parameters of various myths, paradigms, social norms, and cultural narratives that may have only a tenuous grip on that same reality.

This brings us back to wondering how reasonable people might choose between neoliberal growth economics and steady-state economics, particularly in a time of ecological turmoil. Postmodernists of the extreme relativist persuasion might argue that, **since all knowledge is socially constructed**, **there is no objective reality.** **Competing paradigms are therefore equally valid** (as in “my vision of the economy is as good as yours!”). This is dangerously wrong-headed: humans construct only their beliefs, not reality. **Relativistic equivalence** is itself a constructed fiction. Culture critic Neil Postman astutely observed, “You may say, if you \*wish, that all reality [i.e., perception] is social construction, but you cannot deny **that some constructions are ‘**truer’ than others**.** **They are not ‘truer’ because they are privileged; they are privileged because they are ‘truer.’**”2

To be clear, we should acknowledge that **many social constructs are pure illusion** with no counterpart in nature (e.g., the tooth fairy or the notion of a fiery hell); others specify entities that actually exist in total indifference to how people conceive of them (e.g., the law of gravity or the biogeochemical **cycling of nutrients**). Postman is referring to constructs in the latter category. All social constructions of real phenomena are conceptual models, **but a “truer” model will be supported by** tangible evidence, not opinion or wishful thinking. “**Truer” constructions are** better maps **that more fully and faithfully represent the real-world landscapes they purport to represent.**

It is also important to recognize that while belief in some illusory constructs (e.g., “the sun rises in the East”) is inconsequential, allegiance to **others can determine the fates of nations**. **How a society conceives of its economy**, for example, really matters. Indeed, operating from a realistic economic paradigm may even be a key to the survival of global civilization.

Neoliberal Mechanics or Eco-thermodynamics?

So, what do we know about real-world economic activities that might guide us in constructing a “true” economic paradigm? By “true,” I mean one that, among other requirements, adequately reflects the energy/material flows and biophysical processes basic to all living things, including human beings. It is not an exaggeration to say that such a paradigm is a matter of survival. After all, the human system functions like a multi-cellular organism except that, in addition to our bio-metabolic demands, we also have to account for humanity’s unique industrial metabolism. Six facts about humanity and the natural world seem particularly relevant:

1. All human economies are confined to planet Earth, i.e., they function within the ecosphere.

2. The entire human enterprise—our physical bodies, our possessions, and the infrastructure needed to maintain the functional integrity of the whole—is made from energy and materials that we extract from ecosystems and inanimate nature (i.e., from self-producing and non-renewable forms of so-called “natural capital”).

3. All energy and material flows/processes associated with economic activity are governed by well-known laws of physics and chemistry.

4. Real economies, societies, and ecosystems **are complex systems characterized** by lags, thresholds, and other forms of nonlinear behavior (complex systems dynamics) that make their trajectories under stress inherently difficult to predict.

5. The energy and material pathways associated with the acquisition of resources and the disposal of wastes require people to interact with both other species (ecosystems) and inanimate nature. In fact, a qualitative and quantitative record of these flows would describe humanity’s material ecological niche; the goods economy roughly maps the human ecosystem.

6. **The ecosphere is a finite entity with variable**, **but ultimately limited, regenerative and waste assimilation capacities.**

The next question is, how well do mainstream economics and Daly’s ecological economics respectively incorporate these framing constraints? The short answer for the neoliberal paradigm is “virtually not at all.” The dominant economics in this twenty-first century of increasing ecological turmoil is a relic of nineteenth century thinking. Its intellectual founders, motivated by the remarkable success of Newtonian physics, set out explicitly to model economics as the “mechanics of utility and self-interest.” The discipline consequently lost sight of the social context and purpose of economies and became totally abstracted from biological reality. Practitioners increasingly based their models on mechanical cause-effect logic and other simplistic assumptions in the service of analytic tractability. Growth through efficiency gradually became its raison d’être.

Analytic mechanics may have been a suitable platform for the design of early automobile engines, but it is grossly inadequate to reflect the lags, tipping points, multiple equilibria, irreversible transformations, and other complex dynamics of industrial economies or of the social and ecological systems within which they are embedded. However, since the scale of human activity relative to “the environment” was initially negligible, neoclassical economists were able to ignore biophysical context with impunity until the 1960s.

As pollution and general eco-dysfunction finally **became embarrassingly visible** (giving birth to modern environmentalism), the mainstream response was “environmental economics,” essentially an extension of the neoclassical growth-based paradigm. If environmental assets were being degraded, the solution was to monetize nature and let free markets do their magic. Put a price on pollution (i.e., “internalize the externalities”) and depend on market and technological efficiency gains to ease resource scarcity. Where that fails, human ingenuity, stimulated by rising prices**, will find substitutes for any failing good or service provided by nature.** As Nobel laureate economist Robert Solow famously wrote, “[t]he world can, in effect, get along without natural resources.”3 There was no perceived need to question the structural premises of the neoliberal model or its goal of unending growth through efficiency and technological progress. There are arguably no constraints on human ingenuity.

#### Rejection alone fails – lack of a coherent alternative locks in the neoliberal consensus

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George Monbiot, “Neoliberalism – the ideology at the root of all our problems,” *The Guardian*, 15 April 2016, <https://www.theguardian.com/books/2016/apr/15/neoliberalism-ideology-problem-george-monbiot>.

Imagine if the people of the Soviet Union had never heard of communism. The ideology that dominates our lives has, for most of us, no name. Mention it in conversation and you’ll be rewarded with a shrug. Even if your listeners have heard the term before, they will struggle to define it. Neoliberalism: do you know what it is?

Its anonymity is both a symptom and cause of its power. It has played a major role in a remarkable variety of crises: the financial meltdown of 2007‑8, the offshoring of wealth and power, of which the Panama Papers offer us merely a glimpse, the slow collapse of public health and education, resurgent child poverty, the epidemic of loneliness, the collapse of ecosystems, the rise of Donald Trump. But we respond to these crises as if they emerge in isolation, apparently unaware that they have all been either catalysed or exacerbated by the same coherent philosophy; a philosophy that has – or had – a name. What greater power can there be than to operate namelessly?

So pervasive has neoliberalism become that we seldom even recognise it as an ideology. We appear to accept the proposition that this utopian, millenarian faith describes a neutral force; a kind of biological law, like Darwin’s theory of evolution. But the philosophy arose as a conscious attempt to reshape human life and shift the locus of power.

Neoliberalism sees competition as the defining characteristic of human relations. It redefines citizens as consumers, whose democratic choices are best exercised by buying and selling, a process that rewards merit and punishes inefficiency. It maintains that “the market” delivers benefits that could never be achieved by planning.

Attempts to limit competition are treated as inimical to liberty. Tax and regulation should be minimised, public services should be privatised. The organisation of labour and collective bargaining by trade unions are portrayed as market distortions that impede the formation of a natural hierarchy of winners and losers. Inequality is recast as virtuous: a reward for utility and a generator of wealth, which trickles down to enrich everyone. Efforts to create a more equal society are both counterproductive and morally corrosive. The market ensures that everyone gets what they deserve.

We internalise and reproduce its creeds. The rich persuade themselves that they acquired their wealth through merit, ignoring the advantages – such as education, inheritance and class – that may have helped to secure it. The poor begin to blame themselves for their failures, even when they can do little to change their circumstances.

Never mind structural unemployment: if you don’t have a job it’s because you are unenterprising. Never mind the impossible costs of housing: if your credit card is maxed out, you’re feckless and improvident. Never mind that your children no longer have a school playing field: if they get fat, it’s your fault. In a world governed by competition, those who fall behind become defined and self-defined as losers.

Among the results, as Paul Verhaeghe documents in his book What About Me? are epidemics of self-harm, eating disorders, depression, loneliness, performance anxiety and social phobia. Perhaps it’s unsurprising that Britain, in which neoliberal ideology has been most rigorously applied, is the loneliness capital of Europe. We are all neoliberals now.

The term neoliberalism was coined at a meeting in Paris in 1938. Among the delegates were two men who came to define the ideology, Ludwig von Mises and Friedrich Hayek. Both exiles from Austria, they saw social democracy, exemplified by Franklin Roosevelt’s New Deal and the gradual development of Britain’s welfare state, as manifestations of a collectivism that occupied the same spectrum as nazism and communism.

In The Road to Serfdom, published in 1944, Hayek argued that government planning, by crushing individualism, would lead inexorably to totalitarian control. Like Mises’s book Bureaucracy, The Road to Serfdom was widely read. It came to the attention of some very wealthy people, who saw in the philosophy an opportunity to free themselves from regulation and tax. When, in 1947, Hayek founded the first organisation that would spread the doctrine of neoliberalism – the Mont Pelerin Society – it was supported financially by millionaires and their foundations.

With their help, he began to create what Daniel Stedman Jones describes in Masters of the Universe as “a kind of neoliberal international”: a transatlantic network of academics, businessmen, journalists and activists. The movement’s rich backers funded a series of thinktanks which would refine and promote the ideology. Among them were the American Enterprise Institute, the Heritage Foundation, the Cato Institute, the Institute of Economic Affairs, the Centre for Policy Studies and the Adam Smith Institute. They also financed academic positions and departments, particularly at the universities of Chicago and Virginia.

As it evolved, neoliberalism became more strident. Hayek’s view that governments should regulate competition to prevent monopolies from forming gave way – among American apostles such as Milton Friedman – to the belief that monopoly power could be seen as a reward for efficiency.

Something else happened during this transition: the movement lost its name. In 1951, Friedman was happy to describe himself as a neoliberal. But soon after that, the term began to disappear. Stranger still, even as the ideology became crisper and the movement more coherent, the lost name was not replaced by any common alternative.

At first, despite its lavish funding, neoliberalism remained at the margins. The postwar consensus was almost universal: John Maynard Keynes’s economic prescriptions were widely applied, full employment and the relief of poverty were common goals in the US and much of western Europe, top rates of tax were high and governments sought social outcomes without embarrassment, developing new public services and safety nets.

But in the 1970s, when Keynesian policies began to fall apart and economic crises struck on both sides of the Atlantic, neoliberal ideas began to enter the mainstream. As Friedman remarked, “when the time came that you had to change ... there was an alternative ready there to be picked up”. With the help of sympathetic journalists and political advisers, elements of neoliberalism, especially its prescriptions for monetary policy, were adopted by Jimmy Carter’s administration in the US and Jim Callaghan’s government in Britain.

After Margaret Thatcher and Ronald Reagan took power, the rest of the package soon followed: massive tax cuts for the rich, the crushing of trade unions, deregulation, privatisation, outsourcing and competition in public services. Through the IMF, the World Bank, the Maastricht treaty and the World Trade Organisation, neoliberal policies were imposed – often without democratic consent – on much of the world. Most remarkable was its adoption among parties that once belonged to the left: Labour and the Democrats, for example. As Stedman Jones notes, “it is hard to think of another utopia to have been as fully realised.”

It may seem strange that a doctrine promising choice and freedom should have been promoted with the slogan “there is no alternative”. But, as Hayek remarked on a visit to Pinochet’s Chile – one of the first nations in which the programme was comprehensively applied – “my personal preference leans toward a liberal dictatorship rather than toward a democratic government devoid of liberalism”. The freedom that neoliberalism offers, which sounds so beguiling when expressed in general terms, turns out to mean freedom for the pike, not for the minnows.

Freedom from trade unions and collective bargaining means the freedom to suppress wages. Freedom from regulation means the freedom to poison rivers, endanger workers, charge iniquitous rates of interest and design exotic financial instruments. Freedom from tax means freedom from the distribution of wealth that lifts people out of poverty.

As Naomi Klein documents in The Shock Doctrine, neoliberal theorists advocated the use of crises to impose unpopular policies while people were distracted: for example, in the aftermath of Pinochet’s coup, the Iraq war and Hurricane Katrina, which Friedman described as “an opportunity to radically reform the educational system” in New Orleans.

Where neoliberal policies cannot be imposed domestically, they are imposed internationally, through trade treaties incorporating “investor-state dispute settlement”: offshore tribunals in which corporations can press for the removal of social and environmental protections. When parliaments have voted to restrict sales of cigarettes, protect water supplies from mining companies, freeze energy bills or prevent pharmaceutical firms from ripping off the state, corporations have sued, often successfully. Democracy is reduced to theatre.

Another paradox of neoliberalism is that universal competition relies upon universal quantification and comparison. The result is that workers, job-seekers and public services of every kind are subject to a pettifogging, stifling regime of assessment and monitoring, designed to identify the winners and punish the losers. The doctrine that Von Mises proposed would free us from the bureaucratic nightmare of central planning has instead created one.

Neoliberalism was not conceived as a self-serving racket, but it rapidly became one. Economic growth has been markedly slower in the neoliberal era (since 1980 in Britain and the US) than it was in the preceding decades; but not for the very rich. Inequality in the distribution of both income and wealth, after 60 years of decline, rose rapidly in this era, due to the smashing of trade unions, tax reductions, rising rents, privatisation and deregulation.

The privatisation or marketisation of public services such as energy, water, trains, health, education, roads and prisons has enabled corporations to set up tollbooths in front of essential assets and charge rent, either to citizens or to government, for their use. Rent is another term for unearned income. When you pay an inflated price for a train ticket, only part of the fare compensates the operators for the money they spend on fuel, wages, rolling stock and other outlays. The rest reflects the fact that they have you over a barrel.

Those who own and run the UK’s privatised or semi-privatised services make stupendous fortunes by investing little and charging much. In Russia and India, oligarchs acquired state assets through firesales. In Mexico, Carlos Slim was granted control of almost all landline and mobile phone services and soon became the world’s richest man.

Financialisation, as Andrew Sayer notes in Why We Can’t Afford the Rich, has had a similar impact. “Like rent,” he argues, “interest is ... unearned income that accrues without any effort”. As the poor become poorer and the rich become richer, the rich acquire increasing control over another crucial asset: money. Interest payments, overwhelmingly, are a transfer of money from the poor to the rich. As property prices and the withdrawal of state funding load people with debt (think of the switch from student grants to student loans), the banks and their executives clean up.

Sayer argues that the past four decades have been characterised by a transfer of wealth not only from the poor to the rich, but within the ranks of the wealthy: from those who make their money by producing new goods or services to those who make their money by controlling existing assets and harvesting rent, interest or capital gains. Earned income has been supplanted by unearned income.

Neoliberal policies are everywhere beset by market failures. Not only are the banks too big to fail, but so are the corporations now charged with delivering public services. As Tony Judt pointed out in Ill Fares the Land, Hayek forgot that vital national services cannot be allowed to collapse, which means that competition cannot run its course. Business takes the profits, the state keeps the risk.

The greater the failure, the more extreme the ideology becomes. Governments use neoliberal crises as both excuse and opportunity to cut taxes, privatise remaining public services, rip holes in the social safety net, deregulate corporations and re-regulate citizens. The self-hating state now sinks its teeth into every organ of the public sector.

Perhaps the most dangerous impact of neoliberalism is not the economic crises it has caused, but the political crisis. As the domain of the state is reduced, our ability to change the course of our lives through voting also contracts. Instead, neoliberal theory asserts, people can exercise choice through spending. But some have more to spend than others: in the great consumer or shareholder democracy, votes are not equally distributed. The result is a disempowerment of the poor and middle. As parties of the right and former left adopt similar neoliberal policies, disempowerment turns to disenfranchisement. Large numbers of people have been shed from politics.

Chris Hedges remarks that “fascist movements build their base not from the politically active but the politically inactive, the ‘losers’ who feel, often correctly, they have no voice or role to play in the political establishment”. When political debate no longer speaks to us, people become responsive instead to slogans, symbols and sensation. To the admirers of Trump, for example, facts and arguments appear irrelevant.

Judt explained that when the thick mesh of interactions between people and the state has been reduced to nothing but authority and obedience, the only remaining force that binds us is state power. The totalitarianism Hayek feared is more likely to emerge when governments, having lost the moral authority that arises from the delivery of public services, are reduced to “cajoling, threatening and ultimately coercing people to obey them”.

Like communism, neoliberalism is the God that failed. But the zombie doctrine staggers on, and one of the reasons is its anonymity. Or rather, a cluster of anonymities.

The invisible doctrine of the invisible hand is promoted by invisible backers. Slowly, very slowly, we have begun to discover the names of a few of them. We find that the Institute of Economic Affairs, which has argued forcefully in the media against the further regulation of the tobacco industry, has been secretly funded by British American Tobacco since 1963. We discover that Charles and David Koch, two of the richest men in the world, founded the institute that set up the Tea Party movement. We find that Charles Koch, in establishing one of his thinktanks, noted that “in order to avoid undesirable criticism, how the organisation is controlled and directed should not be widely advertised”.

The words used by neoliberalism often conceal more than they elucidate. “The market” sounds like a natural system that might bear upon us equally, like gravity or atmospheric pressure. But it is fraught with power relations. What “the market wants” tends to mean what corporations and their bosses want. “Investment”, as Sayer notes, means two quite different things. One is the funding of productive and socially useful activities, the other is the purchase of existing assets to milk them for rent, interest, dividends and capital gains. Using the same word for different activities “camouflages the sources of wealth”, leading us to confuse wealth extraction with wealth creation.

A century ago, the nouveau riche were disparaged by those who had inherited their money. Entrepreneurs sought social acceptance by passing themselves off as rentiers. Today, the relationship has been reversed: the rentiers and inheritors style themselves entre preneurs. They claim to have earned their unearned income.

These anonymities and confusions mesh with the namelessness and placelessness of modern capitalism: the franchise model which ensures that workers do not know for whom they toil; the companies registered through a network of offshore secrecy regimes so complex that even the police cannot discover the beneficial owners; the tax arrangements that bamboozle governments; the financial products no one understands.

The anonymity of neoliberalism is fiercely guarded. Those who are influenced by Hayek, Mises and Friedman tend to reject the term, maintaining – with some justice – that it is used today only pejoratively. But they offer us no substitute. Some describe themselves as classical liberals or libertarians, but these descriptions are both misleading and curiously self-effacing, as they suggest that there is nothing novel about The Road to Serfdom, Bureaucracy or Friedman’s classic work, Capitalism and Freedom.

For all that, there is something admirable about the neoliberal project, at least in its early stages. It was a distinctive, innovative philosophy promoted by a coherent network of thinkers and activists with a clear plan of action. It was patient and persistent. The Road to Serfdom became the path to power.

Neoliberalism’s triumph also reflects the failure of the left. When laissez-faire economics led to catastrophe in 1929, Keynes devised a comprehensive economic theory to replace it. When Keynesian demand management hit the buffers in the 70s, there was an alternative ready. But when neoliberalism fell apart in 2008 there was ... nothing. This is why the zombie walks. The left and centre have produced no new general framework of economic thought for 80 years.

Every invocation of Lord Keynes is an admission of failure. To propose Keynesian solutions to the crises of the 21st century is to ignore three obvious problems. It is hard to mobilise people around old ideas; the flaws exposed in the 70s have not gone away; and, most importantly, they have nothing to say about our gravest predicament: the environmental crisis. Keynesianism works by stimulating consumer demand to promote economic growth. Consumer demand and economic growth are the motors of environmental destruction.

What the history of both Keynesianism and neoliberalism show is that it’s not enough to oppose a broken system. A coherent alternative has to be proposed. For Labour, the Democrats and the wider left, the central task should be to develop an economic Apollo programme, a conscious attempt to design a new system, tailored to the demands of the 21st century.

### 1NC – Credit C/A

#### The United States federal government should

#### - adopt a universal job guarantee.- adopt an obligation to provide structurally competent health care to all residents on the basis of their right to health, including universal and comprehensive health insurance for all residents.

#### - adopt the 6-plank policy platform of the movement for black lives.

#### That advocacy is an impact turn to the 1AC—The AFF has made the deliberate political choice to center their advocacy through a conceptual & rhetorical frame of “bad debt,” explicitly rejecting the concept of credit as well as logistics more broadly. This is NOT just a metaphor: it’s at the core of their claims for why retreat to the undercommons is a desirable political strategy!

#### Totalizing rejections of credit foreclose possibilities of progressive ends. Government credit should be aimed at providing for the people.

Ferguson, ‘15 (Scott; Ph.D. in Rhetoric and Film Studies from UC Berkeley and a Research Scholar at the Global Institute for Sustainable Prosperity, “The Unheard-of Center: Critique after Modern Monetary Theory,” ARCADE, 05/2015, arcade.stanford.edu, <https://arcade.stanford.edu/content/unheard-center-critique-after-modern-monetary-theory>)

By revealing that money is a boundless public reserve, MMT offers means to socialize everything from banking and electoral campaigns to higher education and non-commercial artmaking. But the lynchpin of MMT’s intervention is its commitment to full employment and what its adherents call “the Job Guarantee.” The appellation “Job Guarantee” is cringeworthy, to be sure. At best, its reduction of social labor to a “job” demonstrates a lack of critical savvy. At worst, its promised “guarantee” conjures neo-Puritan fantasies of salvation through work. Yet the implications of MMT’s ill-termed proposal could not be more radical. MMT’s Job Guarantee involves the permanent financing of community-organized public works programs, which would give every person the right to non-corporate living-wage employment, compensate and reorganize much feminized and unpaid care work, and force service sector employers such as Walmart and McDonalds to outdo the public sector’s wages and working conditions. Hence, far from a neoconservative prop for capitalist interests, the Job Guarantee is designed to involve people in the labor of serving communal and ecological wellbeing, while transforming the social totality from below. When a governing body elects to maintain even a small percentage of its population in conditions of unemployment and moneylessness, it sends capital into global tailspins in search of cheap labor and profitable investment, shackles disparate classes to unredeemable private debts, prevents alienated communities from addressing local crises, and debilitates everyone’s capacity to demand a better world. In its neoliberal instantiation, this Liberal gambit then shores up the fallout with punishing fees and taxes, paltry welfare checks, an out of control prison industry, and vast informal care networks. In contrast to this frenzied and inadequate supplementation, MMT’s Job Guarantee aims to endow local councils with funds to furnish every market reject with living-wage employment (say $25 per hour plus health care, to start). The program would expand and contract countercyclically with market fluctuations and would involve its participants in meaningful social and environmental projects. Drawing upon non-profits and existing informal support networks, such projects might include child and elderly care facilities that socialize what Marxo-feminist Nancy Fraser has called capitalism’s hidden abode; sustainable gardens and public beautification services that bring dignity and vitality to the other side of the tracks; and art and cultural centers that help communities simultaneously imagine and shape the transformations the Job Guarantee makes possible. The Job Guarantee would not be beset by financial constraints. Unlike the ludicrous America Works program proposed by President Underwood on Netflix’s House of Cards, MMT’s proposal does not require draining funds away from FEMA or dismantling the Social Security System. Instead, the Job Guarantee is to be limited only by real resources, the collective imagination, and political will. Some participants may make a life in the public sector. Others will elect to join the private domain. But no longer will market activity be predicated upon a moneyless underclass or will it be acceptable to pass off systemic abandonment as the vagaries of nature. Undoubtedly, MMT’s Job Guarantee is no cure-all or quick-acting salve. It will not eradicate injustice or turn the greedy into saints. What the Job Guarantee will do, however, is introduce a radical new directionality into the present totality, which shall drastically curtail systemic poverty and shift the structural foundations of economic life. It will set the agonies and ecstasies of the marketplace atop a resilient care economy and give every member of society basic access to the combined yields of public and private labor. It will force today’s low-paying service sector to either offer better wages and working conditions or risk losing laborers to local public works projects. But the Job Guarantee is by no means a total loss for capital either. Creating a stable consumer base that in turn increases private profits, the Job Guarantee would soften the blow of its wage increases, while making socially productive business investments far less risky. With this, the Job Guarantee promises to lessen the structural need for hazardous speculation and private usury. Surely, this increased stability and reduction in indebtedness would amplify everyone’s capacity to demand better living conditions. If such a program were implemented by a global hegemon such as the United States, moreover, threats of mass emigration and economic collapse elsewhere would impel other governments to follow suit. The result will not immediately liberate Chinese factory workers or stop corporations from looting African mines. Nor will it reign in Wall Street or the City of London overnight. But it will reorganize global supply chains and multinational finance by confronting them with new pressures and prospects. For example, an international political economy driven by robust full employment programs would decouple problems of employment and social welfare from capital’s erratic global trajectories in addition to mitigating the market hazards that condition such movements in the first place. Supplanting what economist Abba Lerner once termed the myth of world money with an interdependent politics rooted in strong public spending regimes, the MMT Job Guarantee would thus begin to turn neoliberal financial capitalism outside-in and expose the constricting paroxysms of present social production to more congenial and commodious orbits.

#### Unique link-turns the case—ONLY political engagement can deconstruct the worst instantiations of neoliberal financialization.

Ferrara ’17 (Alessandro, History, Humanity, and Society @ University of Rome Tor Vergata. “Curbing the Absolute Power of Disembedded Financial Markets: The Grammar of Counter-Hegemonic Resistance and the Polanyian Narrative.” *Feminism, Capitalism, and Critique*, p. 178-182 doi:10.1007/978-3-319-52386-6\_10 , JB)

I would like here to highlight an additional facet of the question “why capitalism gone global and disembedded financial markets do not meet a comparable counter-movement aimed at restoring protection, but only rearguard partisans of nationalistic closure?” Fraser rightly draws our attention to the need for addressing, on the part of the social movements of the present, the complicated tripolar tension of marketization, protection, and emancipation. I think another dimension needs to be woven into Fraser’s account, which (like so many emancipatory perspectives of the past) remains primarily focused on social movements: the potential of 178 A. FERRARA struggles “about and within the law” for generating a protection that becomes ever more elusive due to the fragmentation of social subjects. In a context where production is outgrown by financial gain, and profit by rent, social class as we know it from the older phases of capitalism is simply gone as the subject of social and political resistance. In the twenty-first century, class may well follow the destiny of pre-modern caste – becoming a relic of the past. Who can then be the subject of social resistance and of opposition against neoliberal financialized capitalism and against the absolute power of disembedded financial markets? Fraser and other critical theorists share a mistrust of law as the locus and the propagator of a strategic habitus, in turn detrimental to social integration, and against juridification as one of the main causes for widespread “de-politicization.”5 Such attitude in a way leads Fraser to oversee the fact that law has the advantage – crucial in our context – of not presupposing a collective subject, shared narratives and memory in the way politics does. It may presuppose some of these things when it is statutory law, enacted by legislative assemblies composed of parties in perpetual need of electoral victory. But law does not presuppose unified collective subjectivity when it takes the form of common law or when it is applied. Furthermore, if there is one social function that has escaped fragmentation and has remained truly universal, that is the function – again, not highly regarded in critical circles – of consumption. We participate in social production in a variety of capacities, difficult to reconcile in an oppositional and anti-hegemonic project, but we are all consumers and in such capacity we all experience the frustrating and alienating experience of being a dispensable atom confronted with enormous economic forces that dictate rules over which we only have a very tenuous influence as individuals and small groups. Sometimes these forces are private sector companies, sometimes utility or insurance companies, telecommunication companies, at other times regulatory agencies, rating agencies, banks, that often detract from the quality of our life through the arbitrary power they exert and the particular interests they pursue. Consumer protection through class action was born in certain circles outside the discourse of emancipation, it has acquired public prominence through figures like Ralph Nader and has even been constitutionalized in the EU. In fact, Article 38 of the Charter of Fundamental Rights of the European Union (Official Journal), now included in the Lisbon Treaty, provides for “a high level of consumer protection.” EU citizens live in a legal order where equality is a principle that inspires, if not strictly CURBING THE ABSOLUTE POWER OF DISEMBEDDED FINANCIAL MARKETS… 179 regulates, not only the public realm, for which it was originally conceived, but also the sphere of the private relations that unfold in the economy. Whereas antitrust legislation is an application of the principle of equality in the sphere of economic relations among major market players in the interest of everyone else, the aim of Article 38 is to bridge the gap between the influence of the great market players and the single atomized consumer without falling back into the regressive utopia of the abolition of the market. Nothing prevents us qua theorists of emancipation from injecting a strong normative content into consumer-protection through class-action and from understanding class-action, especially in legal systems that supplement it with provisions about “punitive damages,” as the implementation of a strong principle of equality that forces the market to truly vindicate one of the premises on which its appeal rests – the equal standing of the contracting parties. Thus nothing prevents theorists of emancipation from giving class-action and punitive damages – the indispensable tools of consumer protection – a whole new twist. Nothing except our received image of “resistance” to the neoliberal agenda – shaped after protection-oriented and class-based resistance to manufacturing Fordist capitalism – prevents us from perceiving class-action as a tool as flexible as its enemy’s strategies and also capable of affirming the value of equality. Nothing but **our negative prejudice against “consumption” prevents us from seeing that this truly universal and multifaceted social and economic relation can constitute a terrain of contestation where at stake – as it used in the time when wage-labor and exploitation held center-stage – is nothing less than the principle of equality.** “Equal protection of the laws” needs to acquire a new meaning, beyond racial and gender equality, connected more firmly with equality of opportunity in the market, where essential goods, services, utilities, and experiences are sold on which often the quality of life depends. In order to illustrate how a class-action based challenge to neoliberalism can take place, let us consider financial prime movers such as rating agencies. Standard & Poor, Fitch, Moody’s, among others, purport to sell on the market their capacity for independent and reliable assessment of the prospects of all sorts of institutions, from banks to governments, and of all sorts of financial products, but in fact they often affect the reality they claim to analyze. Standard & Poor famously downgraded the US “sovereign credit rating” in April 2011 – a not uncontroversial decision, given 180 A. FERRARA that the other agencies did not find this necessary. Also, Standard & Poor downgraded Spain in October 2012, threatened to downgrade the economic and especially debt policies of several EU countries, and famously bashed the so-called Eurobonds, yet to be issued and backed up by BCE, as “trash” before they existed – an assessment hardly to be considered an observation. Finally, in the aftermath of Brexit, Standard & Poor’s downgraded the credit rate of UK. These occurrences may seem largely irrelevant, if considered on the scale of what “antagonism to capitalism” used to mean in the old framework of class-struggle, but curbing the absolute, un-accountable power of such actors is a priority for all emancipatory project. The New Deal – the most successful attempt to curb the absolute power of rampant forms of financial capitalism at the time of the hegemony of the Fordist model – consisted not of one single measure but of a set of measures (NIRA, minimum wage, the Glass-Steagall Act, Social Security): most likely the curbing of the absolute power of disembedded financial markets will also require a plurality of adequate measures.6 An example of class-action led by a local government comes from Australia. An eight-year legal battle between the City of Swan (Western Australia) and Standard & Poor’s over misleading and deceptive conduct in the latter’s handling of ratings prior and during the collapse of Lehman Brothers Australia has involved – through class-action – a group of 92 members led by the City of Swan in Western Australia and Moree Plains Shire in New South Wales: among these claimants are investors, councils, churches and charities (Weber 2016). Over and beyond the Lehman Brothers case, several countries’ economic performance has proven the agencies’ downgrading wrong or at least unduly biased. As a result of often biased or inadequate ratings, democratic governments are forced, out of fear of worse economic consequences, to adopt spending reduction policies that result in higher unemployment, diminished standards of health care and education, and severe hardships for millions of people. Democracy is incompatible with impunity, and impunity is the prime feature of absolute power. The reclaiming of democracy for democratic citizenry begins with holding these rating agencies accountable, through government sponsored class-actions, combined where possible with punitive damages, aimed at compensating those citizens who have been unduly damaged by so-called ratings that fall under the standards of independence and reliability. CURBING THE ABSOLUTE POWER OF DISEMBEDDED FINANCIAL MARKETS… 181 In a completely different area, the Smith lawsuit against the US presidency for acting in defiance of the War Power Act provides another example. In this lawsuit, with the legal assistance of Bruce Ackerman, Capt. Nathan Michael Smith, an intelligence officer stationed in Kuwait, is challenging the President of the United States for ordering military action against the Islamic State without proper authorization from Congress (Savage 2016). It is easy to dismiss legal actions such as these as internal to the logic of an instrumental use of the law, de facto subservient to the neoliberal hegemonic credo. In fact, arguably the burden of proof is on the other side: it is for more traditional critical theorists, focused on the mobilization of social movements, to show that under the present conditions of hyperpluralism, of flexibilization of work leading to a fragmentation of the social basis of class, and of lack of a counter-hegemonic vision capable of mobilizing people (which for good reasons is absent in times of post-metaphysical thinking), it is possible to oppose financialized capitalism more effectively through the traditional instruments of street-demonstrations, petitions, strikes, press-campaigns, and mobilization. Until that case has been convincingly made, the Polanyian countermovement of “protection” need not be declared absent. It may perhaps take a different form from the expected one. In lieu of labor-protecting legislation enacted in the wake of classical protest movements, it may take the form of successfully argued legal cases, against various manifestations of neoliberal hegemony, that proceed from the global constitutionalism of human rights and interlocking court-judgments.

#### Reject the liberal ontology of money and embrace an abundance theory of credit as a grounding fiscal relationship

Ferguson, ‘15 (Scott; Ph.D. in Rhetoric and Film Studies from UC Berkeley and a Research Scholar at the Global Institute for Sustainable Prosperity, “The Unheard-of Center: Critique after Modern Monetary Theory,” ARCADE, 05/2015, arcade.stanford.edu, <https://arcade.stanford.edu/content/unheard-center-critique-after-modern-monetary-theory>)

In David Palumbo-Liu’s essay, it is the Liberal image of the state that troubles critique. Palumbo-Liu goes far in resisting the false moralism of the neoliberal debt economy. He is right to blame the neoliberal state for making the 99% pay for the sins of the financial class. He inspires when proposing an explosive countermorality, which rebuffs the guilt-inducing forms of subjectivization that legitimize neoliberal debt consciousness. Yet a more insidious moral drama subtends this countermorality, one that Palumbo-Liu seems unable to detect. That drama positions the nation-state as a debt-burdened market actor, which must either balance its books like a private business or displace its burdens onto the citizenry. We need to disabuse ourselves of this bogus dilemma and its bad-faith morality if we are to overcome the debt-consciousness Palumbo-Liu implores us to resist. Government establishes a system of credits and debits by levying taxes in the currency it authorizes. And government is singularly implicated in this system because it is exempt from the market’s internal rules and limitations. The state spends ex nihilo and, as Alan Greenspan has publically admitted, it can forever service debts administered in its own unit of account. Let us, then, not shame government for failing to keep its economic house in order, as Palumbo-Liu suggests, but rather insist that the state deploy its boundless public reserve to prevent unjust forms of usury and debilitating private debt obligations.

## Case

### 1NC – Presumption

#### Neg on presumption – voting aff is not key to actualize militant preservation – you can agree with their strategy and still vote negative

### AT: Undercommons

#### Undercommons alone is bad – Remains trapped within and against which eviscerates its subversive and emancipatory potential

Love 15—Associate Professor at the University of Pennsylvania [Heather, ““Doing Being Deviant: Deviance Studies, Description, and the Queer Ordinary,” *differences* Vol. 26, No. 1, p. 89-91]

Today, queer studies—prestigious but unevenly institutionalized— still signals absolute refusal or criticality—all anti- and no normativity. In their influential 2004 essay, “The University and the Undercommons” (and in the 2013 book that followed from it), Fred Moten and Stefano Harney rely on such an understanding of queer (as well as concepts borrowed from black studies, feminism, ethnic studies, and anticolonial thought). They **call for betrayal, refusal, theft, and marronage** as modes of resisting the iron grip of the academy, pointing to an uncharted, underground, and collective space they call the undercommons. “To enter this space,” they write, “is to inhabit the ruptural and enraptured disclosure of the commons that fugitive enlightenment enacts, the criminal, matricidal, queer, in the cistern, on the stroll of the stolen life, the life stolen by enlightenment and stolen back, where the commons give refuge, where the refuge gives commons” (103). Moten and Harney speculate whether the “thought of the outside” (105) is possible inside the university and suggest that if there is an outside, it is along the margins and at the bottom. **Yet their imagination of that outside is** indebted to the inside, in particular to the **conception of deviance produced** within **sociology**. Their account of the undercommons reads like a rap sheet, **a list of the** traditional topics **of deviance studies**: theft, homosexuality, prostitution, incarceration.

Moten and Harney do not describe the undercommons, but rather ask their readers to join it, to participate in active revolt against professional and disciplinary protocols. To offer an objective account of the social position of radical academics would be to further business as usual in the academy; dwelling in the undercommons requires giving up on the usual protocols of description. Moten and Harney argue against the traditional role of the “critical academic” (105), which they see as just another turn of the professional screw, since work that opposes the academy does not challenge its basic structure or everyday operations. They argue that “to be a critical academic in the university is to be against the university, and to be against the university is always to recognize it and to be recognized by it, and to institute the negligence of the internal outside, that unassimilated underground, a negligence of it that is precisely, we must insist, the basis of the professions” (105). In contrast to the figure of the critical academic, they forward the image of the “**subversive intellectual**” who is “in but not of” the academy (101). Without dismissing the galvanizing effect of such a call to the undercommons, it is **important to consider the limits of the refusal of objectification as a strategy**. **To be unlocatable**, to be nowhere, to be in permanent revolt: Moten and Harney describe the path that queer inquiry laid out for itself. Objectification—recognition, description, critique—can be a way to reinforce the status quo, but it **is also a way of** acknowledging **one’s institutional position** and the real differences between inside and outside. Even the most subversive **intellectuals in the academy are “on the stroll” in a metaphorical but not a material sense.** The fate of those who came “under false pretenses, with bad documents, out of love” (101), if they survive, is to become “superordinates” in Becker’s sense.

**Whose side are we on?** Can we hold onto the critical and polemical energy of queer studies as well as its radical experiments in style and thought while acknowledging our implication in systems of power, management, and control? **Will a more explicit avowal of disciplinary affiliations** and methods snuff out the utopian energies of a field that sees itself as a radical outsider in the university? To date, both the political and the methodological antinormativity of queer studies have made it difficult to address our implicationin the violence of knowledge production, pedagogy, and social inequality. **Such violence is** inevitable**,** and critical histories of the disciplines—and the production of knowledge about social deviance—are essential. Undertaking such work, however, will not allow escape into a radically different relation to our objects because we are (as Moten and Harney also argue) **part of that history**—we are its contemporary instantiation. To imagine a social world in which those relations are transformed—in what Moten and Harney refer to as the “prophetic organization” (102)—may be crucial for the achievement of social justice, but to deny our own implication in existing structures is also a form of violence.

#### Their theory of racialization is wrong – can never move beyond fugitivity and relies on a misapplication of Fanon and Heidegger.

Marriott 16—Professor of Humanities at UC Santa Cruz [David, “Rhizomes: Cultural Studies in Emerging Knowledge,” *rhizomes*, Vol. 29, p. 1-5, <http://www.rhizomes.net/issue29/pdf/marriott.pdf>]

[4] Crucially, Moten presents his argument not as a 'refusal' of Fanon, but as a 'demand that we read' his texts as if 'for the first time'.[9] This would mean that any reading of Fanon must begin naively (etymologically speaking), without prejudice or prescription: it's a demand that recalls phenomenology's approach to things/sachen (an approach in which reading is both a bracketing and a reduction). This scene is immediately complicated, however, in that naïve reading, which in this hypothesis or story is to begin without judgment, reappears in the prescription that we read naively. Indeed, if naivety is demanded what would it mean to prescribe Fanon's texts as the addressee of that naivety? And if one accepted, with Moten, that such naïve reading constitutes neither a refusal nor judgment of Fanon, and if it were decided that such reading could also be named a refusal of refusal (of Fanon's disavowing claim), then the complication only spreads. That demand for naivety, which describes itself as black optimism, is in turn derived from a certain reading of Heidegger. It is from the latter that Moten rapidly determines what it means to give the 'case' of blackness a hearing, to register the optimism of its outpouring despite the 'horror of its making', or the horror from which it was made.[10] The word 'case' must be understood as both a tribunal and its hearing, but 'case' too in the sense of psychopathology: here Moten does not explain why, nominally speaking, the case of blackness should take the form of a juridical dispute between Fanon and Heidegger, nor why that dispute should be settled by the latter's account of 'representational thinking'.[11] In terms of the law applicable to this case, Fanon's crime, then, would be his failure to think beyond law or pathology, or to imagine a new set of possibilities as defined by Heidegger's ontological naivety—but also that the latter's claim to return representation to its ontological ground (as too in Moten's constant implicit claim to give blackness a hearing) merely means that Fanon's own critique of ontology is inevitably reduced to a litigious politics of representation.

[5] We know that the case of blackness (and its juridical rhetoric) includes at least two questions: what is this thing called blackness and how is it to be represented? The junction at which these two questions meet in Peau noire, masques blancs is that of a flaw: this flaw is born very specifically from an experience of ruination 'that interdicts any ontological explanation'.[12] In the colony, the phenomenological form of social power is never immediate, that is to say, a relation of representation, but a confrontation that designifies, and, at the same time, resignifies social relations once they are racially determined, a confrontation in which both being and law acquire new significations born out of disavowal (what Fanon defines as the lactifying desire for substitution or separation of the black from the négre, and of the white from its other) and of amplification (the recoding of the social and symbolic order by racial signifiers of precarity and threat, fear and impoverishment). Saying that there is a question whether blackness is disavowed in Fanon, a disavowal whose meaning is in dispute, does not, however, explain why Moten continues to use the language of ontology and of law to explain Fanon's writing on blackness as a phenomenology. The etymology of the word 'case' also includes that of contingency and of fall (lapsus); that is to say, the meaning of blackness is not prescribed, and has no prior signification before it is raced. This contingency or fall (the lapsus or trauma of racialization) denotes not a prescribed imperfection but refers to the time, paradoxically enough, in which the black comes face to face with its own contaminating filiation with the négre, a confrontation that is never simply in the order of an object, but is that of an exposure that is also the work of a certain concealment; it is a moment in which any simple history (of escape or confinement, mimicry or identification) is necessarily the impure avowal of an imaginary longing for a colorless presence, meaning, or proximity. If one accepts, along with Moten, that blackness always escapes its positioning in either law or representation, and if it were to be shown that neither that law (or its history) nor that representation (or its history) can capture 'the case blackness makes for itself in spite of and by way of every interdiction', according to which this case names both a specific pathology and object, then why hold onto this juridical rhetoric (with respect to the case) to present that which apparently always escapes law and representation?[13]

[6] By writing blackness as ceaseless fugitivity, Moten has moved towards a position in which blackness is only black when it exceeds its racist disavowal. Or, the blackness of blackness can only be recognized as black in so far as it escapes the racism of its history: but what allows us to see this escape is not blackness, but its racist disavowal. Or, in order to reconcile blackness with that which blackness supposedly is, Moten has to rely on the narrative of its constraint or pathology, which he cannot do without: this pathology enables Moten to avoid the disavowing naiveties of Fanon but only in so far as he too reads naively, or optimistically. A third possibility would make this disavowing claim, that Moten wants to make deliver up its secrets, a sign of how Moten himself disavows how racist disavowal complicates his reading of what he describes as Fanon's phenomenology, in which impurity inevitably generates a pathological meaning. Or again: if Fanon hears what Moten does not hear (in terms of his reading of the case), this is because Moten can only affirm blackness as affirmation, not because it escapes pathology, but because blackness is experienced only as the activity of escape, but one which never escapes the ontology of such production. It follows that blackness cannot escape its own fugitivity; its constitutive moment is traversal (or, what constitutes it is its force of subversion with regard to the pathological classifications of blackness). If Fanon fails 'to investigate more adequately the change from object to thing', one could also suggest this failure fails to address, or forecloses, that other scene in Fanon; in short, how the very distinction between object and thing refuses to engage with the Fanonian unconscious (in which the object is neither simply represented nor simply fugitive to the languages of law, ontology, or difference).[14] The form of this problem seems to be linked to what can appear to be a persistent equivocation in Moten's reading of Fanon between apparently ontological claims and the use of the aesthetic-political to somehow escape ontology. This situation, which would demand new formulations of the relationship between ontology and the aesthetic-political, is perhaps programmed by the logic of a presentation which needs to see a radical break between them, a necessity whose prescription is also thus disavowed.

[7] This scenario is not an easy one to follow, and might therefore be described as itself Fanonian. Moten defines as black a situation in which the obligation to steal away goes along with a 'movement of escape' that is not criminal and cannot be 'enframed' as such. Moten states this movement as follows: blackness is 'an ensemble always operating in excess of that ancient juridical formulation of the thing', it is 'a stolen, transplanted organ always eliciting rejection', and, 'the lived experience of blackness is, among other things, a constant demand for an ontology of disorder, an ontology of dehiscence' and so on.[15] Aside from noting the logical instability of this 'always': namely, if x is always escaping then it cannot be said to ever entirely escape, it is clear that, according to Moten's own logic, these descriptions leave it completely undecidable whether blackness is fugitive because it never quite escapes (its enslavement, its impurity), or whether it always thereby escapes how it is rendered black, or not, precisely because it is not an object. Moten refers to this situation as the 'special ontic-ontological fugitivity of/in the slave' which he says is 'necessarily unaccounted for in Fanon'.[16] I am not going to provide any detailed commentary on this word 'necessarily', although it would not be difficult to construct an argument showing that Fanon, in so far as he insists on the necessary mis-recognition of blackness as black, is in fact in some senses the most radical discourse of why blackness remains unaccounted for. Nor would it be difficult to argue that Fanon escapes the hold of the pathological/normative opposition. I shall also try to resist the temptation of denouncing a very general tendency to present the operation of disavowal as a 'critique' of what Fanon himself says about racist disavowal, of assuming that when Fanon says that black lived experience names both a specific discourse of misrecognition and the symptom of that misrecognition, that attempts to name misrecognition, such as Moten's, which attempt to position Fanonism as a misrecognition of what blackness is, would themselves not generate further cases of misrecogniton, or escape the naivety of such optimism. Instead, I shall narrow down the scenario still further and consider something like the logic of escape in Moten's engagement with phenomenology, especially with respect to his own representations of the aesthetic-political. This restriction will seem only the more excessive in that I shall appeal to only a very small part of Moten's case history, ignoring notably all of what he says about art here, and concentrating on what he says about theft, in the sense of stolen from or dispossession.

[8] After citing Heidegger's famous reading of the jug in the essay, "Das Ding", Moten argues that Fanon confuses the black's 'becoming-object' for the thing that blackness is, which exceeds the jurisdiction of racist discourse and its formulation of an 'impure, degraded, manufactured (in)human who moves only in response to inclination, whose reflexes lose the name of action'.[17] So that in contradistinction to Fanon, Moten wants to present 'the inadequacy of any ontology to blackness' as the inadequacy of 'calculation to being in general' and then show how blackness as lived is 'a constant demand for an ontology of disorder, an ontology of dehiscence'.[18] The problem with this approach is its particular determination of history as filiation: Moten's commitment to black social life, to its vitality, leads him to provide, in section one, an anything-but-Fanonian history of racist philosophy (in which blackness is always the sign of negation). This is the context in which Fanon sets out his reading of blackness as interdiction or flaw. Because he fails to read this context, Moten is obliged to read the figure of impurity as part of a history of philosophy rather than as one of Fanon's essential points critiquing philosophical historicity, which queries how the being of the black has been understood in both the history of philosophy and the philosophical history of the concept of 'race'. Consequently, Fanonism is viewed as an aberrational consequence of that history, rather than one of its sharpest critiques.

[9] This leads Moten to present a history of Fanonism that puts Fanon in the same company as that of Daniel Patrick Moynihan (!)—suffice it to say I think that it's a horrible philosophical travesty of Fanon to present his work as the antecedent of this anti-black moralist from the US. Moten knows all this too. Whence the effect of decontextualisation: the price paid for the naivety of his reading never essentially goes beyond a restricted set of prescriptions that, even when they take the form of endless questioning, are necessarily disavowed. One consequence of this is that Moten's own placing of Fanon in a tradition dominated by the representation of black pathology is also dominated by the need to present Fanonism as, paradoxically, a pathological object. Lastly, let us recall that Moten's philosophical reading of Fanon wants to question what he sees as a particular, pessimistic inflection, which is marked by the absence of black social life. It's a reading in whose exposition the discontinuity of black social life is determined as a kind of pious optimism, or in Moten's terms a paraontological form of resistance. The case of blackness, in Moten's transcription of Heidegger, has no code of law or body of jurisprudence or rule of representation to determine its ontology for 'its relation to law is reducible neither to simple interdiction nor bare transgression.'. The law for the case of blackness must be found, invented. But if the black judge or critic has no law at hand, it would seem that the possibility of judging is given in the name of an aesthetic-political optimism: our task here (that of 'judging Fanon') puts us in the situation of having to judge the case which thus prescribes judgment – of blackness as pathology—without grounding its being in or as pathology: Moten therefore repeats the pathological presupposition of a judgment (of black pathology) in the attempt to judge it non-pathologically. The phrase 'Fanon is too pessimistically black' names an example (which cannot just be an example) of this situation. Fanon is too black (or not black enough) because he can only see blackness as instituted out of violence and pathology, out of the lived experience of racism, and this violence returns to question the institution of black social life even as it constitutes it. In a brilliant article called "The Social Life of Social Death", Jared Sexton, wondering what happens when blackness determines itself as essentially 'pathological' (Moten's word), suggests that Fanon (as opposed to his blackness) names the limits of this very situation.[19] The question of the pathologization of blackness is then, says Sexton, 'a reinscription of (black) pathology that reassigns its cause and relocates its source without ever getting inside it'; 'another way of putting this might be to say that they [the thinkers of blackness as pathology] are caught in a performative contradiction enabled by disavowal'.[20] If, for Sexton, Moten is a repetition of that 'black' disavowal, then Fanon is another, displaced, repetition of Moten's repetition.

### 1NC – Noys

#### A plan of no plan is circular – you need defined policy orientation

Benjamin Noys, Reader in English at the University of Chichester, Through a Glass Darkly: Alain Badiou’s critique of anarchism, ‘8 <https://www.academia.edu/216175/Through_a_glass_darkly_Alain_Badiou_s_critique_of_anarchism>

Badiou’s critique of anarchism operates indirectly; it attacks what Daniel Bensaïd describes as ‘[a] neo-libertarian current, more diffuse but more influential than the direct heirs of anarchism …[which] constitutes a state of mind, a ‘mood’, rather than a well-defined orientation.’ (Bensaïd 2005: 170). One of Badiou’s examples of this tendency, targeted while he was still a Maoist, is Gilles Deleuze and Félix Guattari’s book Anti-Oedipus (1972). This book, with its vision of a flux of desire that can escape the constraints of both capitalism and the ‘prison’ of the Freudian Oedipus complex, not only had a significant influence on the libertarians of the movements after May 68 but also on later anarchists and postanarchists. Where anarchists have tended to celebrate their theories of the uncontrollable fluxes of desire Badiou sarcastically comments: ‘Unforeseeable, desiring, irrational: follow your drift, my son, and you will make the Revolution.’ (2004: 76). This point summarises Badiou’s general scepticism towards what he regards as the anarchist faith in the ‘pure’ movement of resistance, a movement that seems to operate without the need for aim or direction but will somehow still result in revolution.¶ Badiou refines this general scepticism in making a series of more precise criticisms of the ‘libertarian current’. He argues that the central problem of this current is that it sets up a simple-minded opposition between power and resistance (or revolt, or rebellion). The result is a sterile set of ‘static dualisms’, from which is derived ‘the catechism of the System and the Flux, the Despot and the Nomad, the Paranoiac, and the Schizo’ (Badiou 2004: 80). In this case Badiou is explicitly referring to a number of oppositions that structure the text of Deleuze and Guattari’s Anti-Oedipus , in which the second term is valorised at the expense of the first. The problem with such dualisms is that they fail to grasp the actual way politics operates: ‘power’ is not one monolithic whole, and neither is ‘resistance’. Instead the task of ‘doing politics’ involves a closer analysis of different forces and contradictions as well as, for Badiou, the formation of the party as a form to handle and organise these contradictions. Whatever we might think of the second point we can, I think, accept the first is well made. While there may be a polemically or motivational gain in presenting politics in terms of a grand opposition, and there may well be times where struggle operates in this form, more often matters are considerably more complex.¶ For Badiou these kind of oppositions are reflective of the limits of the French political scene of the 1970s: namely the opposition between the structuralist Marxism of Louis Althusser, which finds its model in the French Communist Party, and the philosophy of desire of Deleuze and Guattari that gave voice to, and which finds its model in the dispersion of the little groups of libertarians (‘groupuscules’). In the first we find the relentless and paralysing insistence on the power of structure and, in the second, the celebration of ‘pure’ revolt. We can see here the origin of Badiou’s later contention that the anarchist model mirrors the communist party model. Anarchists oppose their small groups to the supposedly ‘monolithic’ style of the communist party. What they fail to recognise are the fissures and contradictions that run through both power and resistance. In this period Badiou, and the UCFML, are groping towards a new party-form that would be able to negotiate a dialectical reading of politics that could engage with force and place, disruption and structure, without reifying one of the terms against the other.¶ The irony is that defenders of Deleuze and Guattari, or Michel Foucault, whom Badiou also attacks, will argue that they present a model of power and resistance as multiple, fluid, and unstable – precisely not a binary. Badiou, however, is correct to note a tendency to re-constitute new binaries in these modes of thinking: ‘Schizo vs. Paranoid’ (Deleuze and Guattari), ‘Pleb vs. Power’ (Foucault), or ‘Multitude vs. Empire’ (Negri and Hardt). In each case the attempts at anti-dialectical thinking risk becoming merely un-dialectical. Badiou himself certainly changes the terms of his own thinking, but he retains the mistrust of what he regards as this fundamental libertarian or anarchist schema. So, in the later Being and Event (2005) Badiou will critique what he calls ‘speculative leftism’, which believes in the ‘pure’ event of revolt – the miracle of revolt appearing out of nothing.2 Again his point here is there is a faith in the emergence of a force of revolt posed against a static sense of power, without any real attempt to analyse the possibilities and limits the forces that would compose this ‘revolt’. This faith in the miracle of the event of revolt is coupled, Badiou argues, with a sense of the inevitable defeat of such revolts by power. The result is that we are left in the situation of fighting an endless (losing) war – alternating between the eruption of revolt out of nothing and then its inevitable return to nothing.¶ More recently Badiou has focused his criticisms on the thinking of Antonio Negri (author, with Michael Hardt, of Empire (2000)), and his influence on the ‘movement of movements’. Badiou tends to conflate Negri with the ‘movement of movements’, and while it is true that the language and thinking of Negri has had considerable influence it has by no means passed uncontested. Badiou modulates his earlier general criticisms of anarchism / libertarian positions but stays within the same general frame: Negri is not truly opposed to capitalist ‘Empire’ but instead romanticises the power of capitalism:¶ As is well known, for Negri, the Spinozist, there is only one historic substance, so that the capitalist empire is also the scene of an unprecedented communist deployment. This surely has the advantage of authorizing the belief that the worse it gets, the better it gets; or of getting you to (mis)take those demonstrations – fruitlessly convened to meet wherever the powerful re-unite – for the ‘creation’ and the ‘multiform invention’ of new petit-bourgeois proletarians. (Badiou 2006: 45)¶ Therefore Negri cuts the ground from under any truly anti-capitalist politics by being overly fascinated with the mobile power of capital. At the same time he is overly hopeful about the powers of resistance on this ground, offering only a ‘dreamy hallucination’ (Badiou 2003: 126) of the power of the ‘multitude’, which lacks the discipline to properly detach itself from the state.¶ Badiou’s critique of anarchism ranges across a number of repeated and modulated criticisms. At the fundamental level it involves a constrained sense of the possibilities of politics that remains in a dualism of resistance versus power. This monolithic conception prevents a properly political assessment of the complex arrangements of political power and the means by which capitalist and state power might not only be resisted but also overthrown. This static dualism often leaves the origin of revolt unexplained or undetermined. It seems to come from nowhere and also to go nowhere; the ‘miracle’ of revolt is always doomed to defeat or recuperation. Also, this dualism leads to a structure of mirroring between anarchism and state or capitalist power. The invocations of drift and liberation found in the libertarian current are dangerously close to the ideological forms of capitalism itself. For Badiou, this means that anarchism lacks the ability to ‘construct new forms of discipline to replace the discipline of political parties’ (Badiou 2003: 126). Of course anyone knowledgeable of the history of anarchism will recognise these kinds of criticism, particularly as it has often been advanced by Marxists. But it is the vehemence with which Badiou poses these questions in the present context, and his choice of theoretical targets that make them worth considering as critical questions – especially since, as we will see, some voices within the movement have arrived at similar conclusions.

### 1NC – Learning About Antitrust Good

#### Research about anti-trust is a crucial aspect of grassroots organizing to secure progressive gains

Greer and Rice 21 – Jeremie Greer and Solana Rice are Co-founders and Co-executives of Liberation in a Generation, a national movement-support organization working to build the power of people of color to transform the economy.

Jeremie Greer and Solana Rice, “Anti-Monopoly Activism: Reclaiming Power Through Racial Justice,” *Liberation in a Generation*, March 2021, pp. 18-26, https://www.liberationinageneration.org/wp-content/uploads/2021/03/Anti-Monopoly-Activism\_032021.pdf.

As illustrated in section 3, the federal government has many laws and regulations to rein in corporate concentration. Some advocates work to ensure that current regulations are being enforced; other advocates work to identify new regulations and even agencies to respond to the ways that corporate concentration has dominated our economy. We believe that the movement—within research and advocacy spaces especially—should embolden grassroot leaders of color to deliver antiracist policy solutions aimed specifically to curtail monopoly power. Below, we provide considerations for future action that are not policies or regulations or campaigns in and of themselves, but ideas that could transform the anti-monopoly movement in ways that require it to reimagine itself and approach the work through a racial justice lens. Develop More In-Depth, Intentional Research Part of the impetus for writing this document is that Liberation in a Generation believes that the power to change our economic systems rests with the organizers of color who are (re)building the political strength of communities of color. The research and advocacy to limit monopoly power needs to better quantify, center, and reflect the ways that people of color are being harmed. This means conducting research that centers the impact of monopoly power on people of color (as workers, consumers, community members, and participants in our democracy). The research and advocacy need to be relevant to the organizers who are indeed experiencing and fighting many of these forces on the ground, and it should inform solutions that they develop, nurture, and advance through activism. The research and advocacy must use less jargon and abstraction, focusing less on markets, firms, or efficiencies, and it should talk more about the impact of corporate decisions on people, their lives, and their futures. The tent of advocates working on anti-monopoly needs to widen as well. Bringing in the people most impacted is essential to shaping and accomplishing the path forward. Draw Connections Between Monopoly Power and Current Movement Priorities As discussed earlier in this paper monopoly power has enormous impact on other movement priorities led by leaders of color, such as environmental justice, worker justice, housing justice, police and prison abolition, closing the racial wealth gap, and demcratic disenfranchisement. Anti-monopoly policy can be a powerful tool to accomplish existing movement priorities, including the Green New Deal, a Homes Guarantee, a federal jobs guarantee, and Medicare for All. In order to fully utilize it as a tool, anti-monopoly advocates must support—mainly in the background—grassroots leaders of color in integrating anti-monopoly policy and advocacy strategies into the existing campaigns they are leading. By following their lead, and by working together to curb corporate power, we as a collective progressive movement can accomplish an array of movement priorities and move the US closer to liberation for people of color.

### 1NC – State Engagement Good

#### Using the tools of the state is an effective strategy – their demand for methodological purity is myopic

Choat, School of Economics, History and Politics, Faculty of Arts and Social Sciences, Kingston University London, ‘13

(Simon, “Politics, power and the state: a Marxist response to postanarchism,” Journal of Political Ideologies)

The fourth and final criticism of classical anarchism that postanarchism makes is that it has a naive view of politics: conflating politics with the state, it believes that politics itself can be abolished. For postanarchists, **this is mistaken**: politics is both **necessary and interminable**: necessary because even anarchists must have some level of political organization and strategizing, however minimal; interminable because there is no ‘natural’ social order, but only contingent and inherently political articulations of the social. This critique of classical anarchism’s naive understanding of politics is to a large extent anticipated by Marxism. Indeed, for classical Marxists this was the key disagreement: when Marx, Engels and Lenin attacked anarchists it was not so much for their faulty approach to the party or revolution but, much more broadly, **for their attitude towards politics.** For Marxists, the anarchist abstention from politics is ill-advised,hypocritical andultimately impossible. The classical anarchists believed that all forms of political action would necessarily entail compromise with the state and so could lead only to dictatorship or social-democratic reformism.74 As such, they ruled out all forms of political action: not merely the use of the state as a ‘dictatorship of the proletariat’, but also standing for or voting in government elections, lobbying the state for improved conditions (e.g. a shorter working day), and the formation of political parties. As the Russian anarchist Alexander Berkman put it: ‘so-called political “action” is, so far as the cause of the workers and of true progress is concerned, worse than inaction’.75 For Marxists, the anarchist rejection of political action is at once confused and naive. By dogmatically proscribing political action, anarchism **denies the oppressed classes the** most effective means of carrying out their struggle.76 Contrary to anarchist claims, political action does not entail acceptance of the status quo:‘It is said’, writes Engels in response to anarchist demands for political abstention, ‘that every political act implies recognition of the status quo. But when this status quo gives us the means of protesting against it, then to make use of these means is not to recognise the status quo’.77 To deny the working class the use of political action on the grounds that such action recognizes the state is, according to Marx, as foolish as claiming that a strike in the name of higher wages is illegitimate because it ‘recognises’ the wage system.78 In order to challenge the status quo, one must necessarily engage with it: to claim that all political action reinforces the dominant order is to slip into abstraction and to fail to discriminate between different types of political action.

# Block

## T

### 2NC – learning abt antitrust good

#### Here’s a solvency advocate that explicitly says this is topical and connects to the 1AC’s theory of power

Vaheesan 19 – Policy Counsel at the Open Markets Institute. Former regulations counsel at the Consumer Financial Protections Bureau.

Sandeep Vaheesan, “Accommodating Capital and Policing Labor: Antitrust in the Two Gilded Ages,” *Maryland Law Review*, vol. 78, no. 4, 2019, pp. 816-825, https://digitalcommons.law.umaryland.edu/cgi/viewcontent.cgi?article=3832&context=mlr.

IV. How Remaking Antitrust Law Could Help End the New Gilded Age

Congress, the antitrust agencies, and federal courts should restore the original anti-monopoly, pro-worker vision for the antitrust laws. For much of their history, these laws had a pro-capital, anti-worker orientation. Notwithstanding this record, these laws can be reoriented to police capital and accommodate labor in accord with the intent of Congress. In passing these laws, Congress aimed to curtail the power of capital and also preserve space for workers to organize. 392 The antitrust agencies and federal courts should reject the ahistorical and deficient efficiency paradigm and embrace the political economy framework of the sponsors of the antitrust laws. Specifically, they need to reinterpret antitrust to restore competitive market structures and limit the power of large businesses over consumers, producers, rivals, and citizens. Along with imposing checks on the power of large businesses, Congress, the agencies, and the courts must preserve freedom of action for workers acting in concert.

New statutes and executive and judicial reinterpretation of antitrust law, in accord with congressional intent, would help remedy many economic and political injustices in the United States today. Monopoly and oligopoly appear to contribute to a host of societal ills. These include increased inequality, 393 diminished income for workers 394 and other producers, 395 and declining business formation. 396 At the same time, protecting workers' collective action against antitrust challenges would create more space for workers to organize and claim a fairer share of income and wealth. 397 Restoring antitrust law to its original goals would likely produce a more just and equitable society. Although no means a panacea for what ails the United States, antitrust law should be part of a broader social democratic agenda that reduces the yawning inequalities in wealth and power today. 398

Reinterpreting and reviving antitrust law will require new legislation from Congress, 399 a radical remaking of the federal antitrust agencies and the courts, or some combination of both. Congress, the DOJ, the FTC, and the courts would have to undo a thick accretion of pro-business, anti-worker case law and guidelines. 400 The current Supreme Court and the Trump administration are, if anything, likely to entrench the consumer welfare antitrust that failed consumers and workers, to continue to tolerate the abuses of monopolies and monopsonies, and to deploy antitrust against the powerless. 401 Yet, administrations and the composition of the Supreme Court are not destined to remain the same.

Already signs of progress are clear. Along with bills on strengthening antitrust in Congress, a number of members of Congress and candidates for Congress are making antitrust a centerpiece of their agenda. 402 At least on the Democratic side, antitrust and anti-monopoly appear likely to be important themes in the contest to be the party's presidential nominee in 2020. And if and when an administration committed to the revival of antitrust and control of corporate power is elected, it would have an opportunity to pursue a different course on antitrust through both appointments to the federal antitrust agencies and to the judiciary. In relying on the executive branch and the courts, the conservative reinterpretation - and retrenchment - of antitrust offers one model for reviving the field. 403 And even in the near term, litigation can yield important advances. Some lower courts appear receptive to reinvigorating or at least honoring mid-century precedents the Supreme Court has not overruled. 404

A. Confronting the Power of Capital

A reinterpretation of the antitrust laws needs to be founded on the political economy embodied in the legislative histories of the principal antitrust laws. The Congresses that enacted these statutes were not concerned with narrow economics or some abstract notion of competition. Instead, they sought to control the power of the new monopolies and trusts that dominated the American political economy. They had a broad conception of the power of large-scale enterprise and considered - and condemned - the trusts' power over consumers, producers, competitors, and citizens. 405 A review of the legislative histories reveals economic and political ideas that are consonant with popular concerns about corporate power today. 406

Permissive merger and monopoly policy resulted in a highly concentrated industrial structure. 407 Numerous sectors across the economy became more concentrated over the past two decades. 408 A few examples are illustrative. In the airline industry, the number of major carriers declined from nine to four since 2005. 409 Two duopolies dominate railroads - one east of the Mississippi and one west of it. 410 The wireless industry has four major players, 411 with AT&T and Verizon accounting for approximately seventy percent of market share by revenue. 412 In agriculture, concentration increased dramatically in markets throughout the supply chain, starting with inputs such as fertilizer and seeds through processing of farmers' crops, livestock, and poultry and food retailing. 413 Most local labor markets in the United States, and in rural areas in particular, are highly concentrated (as defined by the Horizontal Merger Guidelines) 414 and have become more concentrated since the 1970s. 415

Consumer welfare antitrust failed even on consumer welfare grounds. In metropolitan areas across the country, hospital mergers created highly concentrated markets for hospital services and contributed to higher costs in health care. 416 John Kwoka has shown that the antitrust agencies often failed to challenge mergers that had subsequent anticompetitive effects (higher short-term consumer prices). 417 Furthermore, Kwoka found that merger remedies, especially behavioral remedies, often failed to preserve competition. 418 Other research has also shown that increased market concentration contributes to higher consumer prices. 419

The failures of consumer welfare antitrust become even clearer when a broader set of economic and political interests are examined. Higher consumer prices are one manifestation of business power but only one and arguably not the most important one. Concentration in labor and product markets contributes to lower wages. 420 Just from a consumer angle, dominant online platforms, with their huge troves of user data and lack of effective competition, pose serious threats to personal privacy. 421 Companies that control infrastructure that support a range of activity, whether they are the electric grid or a search engine monopoly, have the power to shape large swaths of the economy over time. 422 The economic power of large business can also translate into great political power. 423 Empirical research found that big business exercises disproportionate influence over the political system. 424 John Browne, the former CEO of oil and gas giant BP, explained the nexus between economic power and political power. In an interview with The Wall Street Journal in 2003, he described how BP's size gives it political power:

We do get the seat at the table because of our scope and scale. Whether we are the second or the third largest (oil) company is of very little import, but we're certainly up there and we operate in places which are important to the United States government, and the United States government is important to us... . We have large numbers of employees in the United States. That's very important in a political system. And they are highly concentrated. So we have a very significant presence in Texas, Illinois, Alaska, California. These are important because our employees are voters. 425

Economic power extends beyond influence over politicians, regulators, and other public officials. Comcast and Google illustrate this hegemonic power. These giants use their power and wealth to shape the terms of debate through financial support for academics and non-profit organizations, including organizations with otherwise progressive reputations. 426 In their funding of academics and think tanks, these companies are representative of large-scale capital, rather than outliers. Large businesses outside telecommunications and technology also use their wealth and power to manipulate the parameters of public discussion, 427 including by attempting to discipline critical voices. 428

Current legal standards fail to provide a check on the prerogatives of large businesses and do not even protect consumers from the burden of monopoly and oligopoly. Antitrust legal standards, such as the rule of reason and the analytically comparable Horizontal Merger Guidelines, impose onerous burdens on plaintiffs challenging anticompetitive conduct and call for complicated, speculative inquiries into whether a business practice or merger led to or will likely lead to consumer harm in the near term. 429 These standards ensure plaintiffs rarely win and help protect monopolistic and oligopolistic domination of markets. 430 Largely quantitative analysis, likely defective even for the consumer welfare standard, 431 cannot do justice to the qualitative manifestations of business power identified in the legislative histories of the Sherman, Clayton, and FTC Acts. 432 These standards cannot protect the open markets or the American political system from private business power. And these standards, by elevating complexity over simplicity, favor well-heeled interests who can afford to retain the most expensive lawyers and consultants - the monopolies and oligopolies themselves. 433

To limit the power of large corporations, Congress, the antitrust agencies, and the courts must embrace clear rules and presumptions and reject the prevailing rule of reason approach. The Supreme Court once recognized the importance of rules in antitrust law and the unworkability of complicated standards. 434 For antitrust enforcement to be effective and efficient, per se rules and presumptions of illegality must become the default in antitrust law. 435 At present, rules are the norm only for price fixing and similar forms of horizontal collusion. 436 Per se rules or presumptions of illegality should govern a range of conduct that threatens structurally competitive markets. Conduct that carries this competitive threat includes horizontal and vertical mergers in concentrated markets and predatory pricing, exclusive dealing, and tying by monopolists and near-monopolists. Under these presumptions, certain firm conduct would be illegal unless the business could present credible business justifications.

#### Legal knowledge and institutional engagement are critical to dismantling antiblackness---it’s a form of infiltration that avoids cooption and turns power against itself

Robert Williams, American civil rights leader, president of the Monroe, NC chapter of the NAACP, advocated for black self defense, cited by Huey Newton as a revolutionary inspiration, “The Deprived: Rebellion in the Streets, The Crusader Newsletter, Vol. 10, No. 2, Summer ‘69

INFILTRATE THE MANS INSTITUTIONS:

Black youth should not commit the catastrophic error of seeing things simply in black and white. That is, of seeing things as all good or all bad. It is erroneous to think that one can isolate oneself completely from the institutions of a social and political system that exercises power over the environment in which he resides. Self-imposed and pre- mature isolation, initiated by the oppressed against the organs of a tyrannical establishment, militates against revolutionary move- ments dedicated to radical change. It is a grave error for militant and just-minded youth to reject struggle-serving opportunities to join the mans government services, police forces, armed forces, peace corps and vital organs of the power structure. Militants should become acquainted with the methods of the oppressor. Meaningful change can be more thoroughly effectuated by militant pressure from within as well as without. We can obtain invaluable know-how from the oppressor. Struggle is not all violence. Effective struggle requires tactics, plans, analysis and a highly sophisti- cated application of mental aptness. The forces of oppression and tyranny have perfected a highly articulate system of infiltration for undermining and frustrating the efforts of the oppressed in trying to upset the unjust status quo. To a great extent, the power structure keeps itself informed as to the revolutionary activity of freedom fighters. With the threat of extermination looming menacingly before Black Americans, it is pressingly imperative that our people enter the vital organs of the establishment. FIGHT KANGAROOISM: Inasmuch as the kangaroo court system constitutes a powerful defense arm of tyranny, extensive and vigorous educational work must be done among our people so that when they serve on jury duty they will not become tools of a legal system dedicated to railroading our people to concentration camps disguised as prisons. The kangaroo court system is being widely used to rid racist America of black militants, non-conformists and effective ghetto leadership. These so-called courts are not protecting the human and civil rights of our people; they are not dis- pensing even-handed justice, but are long-standing instruments of terror and intimidation. Black Americans must be inspired to display the same determination in safeguarding the human and civil rights of our oppressed people as white racists are to legally lynch us. No matter how much rigmarole is dished out about black capitalism and minority enterprise, the hard cold fact remains that it is as difficult for a Black American militant to receive justice in America's tyrannical courts as it is for a camel to pass through the eye of a needle. Black people must be brought to see their duty as jurors as an opportunity to right legal wrongs not to perpetrate shameful obeisance to tyranny and racism. Youth should mount a campaign relative to this social evil that will by far ex- ceed the campaign of voter registration.

#### Learning about antitrust law is key to making contingent changes

Greer and Rice 21 – Jeremie Greer and Solana Rice are Co-founders and Co-executives of Liberation in a Generation, a national movement-support organization working to build the power of people of color to transform the economy.

Jeremie Greer and Solana Rice, “Anti-Monopoly Activism: Reclaiming Power Through Racial Justice,” *Liberation in a Generation*, March 2021, pp. 3-14, https://www.liberationinageneration.org/wp-content/uploads/2021/03/Anti-Monopoly-Activism\_032021.pdf.

Unfortunately, though the start of the 20th century saw robust anti-monopoly government action, the government rapidly retreated from anti-monopoly enforcement in the second half of the century. Since, the federal government and the federal courts have aided—not prevented—the exponential growth in monopoly power in nearly every sector of our economy, including technology, telecommunications, food supply chains, banking, and health care. In 2015, for example, the US saw a record number of corporate mergers, totalling $3.8 trillion in merger and acquisition activity.5 Mergers that year involved massive companies, such as Time Warner Cable, AnheuserBusch, and Berkshire Hathaway, becoming more massive. In 2020, T-Mobile—the third-largest wireless carrier in the US— acquired Sprint,6 and Morgan Stanely acquired online stock trading company E-Trade.7

The economic problems created by monopoly power have been widely studied, and many solutions to curtail it have been developed by experts. Unfortunately, like so many large-scale and so-called “race-neutral” policy efforts, anti-monopoly policy ideation and implementation have left people of color behind. In researching this paper we found limited research or policy ideation on the impact of monopoly power on people of color. We believe that the absence of grassroots leaders of color in anti-monopoly policy conversations can be attributed to this disconnect.

It is critical that grassroots leaders of color are positioned to lead on anti-monopoly policy, as they are uniquely positioned to understand its impact on people of color at the household, community, and societal levels. This gives them a unique perspective in policy ideation efforts that should be valued and validated. These leaders also possess the unique skills to mobilize the people and public power that are necessary to force the government to reclaim its historic role of reining in runaway corporate monopoly power.

We at Liberation in a Generation believe that the power to change our economic systems rests with the organizers of color who are building the political strength of communities of color. Anti-monopoly research and advocacy need to better quantify, center, and reflect what people of color are experiencing and the ways that they are being harmed by monopoly power’s reach. These efforts should also better connect anti-monopoly policy and advocacy as tools to advance the existing priorities of leaders of color, such as the Green New Deal, Medicare for All, closing the racial wealth gap, and a Homes Guarantee. This paper aims to contribute a major step in the long journey of bridging the divide between anti-monopoly researchers and policy advocates and grassroots leaders of color. The first step on that journey is knowledge.

Recognizing that anti-monopoly work is a new policy issue to many grassroots leaders of color, this paper will serve as a primer to 1) educate grassroots leaders on the issue of corporate concentration, 2) connect the issue to racial justice, and 3) recommend a path forward for grassroots leaders as well as the researchers and advocates who need to embrace them. Our hope is that this paper provides a foundation of knowledge that grassroots leaders of color can use to build race-conscious solutions and mobilize for action to rein in runaway corporate monopoly power. To that end, the paper is organized into six sections.

SECTION 1 Monopoly Power Is Corporate Power Magnified and Maximized

In 1975, millions flooded theaters to see the blockbuster thriller Jaws. The story follows a police chief in a small resort town as he risks his life to protect beachgoers from a monstrous man-eating great white shark.

Monopolies are a lot like the shark in Jaws. While enormous, ruthless, dangerous, and scary, the movie’s monster is just a shark, and the police chief uses tools and community to defeat it. Comparatively, while also enormous, ruthless, dangerous, and even scary, monopolies are just corporations, and we, together, can confront them. Their massive power controls the wages we earn, the prices we pay, and the actions of the politicians who are supposed to represent us in DC, the statehouse, and city hall. In a representative democracy, we the people are at the top of the food chain, and it is within our power to make these monopolies fear us— and end their existence in the first place.

Grassroots leaders of color are highly experienced and uniquely skilled at challenging corporate power, and these capacities can and should be used to curb monopoly power. For example,8 the Athena Coalition has successfully leveraged grassroots power to challenge the monopoly power of Amazon, and Color of Change9 has effectively used grassroots digital organizing to challenge the monopoly power of social media platforms such as Facebook. Putting monopolies in the crosshairs of organizers is critical because they best understand the real human and structural devastation caused by monopoly power, which is otherwise all too easily neglected.

Though we believe that grassroots leaders of color have the experience and expertise necessary to challenge monopoly power, the question remains: Why should they lead this fight? Grassroots leaders of color are already engaged in high-stakes battles with the forces of corporate power on fundamental issues, including environmental justice, worker justice, housing justice, prison and police abolition, and voter and democratic justice. We believe that these efforts can be bolstered if anti-monopoly policy development and advocacy were incorporated into these existing efforts but then followed the lead of organizers. For example, the primary opponents of prison and police abolition are private prison monopolies, such as GEO Group and CoreCivic, which profit from the arrest and incarceration of Black and brown people. Opponents of the Green New Deal include energy monopolies BP and ExxonMobile, whose profits are derived from polluting Black and brown communities.10 Finally, opponents of the Homes Guarantee, and its call for creating 12 million units of social housing outside of the for-profit housing market, include big banks that profit from the commodification of affordable and low-income housing. Challenging these opponents by diminishing their monopoly power could prove to be a powerful weapon in the fight to dismantle unchecked corporate power and its real-life economic impact on people of color.

How Corporate Monopolies Show Up in Today’s World

The distinguishing features of monopolies, when compared to your run of the mill corporation (large or small), are the reach and intensity of the corporate power that they wield. Monopoly power turbocharges the ills of corporate power and creates a wider impact of the overlapping consequences for people. In many ways, monopolies are created when corporate power becomes governing power.11 Their sheer size and market dominance allow them to govern markets, and their expansive wealth gives them the power to manipulate prices, crush workers, and steamroll governments. Ultimately, monopolies’ extreme economic power—which they use to gain outsized political power and then more economic power—undermines the collective power of workers, consumers, small businesses, local communities, and governments.

It has become difficult, and inadequate, to rely on legal definitions to identify monopolies. The legal definition of monopolization is highly technical and complicated by centuries of conflicting jurisprudence. It's been narrowed to exclusively focus on the negative impact that anticompetitive actions have on consumers.12 This narrower focus intentionally shielded monopolies from any accountability for anticompetitive harm inflicted on workers, the environment, local communities, government, and democracy. Federal enforcement of monopoly power is confined to the highly specialized legal practice of antitrust law enforcement.13 However, centuries of political power wielded by corporate monopolies and their acolytes (e.g., universities, think tanks, trade associations, and major law firms) have rendered much of antitrust law enforcement toothless.14

In the late 19th and early 20th century, the definition of monopoly was much wider and comprehensive. In this paper, we will expand the definition as well. Recognizing that this definitional work is in many ways a work in progress, we offer our definition as a point of discussion and debate for the larger field of anti-monopoly advocates.

In this paper, we define monopoly as a corporate entity (a single corporation or a group of corporations) whose sheer size and anticompetitive behavior grant it disproportionate economic power and governing influence. This negatively affects the well-being of workers, consumers, markets, local communities, democratic governance, and the planet.

Below are a few major industries that reveal how corporate concentration and monopolistic industries harm the economic lives of workers, consumers, and communities of color.

Big Tech

Four corporations comprise what has come to be known as “Big Tech”: Amazon, Apple, Facebook, and Alphabet (the parent company of Google). Each of these technology firms dominate an enormous share of their respective technology markets. Google, for example, controls 90 percent of the internet search market, and it controls the largest video sharing platform on the internet through its ownership of YouTube. Apple controls 50 percent of the cellphone market,15 and Amazon controls 50 percent of all ecommerce. Facebook and its many subsidiaries (such as WhatsApp and Instagram) dominate the social media and online advertising marketplace.16 Other technology firms, including Uber, Lyft, Microsoft, and Netflix, also demonstrate monopolistic, anticompetitive behavior in their respective markets. In many ways, these companies, and the people who control them, are the “robber barons” of our time.

Big Pharma

The world's largest pharmaceutical corporations, including Johnson & Johnson, Pfizer, Merck, Gilead, Amgen, and AbbVie, together comprise “Big Pharma.” These monopolies build their profits by controlling the prices of critical life-saving pharmaceuticals (e.g., insulin, drugs that regulate blood pressure, and critical antibiotics) and life-altering medical devices (e.g., heart stents and joint replacement devices). Between 2000 and 2018, a disproportionately small number of pharmaceutical companies made a combined $11 trillion in revenue and $8.6 trillion in gross profits.17 In 2014, the top 10 pharmaceutical companies had 38 percent of the industry’s total sales revenue.18 Much of these profits were gained driving up the price of critical drugs , extorting research and development (R&D) funding from the government, and leveraging Big Pharma’s political influence to weaken government oversight of the industry.19

Big Agriculture

Big Agriculture, or “Big Ag,” refers to monopolies that control major aspects of the global food supply chain. This includes companies such as Cargill, Archer Daniels Midland Company (ADM), Bayer, and John Deere. Though once a diffuse network of small farmers and supply chain companies, recent mergers have created a system comprising a small number of corporations that are crowding out smaller, family-run companies including small farms. Similar to Big Pharma, government subsidies are a massive component of the obscene profits made by Big Ag. Further, as often the largest employer in many small rural towns, these corporations often ruthlessly wield their monopoly power to drive down wages and benefits to workers, skirt government safety regulations, and bully (and even buy out) small farmers.

Big Banks

Known as the “Big Five,” five banks control almost half of the industry’s nearly $15 trillion in financial assets: JPMorgan Chase, Bank of America, Wells Fargo, Citigroup, and US Bancorp. Their collective importance to the nation’s financial system has led some to consider them “too big to fail.”20 In fact, in response to the financial crisis of 2008, the federal government provided trillions of dollars in relief to ensure that they did not collapse under the weight of the crisis.21 The Big Five have an incredible influence over the flow of money throughout our economy. They finance critical goods and services, such as housing, higher education, infrastructure, and renewable energy. They also finance extractive elements of our economy, such as fossil fuels and private prisons. But, most importantly, they set the rules for who can and cannot access loan capital, and their exclusionary practices have been widely linked to the growth of racial wealth inequality (as described in Section 3).

These are just four examples of industries that have been taken over by monopolies, but they are in no way exclusive. Many other critical industries in our economy have been corrupted by monopolies, including the energy, health insurance, hospital, for-profit college, and delivery service industries.

One note of caution on monopolies: While all corporate monopolies are harmful, some government monopolies can be critical to providing essential programs and services. Examples of government monopolies include public K–12 schools, publicly owned utilities, and the United States Postal Service (USPS). In fact, the USPS is codified in the US constitution to ensure that all people—even those in remote rural areas—can send and receive mail. Today, the USPS is an important employer to people of color, particularly Black people, in providing competitive wages and quality health and retirement benefits.

The predation of corporate monopolies creates racial wealth inequality. Low-wage employers that employ people of color, such as Walmart—the nation’s largest private employer—often set the wage floor for local communities and the nation.22 Agribusinesses and pharmaceutical monopolies set prices at a “poverty premium

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” where people of color pay more for food and life saving drugs. Also, bank monopolies set the prices that people of color pay for basic financial services, and they provide capital to predatory lenders, including payday and car title lenders.

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#### Our impacts turn and outweigh theirs – A] magnitude – the administrative state is key to solve multiple existential risks – only reclaiming power towards progressive ends solves

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Kate Jackson, “All the Sovereign’s Agents: The Constitutional Credentials of Administration,” *William & Mary Bill of Rights Journal*, 8 July 2021, pp. 2-7, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3813904.

We face no less than four urgent crises: an ongoing pandemic1; racial injustice and its consequent civil unrest2; an economic depression approaching the pain inflicted in 1929; and the accumulating, existential threat of climate change.4 Citizens must rely on their state to tackle these burning perils.5 Yet critics both left 6 and right 7 would tear down its institutional capacity to do so. Some denounce the exercise of administrative power as illiberal, unconstitutional and obnoxious to the rule of law.8 Others impugn it as undemocratic, paternalistic, and corrupt.9 Yet without some kind of agent to carry out collective solutions, these perils may very well proceed unabated.

Pushing an anti-administravist10 agenda, libertarians continue their “long war”11 against government agencies by insisting that they are an unconstitutional fourth branch of government. For them, administration is a kind of “absolutism”12 that violates the separation of powers and defies the principle of limited government.13 They contend that agencies’ discretionary rulemaking offends the liberal commitment to the rule of law. 14 Accordingly, they would punt agencies’ responsibility for social, economic, and environmental problems to courts and legislatures. 15 Regulation would thus be placed at the mercy of an undemocratic judiciary who increasingly “weaponizes” the First Amendment in favor of big business16 – or of a Congress whose already inefficient decision-making is crippled by hyperpolarization17 and distorted by the kind of material inequalities that the welfare state is meant to ameliorate. 18

Conservatives with a more authoritarian inflection seek to recall administration from its constitutional exile by subsuming it under presidential power. 19 Such critics would lend administration some democratic credentials by bootstrapping them to the president’s electoral accountability. Yet ridding agencies of their independence by placing them under the discretion of the president grants the president personal control over agency policymaking and adjudication without the checks provided by Congress, the courts, or an independent civil service.20 It thus, arguably, solves a separation-of-powers problem by introducing a new one.21 More ominously, empowering the president with the patina of democratic legitimacy emits a strong whiff of Schmittian politics.22 The prospect of a largely unbound executive officer claiming a popular mandate to hire and fire civil servants on a whim should alarm any that followed the Trump Administration’s treatment of refugees, civil protestors, polluters, and political cronies.

Agency power likewise fares poorly in the hands of the left. 23 They blame administrative technocracy for a variety of social and political ailments: the reification of social differences and the juridification of human nature24; corruption, privatization and regulatory capture25; the depoliticization of economic issues and the subsidization of globalized financial capitalism26 and, ultimately, the constellation of conspiratorial populist politics currently threatening liberal democratic states.27 Their preferred solutions include democratizing agency decision-making28 and constraining Congress’ capacity to delegate its lawmaking function. 29 While their interventions are welcome, they may deprive government of the nimble expertise necessary to address environmental and economic crises.30 Moreover, as illustrated by the president’s extraordinary powers to shape national immigration policy despite its “notoriously complex and detailed statutory structure,” increasing the amount of formal legislation may only expand agencies’ enforcement discretion.31 Agency democratization, furthermore, risks reproducing, perhaps under the cover of ostensible public consensus, the same social, economic and political inequalities that distort Congressional lawmaking. 32

In this essay, I contend that this multi-pronged anti-administravist attack stands upon shaky conceptual foundations. Each builds atop a theory of constitutionalism that embraces a too-literal conception of popular sovereignty.33 It is a conception that posits that there is, in fact, a “people” with a sovereign “will.” It is a “will” that can be clearly identified (through elections); straightforwardly transcribed (through lawmaking); mechanically applied (by administrators) and constrained (by judges). 34 But in a country of hundreds of millions, the diverse multiplicity of citizens could never find a common will.35 It is even more impossible that it could ever be accurately expressed through the lawmaking of elected representatives.36 As a result, critics of administration often grant statutory lawmaking more democratic credentials than it deserves. 37 The non-delegation doctrine purports to prevent the delegation of something that simply may not exist.

Critics commit another mistake when they invoke a theory of constitutionalism that analytically divides functions that cannot, as either a moral or empirical matter, be disentangled. First, they incorrectly posit two separate, autonomous processes: the collective formation of ends (lawmaking) and the implementation (execution) and application (adjudication) of those ends. 38 But we cannot presume that judges and administrators can mechanically apply and enforce the law without importing into the process their own value-laden, and therefore political, judgments.39 “They who will the end will the means” is a naïve argument that occludes the power wielded by unelected actors.40 It is also a mistake to presume that the legislative branch concerns itself only with value-laden final ends, and not with the means required to execute them.41 Indeed, most of our most bitter political fights are fights conducted precisely over means: how best to grow the economy; how best to care for the sick; how best to mitigate climate change, etc. 42 As a result, the theories overemphasize and distort the purpose of separating powers.43

Critics commit yet another mistake when they divorce the constitutional functions of (1) protecting rights and limiting government power, and (2) providing the decision-making procedures necessary for democratic will-formation. 44 They isolate elections and lawmaking from the process of enforcing rights and the rule of law – as if they have nothing to do with one another. Yet quarantining rights from democracy requires reliance on an outsourced moral order external to the political system itself – a reliance inappropriate for contemporary secular polities.45 They therefore lend judges too many liberal credentials while denying any to mechanisms of popular feedback.

Rather than critiquing agencies for violating the separation of powers, for their over-reliance on unelected technocrats, or for their indifference to universalizable legal principles, I argue that administration does indeed carry constitutional liberal democratic credentials – credentials borne out by political theory’s “representative turn.”46 By understanding agencies as embedded in a system of representative democracy that aims to set the conditions by which citizens can relate to each other as political equals, we can assess the legitimacy of government agencies without any “idolatrous”47 commitments to a fictitious popular sovereign or legal formalism. I suggest that agency institutions should be measured against the notion that popular sovereignty demands not consensus and consent, but instead institutions that permit citizens to understand themselves as co-equal participants in the collective decision-making process.

### 2AC 2 – AT: Update To Theory

#### – only the alt’s reclamation of political power solves it

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K. Sabeel Rahman, “Ch. 4: Economic Domination and Democratic Action,” *Democracy Against Domination*, Oxford University Press 2017, pp. 83-86.

Structural Domination

The Progressives’ critique of the market suggests a second form of domination that can arise even in the absence of discrete individualized actors or specific intentionality. Recall that part of the very problem of market society, for Progressives, stems from the way in which market forces— themselves the aggregation of thousands of individual transactions under background legal rules of contract, tort, and property—can nevertheless undermine individual autonomy, creating dependency and unfreedom. Workers, for example, are ostensibly free to change jobs, but while this “liberty” was celebrated as a kind of freedom of contract, it is not substantive freedom: Workers remain constrained in their ability to secure meaningful and sufficiently remunerative work by the structure of choices and opportunities available to them.

John Dewey, alongside the legal realists, exemplified this critique that the supposedly “free” market was in fact an inequitable system backed by a distribution of power through property and contract rights.13 But more important for Dewey was the way in which the market created broader instabilities, externalities, and risks that affected those far beyond the binary transactional relationships of private exchange. The cumulative effect of individual market transactions had repercussions affecting a wide range of citizens, for example through aggregated fluctuations in wages and prices, or through the imposition of what today we would think of as externalities—risks to health, safety, and the like—on the public. According to Dewey, the central limit on individual flourishing was therefore not the state, but rather “material insecurity” and “the coercions and repressions that prevent multitudes from participation in the past cultural resources that are at hand.”14

This critique of the market as a system of power presents a different form of power and domination. Unlike the dyadic domination of corporations or wealthy elites, here no single actor intends to create such an unequal social structure. Rather, each party is simply seeking its own advantage established by background laws. Yet the aggregate effect is to create situations like low wages, unemployment, or other market failures that require regulation. Furthermore, these systemic forces are not merely the product of “nature,” but are instead human-made, the result of existing laws, practices, and human action—therefore, constituting a form of domination that can be contested and reshaped, rather than merely being tolerated. What Progressive Era thinkers point to with this critique of market society is a form of diffused or decentralized domination that is often unobvious, and invisible. Such market power is not the product of a single intentional, cognizable actor.

The Progressive critique suggests the importance of expanding the concept of domination to theorize precisely these forms of structural domination. Such structural domination is a property not of a discrete actor—like a master or corporation—but rather of a diffused, decentralized, social system or structure. Such a social system, while it lacks a coherent “intentionality,” is nevertheless the aggregate result of many individual, intentional acts. Furthermore, these component acts need not themselves intend to create arbitrary influence or domination in another’s life choices—that arbitrariness can emerge as a property of the aggregate system itself, constraining the opportunities available to individuals at different positions in the social system. As Iris Young explains, structural domination arises

when social processes put large groups of persons under systematic threat of domination or deprivation of the means to develop and exercise their capacities, at the same time that these processes enable others to dominate or to have a wide range of opportunities for developing and exercising capacities available to them.

Structural domination is “a kind of moral wrong distinct from the wrongful action of an individual agent or the repressive policies” of the state or the firm, instead arising as “a consequence of many individuals and institutions acting to pursue their particular goals and interests, for the most part within the limits of accepted rules and norms.”15

Structural domination is not necessarily traceable to specific individuals, actions, or policies.16 Nor does it wholly eliminate the freedom of the dominated:  Individuals facing conditions of structural domination still have some scope for voluntary action, but are deeply unfree: “To say that structures constrain does not mean that they eliminate freedom; rather, social-structural processes produce differentials in the kinds and range of options that individuals have for their choices.”17 As Elizabeth Anderson writes, “the fact that these evils [of suffering in market society] are the product of voluntary choices hardly justifies them: Free choice within a set of options does not justify the set of options itself.”18

If the archetype of domination is the “interpersonal” relationship between master and slave, then structural domination is more akin to the “relation of the slave to the ‘many masters’ (Roman citizens) who create and sustain the legal order.”19 Structural domination is thus not the opposite of “agency.” Instead, structural domination is a product of human agency, but it simply appears not to be, seeming natural, invisible, non-dominating, obscured by the apparently voluntary nature of choices people can make within the condition of structural domination.20 We ourselves are the agents of diffuse, structural domination, insofar as we collectively create, sanction, and tolerate the collection of background laws and practices that give rise to aggregate effects of economic unfreedom.21

This more nuanced approach to domination is critical for diagnosing the pathologies of the modern economy because the market is the quintessential example of such structural domination. In the labor market, for example, workers seeking employment are voluntary but not necessarily free, constrained in their ability to secure meaningful and sufficiently remunerative work by the structure of choices and opportunities available to them. Young offers a similar example of the low-wage worker who is also a rent-burdened tenant vulnerable to homelessness. The vulnerability of this individual to homelessness has little to do with the individual’s own responsibility and choices, nor is it necessarily the result of deliberate malfeasance on the part of employers and owners; rather, this condition of unfreedom is a product of a set of social and economic systems and the individual’s position in those systems—for example, that she only has the qualifications for and access to certain kinds of jobs that do not pay enough, living in conditions where rents are high and economic opportunities geographically segregated. The urban economy, Young writes, is a “structured product of a combination of social policies, investments decisions, cultural preferences, and racial hegemonies.”22 More generally, markets exert what David Grewal calls “network power,” a form of choice-constraint where freely chosen benefits may be conditioned on meeting unrelated conditions which themselves are harmful to the chooser. Thus, one may “choose” to accept employment that is conditioned on poor working hours and conditions—or on the fulfillment of preconditions for qualification that represent a narrowing of the chooser’s meaningful exercise of freedom even if the choice is still voluntary. 23

### Link Run

#### Second, individualism – retreat away from institutions cedes the terms of power

Papantonopoulou 14 Saffo, transgender revolutionary, utility femme tomboy princess and Masters Student @ New School for Social Research, “Even a Freak Like You Would Be Safe in Tel Aviv: Transgender Subjects, Wounded Attachments, and the Zionist Economy of Gratitude,” Women’s Studies Quarterly 41.1/2 Spring/Summer, p. 291, JB

The renaturalization of capitalism within late twentieth-century identity politics is both a product of and produced by the reframing of both temporality and the individual’s relation to the collective within purportedly liberatory political projects. No longer part of a mass movement that aims toward liberation of the collective in historical time, we are instead relegated to a totality of atomized individuals, each struggling to survive. The struggles for survival are very much real, but the ways in which they have been politicized—even more, the ways in which survival within the existing system has become the political project—reflect an internalization of Margaret Thatcher’s infamous quip “There is no alternative.” We are often grappling with subjectivities that have been produced by disciplinary regimes in order not to survive. Liberation will mean the ceasing-to-be of many of these disciplined subjectivities. And there are few things more terrifying than calling for the death of one’s own subject position

#### Retreat to the undercommons guarantees we cannot deal with existential climate change nor combat the bad shit

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While nostalgia for a lost past is clearly not an adequate response, neither is today’s widespread glorification of resistance. Resistance always means resistance against another active force. In other words, it is a defensive and reactive gesture, rather than an active movement. We do not resist a new world into being; we resist in the name of an old world. The contemporary emphasis on resistance therefore belies a defensive stance towards the encroachments of expansionary capitalism. Trade unions, for instance, position themselves as resisting neoliberalism with demands to ‘save our health system’ or ‘stop austerity’; but these demands simply reveal a conservative disposition at the heart of the movement. According to these demands, the best one can hope for is small impediments in the face of a predatory capitalism. We can only struggle to keep what we already have, as limited and crisis-ridden as it may be. Even in left-leaning Latin America this trend is visible, with the most significant successes largely around efforts to impede transnational corporations, particularly in relation to mining. In many circles resistance has come to be glorified, obscuring the conservative nature of such a stance behind a veil of radical rhetoric. Resistance is seen to be all that is possible, while constructive projects are nothing but a dream.94 While it can be important in some circumstances, in the task of building a new world, resistance is futile. /// Other movements argue for an approach of withdrawal, whereby individuals exit from existing social institutions. Horizontalism is closely linked to this approach, being predicated on the rejection of existing institutions and the creation of autonomous forms of community. Indeed, the recent history of activism has tended towards such approaches.95 Often these approaches are explicitly opposed to complex societies, meaning that the ultimate implied destination is some form of communitarianism or anarcho-primitivism.96 Others suggest making oneself invisible in order to evade detection and repression by the state.97 At the extreme, some argue for what amounts to a left-wing survivalism: civilisation is in catastrophe,98 and we should therefore become invisible,99 retreat to small communes,100 and learn how to grow food, hunt, heal and defend ourselves.101 If left at the level of survivalism, these kinds of positions, while perhaps unappealing, would at least have some consistency. They at least have the virtue of being open about their implications. However, arguments for withdrawal and exit too easily confuse the idea of a social logic separate from capitalism with a social logic that is antagonistic to capitalism – or, in an even stronger claim, that poses a threat to capitalist logics.102 Yet capitalism has been and will continue to be compatible with a wide range of different practices and autonomous spaces. The Spanish town of Marinaleda offers a useful example of this. Over the course of three decades, this small community (pop. 2,700) has built up a ‘communist utopia’ that has expropriated land, built its own housing and co-operatives, kept living costs low, and provided work for everyone. Yet the limits of such an approach for transforming capitalism are quickly revealed: housing materials are provided by the regional government, agricultural subsidies come from the European Union, jobs are sustained by the rejection of labour-saving devices, income still comes from selling goods on wider capitalist markets, and businesses remain subjected to capitalist competition and the global financial crisis.103 Marinaleda is but one example of how the project of withdrawing, escaping or exiting from capitalism is still contained within a folk-political horizon, within which defending small bunkers of autonomy against the onslaught of capitalism is the best that can be hoped for. Yet we would argue not only that more can be hoped for (and achieved), but that, in the absence of broad and systematic contention, even those small pockets of resistance are likely to be swiftly eradicated

### 2AC 4 – Extinction from Logistics

#### Opposite is true – only regulation solves extinction

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Mariana Mazzucato, “MISSION ECONOMY: A Moonshot Guide to Changing Capitalism,” Penguin Publisher, 1/28/21, https://www.penguin.co.uk/books/315/315191/mission-economy/9780241419731.html

Greening the economy demands and deserves nothing less than a moonshot worthy of the mission. It is not a question of picking a series of outcomes that are only worthwhile for some market participants and disadvantage others. Solving climate change must be transformative across the entire economy. Public, private and civil actors alike will have to shift their mindset from short-term gains to long-run outcomes and profits, particularly against the background of financial stability and transition risks that form the landscape of climate change. Industrial strategies don’t just need different goals: they need missions.

Imagine if we were to bring the courage, spirit of experimentation and willpower of the moonshot to bear on the greatest problem of our time: the climate emergency. Imagine having leaders who proudly declare: ‘We choose to fight climate change in this decade not because it is easy, but because it is hard, because that goal will serve to organize and measure the best of our energies and skills, because that challenge is one that we are willing to accept, one we are unwilling to postpone, and one which we intend to win.’14

Around the world, there is increasing talk about the need for a Rooseveltian scale of investment to battle climate change. The notion of the Green New Deal consciously evokes the New Deal policies that began to lift the USA out of the Great Depression. A Green New Deal is about transforming production, distribution and consumption across the economy. It must be underpinned by long-term, patient finance which is willing to take risks and able to mobilize and crowd in other investors. This is key, as business investment reacts to the perception of where future opportunities lie: the climate emergency can be both a carrot and a stick to create a new direction of opportunities for the global economy. But where do we begin?

The mission map above on carbon-neutral cities (Figure 7) shows that a green transformation is not just about renewable energy. It’s also about achieving a cross-sectoral approach to innovation whose goal is to build a diverse portfolio of mission projects that engage multiple sectors and spur experimentation by as many different types of organizations. Similarly, the mission map on the future of mobility (Figure 9) spans different sectors that could alter how citizens travel, from innovations in the way that disabled people access ramps to new forms of public transport, public data practices and e-governance.

But, crucially, vision and leadership are needed. In 2019 we saw public figures on two continents take this on in two different ways. In the USA Alexandria Ocasio-Cortez, a Democratic Congresswoman for New York, and Ed Markey, a Democratic Senator from Massachusetts, introduced a Green New Deal to kick-start a new type of US growth based on missions that would eliminate all US carbon emissions. In Europe, Ursula von der Leyen, President of the EU Commission, announced the launch of the European Green Deal, which advocated policy initiatives aimed at making Europe climate-neutral by 2050.15 ‘This is Europe’s man on the moon moment,’ she declared.16

The Green New Deal in the USA set a clear direction for its mission and established targeted, measurable and timebound goals. The resolution Senator Markey and Congresswoman Ocasio-Cortez introduced into Congress called for a ‘ten-year national mobilization’ towards reaching goals such as ‘meeting 100 per cent of the power demand in the United States through clean, renewable, and zero-emission energy sources’. The ultimate goal was to stop using fossil fuels entirely and to move away from nuclear energy.

Within the mission, the targets included ‘upgrading all existing buildings’ in the country for energy efficiency; working with farmers ‘to eliminate pollution and greenhouse gas emissions ... as much as is technologically feasible’ (while supporting family farms and promoting ‘universal access to healthy food’); overhauling transportation systems to reduce emissions – including expanding electric car-manufacturing, building ‘charging stations everywhere’, and expanding high-speed rail to reduce national air travel. On top of that, the mission has social goals, including a guaranteed job with a family- sustaining wage, adequate family and medical leave, paid vacations and retirement security’ and ‘high-quality health care’ for all Americans.17

### 2AC 5 – Debt K2 Action

#### Sequencing q is backwards – only reclaiming power makes it possible to enact individual resistance

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Amna A. Akbar, “Demands for a Democratic Political Economy,” *Harvard Law Review Forum*, vol. 134, 2020, pp. 98-106, https://harvardlawreview.org/wp-content/uploads/2020/12/134-Harv.-L.-Rev.-F.-90.pdf.

I. NON-REFORMIST REFORMS

As a matter of rhetoric, the left often fashions itself as against reform and outside of formal politics -- characterizations that liberals and scholars echo. 51But today's left social movements are turning to demands, reforms, and policy platforms. 52This is not a rejection of electoral and legislative politics: it is a cautious embrace, marking a shift for the emergent left. The demands are amplified by an increasingly organized strategy to elect left and socialist candidates to office, to challenge the Democratic Party's ties to corporate money and the billionaire class, and to redefine the realm of the possible. 53Congressional Representatives Alexandria Ocasio-Cortez, Ilhan Omar, and the growing Squad are supported by a developing constellation of organizations focused on electoral strategy -- and these elected officials have become important amplifiers for radical demands. 54The turn to reform undoubtedly reflects the defeat of the revolutionary politics of the New Left and Black Power era -- itself an index of frustration with what the civil rights movement achieved 55-- as well as a recognition of the immensity of U.S. military and police power that rose up to crush movements here and around the world. 56But it also reflects a sober assessment of the limited scale of left, working-class, and poor people power amid decades of state repression and the rise of the neoliberal agenda Klarman documents. 57It is a bid for power that recognizes that mass disenfranchisement is central to the elite's hold on the state and the economy. A growing number of organizers now understand the need to organize poor, working-class, Black, brown, and immigrant people to effectuate transformational change. 58

Reform has long been a central question in debates about left and socialist strategy, 59with a range of terms to capture the aspiration for a reform program aimed at a larger project of transformation. 60Organizers are increasingly invoking non-reformist reforms, the term coined in the 1960s by French economist-philosopher and socialist André Gorz. 61In Strategy for Labor, Gorz defined a non-reformist reform as one that does not comport with "capitalist needs, criteria, and rationales." 62Instead it advances a logic of "what should be" and requires "implementation of fundamental political and economic changes." 63Whether the change is "sudden" or "gradual" is immaterial: non-reformist reforms require a "modification of the relations of power," in particular "the creation of new centers of democratic power." 64

The non-reformist reform framework is prevalent in abolitionist organizing against the prison industrial complex 65and deployed by those who embrace racial justice, anticapitalism, and socialism more broadly. 66In Golden Gulag, Professor Ruth Wilson Gilmore calls for non-reformist reforms, which she defines as "changes that, at the end of the day, unravel rather than widen the net of social control through criminalization." 67Through decades of campaigns against carceral infrastructure, abolitionist campaigns have produced rubrics demarcating an approach to reform focused on reducing the scale, power, tools, and legitimacy of the carceral state. 68The focus on the ideological scaffolding of carceral control -- the equation of policing with safety, for example -- signals a keen understanding of the interlocking ideological and material infrastructure of our lives. 69In turn, it suggests, like Gorz did, that a revolutionary program of reform must continually deepen consciousness around the violence and exploitation of the status quo as it advances the possibility of alternatives.

While Gorz is remembered as a champion for non-reformist reforms, his work is decidedly ambivalent: a "very clear dividing line" will not always exist between "reformist" and "non-reformist reforms." 70Assessing a demand for "the construction of 500,000 new housing units a year," for example, would require an assessment of whether the proposal involved "the expropriation of those who own the required land, and whether the construction would be a socialized public service, thus destroying an important center of the accumulation of private capital; or if, on the contrary, this would mean subsidizing private enterprise with taxpayers' money to guarantee its profits." 71The non-reformist reform does not aim to create policy solutions to discrete problems; rather it aims to unleash people power against the prevailing political, economic, and social arrangements and toward new possibilities.

But whether something is non-reformist or reformist is about more than the nature of the demand and its particulars: it is also a question of how the campaign is waged. Consider another example: abolition of the death penalty. The conventional liberal approach emphasizes that death is too great a power for the state, and reassures the public that life sentences will continue to ensure safety of local communities. In this guise, the campaign aims to shrink the state's carceral power in one particular way but does not question mass human caging. As the campaign attempts to undermine the death penalty, its logic shores up the legitimacy, righteousness, and necessity of life sentences. 72A non-reformist approach would frame the problem of the death penalty as stemming from the larger violence of prisons and policing and its historical continuities with lynching and enslavement. Life without parole then is not the solution, it is illegitimate carceral violence: what abolitionist organizers in Pennsylvania have dubbed "death by incarceration." 73

If the same demand can be framed or implemented in reformist or non-reformist ways, the line is undoubtedly murky in practice. But this does not make the attempt to distinguish futile. Instead it clarifies that reform projects are contradictory gambits if the aim is transformation: they always have the possibility of reifying the status quo. Nonetheless, there are essential distinctions for developing transformative programs of reform that aim to undermine the prevailing order in service of building a new one.

The hallmarks of non-reformist reforms are three. First, non-reformist reforms advance a radical critique and radical imagination. 74Reform is not the end goal; transformation is. 75Non-reformist reforms are "conceived not in terms of what is possible within the framework of a given system and administration, but in view of what should be made possible in terms of human needs and demands." 76In advancing an agenda to meet human need, non-reformist reforms advance a critique about how capitalism and the carceral state structure society for the benefit of the few, rather than the many. They also posit a radical imagination for a state or society oriented toward meeting those needs.

By contrast, reformist reforms draw on and advance critiques of our system -- whether that be capitalism or the carceral state -- that do not question underlying premises or advance alternative futures. In fact, reformist reforms "reject[] those objectives and demands -- however deep the need for them -- which are incompatible with the preservation of the system." 77Here, one can think of the quick rejections by so many of defund the police or the Green New Deal -- despite the mounting evidence that liberal reforms have done little to limit police violence or to slow the speed at which we are hurtling toward increasingly frequent environmental disasters. 78Liberal reformism effectively shields the status quo from deep critique. 79The end goal of liberal reformism is just that: reform.

The non-reformist reform then provides a framework for demands that will undermine the prevailing political, economic, social system from reproducing itself and make more possible a radically different political, economic, social system. For abolitionists, the underlying system to undermine is the prison industrial complex and the horizon to build toward is abolition democracy. For socialists, the underlying system is capitalism and the horizon socialism. In theory and practice, these are intertwined, variegated, and debated political projects. 80

I am suggesting neither a false neatness within nor artificial distinctions between rich left traditions. But I mention it to make a point so obscured in legal discourse: that approaches to reform reflect ideological commitments, critiques of or acquiescence to underlying systems, aspirations for the future, and theories of change. Reforms communicate analyses of our conditions, tell stories about possibilities, and contribute to dynamic relations of power. So the target and object of the non-reformist framework will depend on one's political project and analysis, as will whether one accepts a reformist or non-reformist orientation.

Whereas reformist reforms aim to improve, ameliorate, legitimate, and even advance the underlying system, 81non-reformist reforms aim for political, economic, social transformation: for example, socialism or abolition democracy. They seek to delegitimate the underlying system in service of building new forms of social organization. Rather than relegitimate, they seek to sustain ideological crisis as a way to provoke action and develop public consciousness about the possibilities of alternatives and our collective capacity to build them together.

Second, non-reformist reforms must draw from and create pathways for building ever-growing organized popular power. 82They aim to shift power away from elites and toward the masses of people. This is a matter of substance and process, from where the demand comes, the vision it advances, and the space it creates. Whether through demands on the state or the workplace, non-reformist reform " always requires the creation of new centers of democratic power[,] . . . a restriction on the powers of State or Capital, an extension of popular power, that is to say, a victory of democracy over the dictatorship of profit." 83In their focus on power, non-reformist reforms challenge liberal legal frameworks that tend to obscure power relations. 84Non-reformist reforms are about building the power of people to wage a long-term struggle of transformation.

In contrast to reforms formulated by expert elites, non-reformist reforms come from social movements, labor, and organized collectives of poor, working-class, and directly impacted people making demands for power over the conditions of their lives and the shape of their institutions. 85People living under perilous conditions must generate analysis of those conditions, and advance solutions, in collective formations. 86 Collective processes -- whether in organizations, unions, or assemblies -- become schools of democratic governance in action: processes of enfranchisement and exercises in self-determination that build power and motivate further action. 87

Third, non-reformist reforms are about the dialectic between radical ideation and power building. Non-reformist reforms come from contestatory exercises of popular power. 88They attempt to expand organized collective power to build pathways for transformation. As such, they are not in themselves about finding an answer to a policy problem: They are centrally about an exercise of power by people over the conditions of their own lives. They aim to create "a vast extension of democratic participation in all areas of civic life -- amounting to a very considerable transformation of the character of the state and of existing bourgeois democratic forms." 89

Because the end goal is building power rather than identifying a policy fix, non-reformist reforms can only be effective when pursued in relation to a broader array of strategies and tactics for political, economic, social transformation. That includes protests and strikes as well as political education, mutual aid, organizing, and the building of alternative institutions.

Along with other strategies and tactics, reforms are in dialectical relationship with transformation: deepening consciousness, building independent power and membership, and expanding demands. 90As Gorz put it, reforms have to be imagined as part of a longer-term "strategy of progressive conquest of power by the workers." 91

### 1NR – movements

#### Movements failing applies to them too!!! Their whole arg is that we should do interpersonal resistance – movements are crushed bc the terms of state power are concentrated in elite hadns

#### Alt solves – reconceptualizes politics are reclamation of power from elites

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Steven Klein, “Democracy Requires Organized Collective Power,” *The Journal of Political Philosophy*, vol. 0, no. 0, 2021, pp. 11-19, https://onlinelibrary.wiley.com/doi/epdf/10.1111/jopp.12249.

III. THE STATE AND THE PEOPLE AS POLITICAL INFRASTRUCTURE

So far, I have argued that democratic institutions are both procedures and mechanisms with predictable social and political effects, effects that will then feed back into the integrity of the institutional procedure. The value of democratic institutions arises in large part from how the organization of collective power enables the people to act through the state and preserve, through recursive feedback loops between procedure and outcome, relationships of political equality. Seen in this light, democratic institutions not only distribute power as decision- making rights, but also realize power by organizing the disorganized over and against the already organized, such as the wealthy and incumbent state actors. Part of what gives democracy its dynamic is that these egalitarian modes of organizing power are in constant competition with pre- existing, non- democratic forms of organization, as well as with challengers who wish to exert control over democratic forms of organization via formal procedures and the state. Thus, state formation propels the formation of new political institutions that also seek to organize popular constituencies as a counterweight to pre- existing, aristocratic hierarchies.

Charles Tilly called the state a protection racket— but this fact means it is an accountable protection racket, one that supplants other, less accountable rackets.20 This possibility was recognized by one of the earliest observers of state formation, Machiavelli, who saw that aspiring princes could forge an alliance with the people over and against incumbent elites.21 Similar dynamics have played out historically, because of state actors’ dependence on monetary and military resources of the people (taxation and military conscription, respectively).22 This dependence meant that those state actors had to organize the people through taxation or military conscription, creating a new source of democratic power that could assert itself when the old order collapsed.

With this in mind, here I further motivate the democratic power approach by showing it can better make sense of two key concepts in democratic theory: the people and the state. The liberal proceduralist theory has difficulty with both. Such theories implicitly conceive of the people as just the aggregate members of a society and of the state as a delegate that directly implements the outcomes of collective choice. Because of its attention to the interaction between formal procedural institutions and the organization of power in society, the democratic power approach can articulate the importance of both the people and the state for democratic theory. From the point of view of organized collective power, the people stands for the relatively less organized majority of society and the state for an infrastructure of power through which the people can act.

A. The People

As scholars like Josiah Ober remind us, democracy originally meant something like the power (kratos), in the sense of an organized capacity to act together, wielded by the people (demos).23 But who or what are the people? To the extent that the liberal proceduralist view provides a notion of the people, it is a minimal one— the people are those subject to the jurisdiction of a particular political community. The people stand for the aggregate members of a political community who owe each other, as individuals, treatment as free and equal citizens. Because the liberal proceduralist view focuses on equality constituted through the individual- level distribution of power- over, its concept of the people focuses on formal membership, encompassing all members of a polity, and so not the organized collective activity of the less powerful members of that society. But the democratic power approach, with its attention to the organization of collective power, approaches the people differently: as the political organization of the ordinary, non- elite, and less visible members of a political community— those who abjure or fail to achieve highly visible forms of economic and political power.24 Democratic institutions function as social mechanisms to organize the people, enabling them to exercise collective power. This collective power can be enabled and enhanced through democratic procedures, but only if those democratic procedures initiate a virtuous feedback loop between formal rules and the organization and mobilization of the people.

Liberal proceduralist views are heirs to the notion of the people that arose with the modern concept of popular sovereignty. The development of the idea of popular sovereignty required a reinterpretation of the nature of the people: from the view of the people as the non- powerful majority that is one source of power within a political community to the idea that the people are all citizens of the community acting together as an authorizing power. According to early modern theories of popular sovereignty, the people comes into existence insofar as everyone, as an individual, formally authorizes a juridical order. Political legitimacy thus rests on an equal distribution of authority over the laws. The democratic vision of the people is reinterpreted through the lens of individual consent, such that the people is dissolved into a distribution of individual voting rights.25

We can see this shift in the reinterpretation of the Athenian understanding of democracy in early modern European thought. The Athenian ideal of the supremacy of the demos did not necessarily imply a notion of absolute sovereignty, one realized through the people authorizing the constitution or the government. Rather, it gained political traction because of a crucial ambiguity in the notion of the demos— an ambiguity between the demos as tyrant and as idiōtēs. 26 The demos as idiōtēs stood for the demos as ordinary people who lack relative social, economic, and political power. The supremacy of the demos meant not just the supremacy of the Assembly as a legislative body representing the desires or wishes of the demos (demos as tyrannos), but also the supremacy of non-elite Athenians over elite Athenians (demos as idiōtēs). An implication of this ambiguity is that the regulation of political competition in Athens focused not on the adequate representation of individual components of the populace, but on the prevention of any one individual or group amassing so much power that they could dominate the demos.27

As Kinch Hoekstra has shown, early modern theories of sovereignty deployed an interpretation of Athenian democracy that focused only on the tyranny of the demos—the idea of the Assembly as the supreme, authorizing legislative body— while neglecting the other meaning of the demos in Athenian democratic ideology.28 The rise of the idea of popular sovereignty thus marked a shift in views of the people: from the people as the less powerful members of the polity to the people as all individuals within the jurisdiction of the state who retain ultimate sovereignty whatever specific form the government took. Here, the medieval interpretation of the Roman lex regia, the supposed act whereby the Roman people transferred their sovereign power to Emperor Vespasian, provided additional support to this shift. In this grant of power, the people were sovereign only insofar as they retained an ultimate power to authorize the emperor.

Daniel Lee brilliantly traces how debates about the lex regia informed the development of the doctrine of popular sovereignty. By taking this grant of power to the emperor as a hinge, Roman law “provided the necessary conceptual tools to present popular sovereignty as a constitutive doctrine of public authority without having to commit to a potentially controversial normative view on precisely how such popular sovereignty ought to be administrated or exercised.”29 Such interpretations transformed the demos from a designation of an organized group that stands in contrast to economic and political elites and into a more abstract and general residual agent—one that could be a “sovereign” power insofar as they collectively authorize the laws. The liberal proceduralist view takes this idea of popular sovereignty and gives it a proceduralist twist. The people are sovereign insofar as there exist fair procedures that mean everyone can view themselves as equal authorities over a legal order.

Such views are far from the idea of the people as a mode of organized collective power. In this view, the people is always partially differentiated from both state actors and the members of powerful groups in society. The aggregate of individual citizens becomes the collective actor “the people” insofar as democratic institutions organize the collective power of the generally disorganized majority. To this extent, the democratic concept of the people is a gradual concept, as the less powerful members of a society will, depending on their organizational context, exhibit different degrees of “peoplehood.” A minimal criterion is that the institutions enable a majority of citizens to exert ongoing political power in a recognizable way. Here, the question is: what are the institutional processes and mechanisms that help sustain the capacity of ordinary people to act in an organized manner?

The people is the result of political organization that coordinates the activities of these constituencies through broader social movements and over-arching institutional structures, producing a larger, cohesive, and organized movement that can lay claim to be the people. Realizing political equality will involve institutions that create a feedback loop between, first, organizing a “latent” people, which can be identified by sociological facts about a society (that is, who is a member of this less powerful majority?), and then second, institutionally empowering that people once organized.30 What this view of the people loses in conceptual abstraction it gains in both normative desirability and empirical tractability. It is more realistic, better capturing the connection between political institutions and the people, insofar as the people comes into existence through the collective organization of power. But in its realism, it also articulates the connection between the people and the value of political equality, insofar as political equality is sustained through the ongoing feedback between formal institutional procedures and the broader organization of collective power that constitutes the people.

B. The State

Once political decisions are made, they must be implemented. Liberal proceduralists focus on fairness in collective decision-making. But how should we move from simple, direct models of democratic decision-making to democracy at scale, democracy in large, complex societies? Recent liberal proceduralists, such as Kolodny, turn to a model of representation to solve this problem, contending that representation does not undermine political equality insofar as “the relationship between the citizenry and official—say, a representative in the legislature” is one of delegation.31 Political representatives should act as delegates, much like “lawyers, doctors, accountants, and financial planners.”32

This view fails to appreciate the nature of the state. Political representatives are not just delegates or governed by formal procedural rules—they are nodal points in larger feedback loops, and in particular those that mediate between the organized power of the people and the institutional infrastructure of the state.33 The state, the institutional context of representatives’ activity, does not stand to the people as an agent to a principal. Rather, the state is a set of structured institutions that empower individuals to pursue multiple, often contradictory, interests and imperatives. The relationship between the state and the people is one of both interdependence and antagonism. State actors depend on the people for resources, legitimacy, and even existential survival, and yet those actors have a strong interest in preserving their autonomous capacity to implement their ends. Astute empirical observers, such as Peter Mair, have shown how, over time, representatives and parties can become entrenched in the state, surviving off collusion and cartelization rather than popular mobilization, and so undermining the collective organization of power.34 State formation, then, is both a necessary precondition for the realization of political equality under modern conditions of pluralism and large-scale political orders and a continuous threat to political equality.

As with the people, we can distinguish two different ways to analyze the state: the first view is of the state as a concept or ideal, one derived from, for example, the idea of right or legitimacy; and the second approaches the state more sociologically and empirically, as an infrastructure of power.35 The first view is historically specific, referring to the ideological self-representation of the form that concentrations of public power took on, beginning in 16th-century Europe (developing alongside the doctrine of popular sovereignty), while the latter is a broader idea that encompasses all contexts in which the administration of power becomes relatively independent from particular individuals or groups. In this broader view, the state is simply any institution that functions to implement collective choices (or enforce them as collective choices). It is hard to imagine a political community without some state apparatus, with democracy requiring an administrative state infrastructure that is independent of one family or ruling group. In this respect, Athenian democracy had a state, insofar as there was an institutional system for administering public goods and implementing decisions that did not merge with a single ruling family or group.

As a historically specific concept, however, the state only took shape in 16thcentury Europe, alongside the philosophy of popular sovereignty, and stood in contrast to the sort of administration by amateurs and notables characteristic of Athenian democracy. As an ideal concept, the state indicated a permanent apparatus of professional government, one regulated by explicit, formal law and structured by the continuous pressure to rationalize its deployment of coercive power. The modern concept of the state developed in the context of a specific model of European authoritarianism. Scholar-administrators sought to derive the state from the concept of civil order and individual right as a way of justifying the jurisdiction of centralized authorities.36 The modern view of the people as the aggregate of individuals and of the state as derived from an individual right go together. In both cases, they derive a description of an institution from a conceptual principle—free and equal individuals, in the case of the people; fair procedures leading to authoritative laws, in the case of the state—and then use that conceptual ideal to justify political power. The concept of the state provided a powerful framework within which to legitimate the new form of power embodied in these rationalized structures of political administration—it had a “state effect” in drawing new boundaries between public and private and providing public power with new justifications.37

The distinction between state as concept and state as infrastructure of power matters, because the liberal proceduralist view presupposes the modern concept of the state, taking it as, if not a reality, then a regulative ideal.38 Only with such a concept of the state can theorists like Kolodny argue that procedural fairness can realize political equality at scale, with the political actors in the state (representatives) being delegates who implement collective choices in a linear and seamless fashion. In contrast, the state as infrastructure helps to capture the relationship between organized collective power of the people and the authoritative enforcement of legal norms, with the state instead standing as particular nodal points in the uneven organization of power throughout society. Against the liberal proceduralist ideal of the state as a neutral medium for implementing the results of egalitarian procedures, the state itself is an infrastructure of power that reshapes society. The activities of the state are going to affect the structure of democratic procedures themselves. Here, again, the distinction between procedure and outcome breaks down.

To the extent that the state figures into liberal proceduralist views, it is only under the auspices of the modern concept of the state. Yet the modern concept of the state is an idealized and ideological portrayal of the state geared towards the needs and aspirations of state-building authoritarian regimes in continental Europe. Political actors sought to portray themselves as engaging in the “depersonalization” of political power by dissolving it into the concept of right, on the one hand, or a functional, rule-governed administrative system, on the other. In reality, the construction of the modern state was only ever a partial, uneven process. There never was, nor could there be, complete depersonalization of power. The depersonalization of power simply means that the individuals exercising power have their field of activity increasingly structured by legal norms and demands for horizontal and vertical accountability, even as these norms and accountability structures are always underdetermined relative to specific choices and actions.

This realist point does not vitiate the importance of legality or representation. But it does mean that the state is always a site of struggle between competing political interests and not simply a linear instrument for implementing collective decisions. Even when it has been influenced by the modern ideology of the rational state, the state remains an infrastructure of concentrated power. The state is a (by no means seamless and coherent) agglomeration of political offices held together as much by inertia and informal practices as by conceptually derived legal or political principles. Indeed, democratic polities are often marked by a surprising lack of both rationalized administrative capacity and a weak, if non-existent, resort to Kantian constitutionalism as a legitimating rationale. This power is “public” insofar as it is relatively autonomous from continuous control by specific individuals and groups in society.

What does this mean for political equality and democracy? It challenges the implicit background of the liberal proceduralist view—the idea that one can segment procedure and outcome. The state is not a neutral medium for implementing collective decisions arrived at through procedures that, under suitable conditions, constitute political equality. Rather, the state is both a precondition for and a constant obstacle to realizing political equality—a set of institutional structures that shape the course of potentially virtuous egalitarian feedback loops. States are under pressure to respond to the people and even to help constitute the people through democratic mechanisms and institutions. Yet, at the same time, actors within the state seek to shield their power from public accountability so as to pursue their ends as autonomously as possible. Political equality, then, requires more than just the equalization of collective decision-making procedures. It requires the ongoing organization of the majority that can enable the people to act on and through the state.