# 1NC vs Wake ST

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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 – K

Radical politics K

#### The aff has staked out the position that “the only thing we can do is resist” – they have endorsed the idea that people should NOT be responsible for changing the conditions around them, and that we should instead “let the machine fall on its own” – that’s a disastrous political strategy that calcifies the powerlessness of the left – the machine CANNOT and WILL NOT fall on its own, and ONLY political organizing can combat climate change, fascism, and rampant 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.

#### We are impact-turning the premise that “the only thing we can do is resist” – the alt embraces anti-domination as a method of redressing disparities in power – that is the ONLY way to create SUBSTANTIVE equity, which turns the K

Rahman 18 – Associate professor of law at Brooklyn Law School and former visiting professor of law at Harvard Law School.

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

Rees, professor at the University of British Columbia’s School of Community and Regional Planning, originator of “ecological footprint analysis,” founding member and former president of the Canadian Society for Ecological Economics, ‘15

(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 – Innovation DA

#### Competition and property rights are key to global competitiveness and tech innovation

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(Adam Thierer, 2-25-2021, "Open-ended antitrust is an innovation killer," TheHill, https://thehill.com/opinion/technology/540391-open-ended-antitrust-is-an-innovation-killer)

Antitrust reform is a hot bipartisan item today, with Democrats and Republicans floating proposals to significantly expand federal control over the marketplace. Much of this activity is driven by growing concern about some of the nation’s largest digital technology companies, including Facebook, Google, Amazon and Apple.

Unfortunately, the calls for more bureaucracy and regulation emanating from all corners of the political world could have an unintended consequence: discouraging the sort of vibrant innovation and consumer choice that made America’s tech companies household names across the globe.

Sen. Amy Klobuchar (D-Minn.) is leading one charge. Klobuchar, who chairs the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, recently introduced the “Competition and Antitrust Law Enforcement Reform Act.” This sweeping measure seeks to expand the powers and budgets of antitrust regulators at the Federal Trade Commission and the Department of Justice. It also includes new filing requirements and potentially hefty civil fines.

The most important feature is the proposed change to the legal standard by which regulators approve business deals. It would allow the government to stop any deal that creates an “appreciable risk of materially lessening competition,” and it also defines exclusionary behavior as, “conduct that materially disadvantages one or more actual or potential competitors.”

These may sound like simple, semantic tweaks, but – much like some of the other policy ideas currently circulating – they would upend decades of settled law and create a sea change in U.S. antitrust enforcement. This change could undermine business dynamism, innovation and investment in ways that inhibit the global competitiveness of U.S. businesses.

Critics of merger and acquisition (M&A) activity by large tech firms include not only Sen. Klobuchar but also Republicans such as Sen. Josh Hawley (R-Mo.). Hawley recent offered an amendment to a budget bill that would preemptively prohibit mergers and acquisitions by dominant online firms. Klobuchar and Hawley believe that M&A skews the market in favor of today’s largest firms, entrenching their market power and discouraging innovation.

History teaches a different lesson. Consider DirecTV and Skype, both once considered innovative market leaders in their respective fields of satellite TV and internet telephony. Both firms stumbled, however, and they might not even be with us today without creative business deals. DirecTV has been partially or fully controlled by Hughes Electronics, News Corp., Liberty Media and now AT&T. Skype has swapped hands multiple times, moving from eBay, to a private investment firm and now to Microsoft.

These were complex deals, and some didn’t work, leading to divestitures. But each was a learning experience that illustrated how dynamic media and technology markets can be with firms constantly searching for value-added arrangements that serve their customers and shareholders. If we make this type of activity presumptively illegal, we’re imagining that government bureaucrats are better suited to make these calls than businesspeople and the consumers who choose whether or not to buy the product.

Worse yet, legal tests like those Klobuchar proposes – “conduct that materially disadvantages potential competitors” – are remarkably open-ended and could be easily abused. The system will be gamed by opponents of deals for business reasons. They will claim that their own failure to attract investors or customers must all be the fault of more creative rivals. That’s a recipe for cronyism and economic stagnation.

Those who worry about today’s largest tech giants becoming supposedly unassailable monopolies should consider how similar fears were expressed not so long ago about other tech titans, many of which we laugh about today. Just 14 years ago, headlines proclaimed that “MySpace Is a Natural Monopoly,” and asked, “Will MySpace Ever Lose Its Monopoly?” We all know how that “monopoly” ceased to exist.

At the same time, pundits insisted “Apple should pull the plug on the iPhone,” since “there is no likelihood that Apple can be successful in a business this competitive.” The smartphone market of that era was viewed as completely under the control of BlackBerry, Palm, Motorola and Nokia. A few years prior to that, critics lambasted the merger of AOL and TimeWarner as a new corporate “Big Brother” that would decimate digital diversity and online competition.

GOP divided over bills targeting tech giants

Today, we know these tales of the apocalypse ended up instead becoming case studies in the continuing power of “creative destruction.” New innovations and players emerged from many unexpected quarters, decimating whatever dreams of continued domination the old giants once had.

Today’s biggest players face similar pressures, and it’s better to let rivalry and innovation emerge organically, not through the wrecking ball of heavy-handed antitrust regulation.

#### Tech innovation prevents nuclear conflict—US lead is key

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Matthew Kroenig and Bharath Gopalaswamy, "Will disruptive technology cause nuclear war?," Bulletin of the Atomic Scientists, 11-12-2018, <https://thebulletin.org/2018/11/will-disruptive-technology-cause-nuclear-war/>

Rather, we should think **more broadly** about how new technology might affect global politics, and, for this, it is helpful to turn to scholarly international relations theory. The dominant theory of the causes of war in the academy is the “bargaining model of war.” This theory identifies rapid shifts in the balance of power as a primary cause of conflict.

International politics often presents states with conflicts that they can settle through peaceful bargaining, but when bargaining breaks down, war results. Shifts in the balance of power are problematic because they undermine effective bargaining. After all, why agree to a deal today if your bargaining position will be stronger tomorrow? And, a clear understanding of the military balance of power can contribute to peace. (Why start a war you are likely to lose?) But shifts in the balance of power muddy understandings of which states have the advantage.

You may see where this is going. New technologies threaten to create potentially destabilizing shifts in the balance of power.

For decades, stability in Europe and Asia has been supported by US military power. In recent years, however, the balance of power in Asia has begun to shift, as China has increased its military capabilities. Already, Beijing has become more assertive in the region, claiming contested territory in the South China Sea. And the results of Russia’s military modernization have been on full displayin its ongoing intervention in Ukraine.

Moreover, China may have the lead over the United States in emerging technologies that could be decisive for the future of military acquisitions and warfare, including 3D printing, hypersonic missiles, quantum computing, 5G wireless connectivity, and artificial intelligence (AI). And Russian President Vladimir Putin is building new unmanned vehicles while ominously declaring, “Whoever leads in AI will rule the world.”

If China or Russia are able to incorporate new technologies into their militaries before the United States, then this could lead to the kind of rapid shift in the balance of power that often causes war.

If Beijing believes emerging technologies provide it with a newfound, local military advantage over the United States, for example, it may be more willing than previously to initiate conflict over Taiwan. And if Putin thinks new tech has strengthened his hand, he may be more tempted to launch a Ukraine-style invasion of a NATO member.

Either scenario could bring these nuclear powers into direct conflict with the United States, and once nuclear armed states are at war, there is an inherent risk of nuclear conflict through limited nuclear war strategies, nuclear brinkmanship, or simple accident or inadvertent escalation.

This framing of the problem leads to a different set of policy implications. The concern is not simply technologies that threaten to undermine nuclear second-strike capabilities directly, but, rather, any technologies that can result in a meaningful shift in the broader balance of power. And the solution is not to preserve second-strike capabilities, but to preserve prevailing power balances more broadly.

When it comes to new technology, this means that the United States should seek to maintain an innovation edge. Washington should also work with other states, including its nuclear-armed rivals, to develop a new set of arms control and nonproliferation agreements and export controls to deny these newer and potentially destabilizing technologies to potentially hostile states.

These are no easy tasks, but the consequences of Washington losing the race for technological superiority to its autocratic challengers just might mean nuclear Armageddon.

## Case

### 1NC – Presumption

#### Vote neg on presumption:

#### A] no reason the ballot’s key—nothing about this debate spills out of the Zoom room to solve their impex

#### B] solvency is non falsifiable—academics have written about the 1AC’s content—no reason erring the content of the 1AC in debate is key

### 1NC – Personal Debates Bad

#### Exclusive experiential focus reinforces essentialism and weakens the struggle against oppression – especially where competition is involved.

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Miriyam, “‘White privilege’ and shortcuts to anti-racism.” Institute of Race Relations, Vol. 61(2) 3–26. SagePub.

Racism, as a global phenomenon of oppression and exploitation, has specific local configurations with particular processes of othering and marginalising. Important structuring principles have been obscured through the tendency to exception- alise subjective skin-colour, or fixed geographic references as a code for oppres- sion. The increase in references to experientially grounded claims that are focused on skin colour differences have given primacy to anti-blackness, which has in turn reinforced essentialist definitions of race.

The invoked ranking of oppression has implications – firstly, it assumes an incre- mental logic from black to brown to white; secondly, the consequent hierarchies affect solidarities. We see this in certain applications of the term ‘non-black people of colour’ (code for ‘brown’, interchangeable with Arabs, North Africans, Asians, Latinx), where NBPoC either manifests the dropping of the collectivist PoC or highlights a specificity of blackness through ‘black people of colour’(BPoC). While this incrementalism grows into an ontology (a hierarchy that relies on (ascribed) racialised/geographic features), the specification also coincides with a critique of coalition politics that was underwritten by the term PoC that was, ironically, put forward by black feminists. Because ‘anti-black’ oppression also relies on the degree of closeness to ‘white’, such an order carries political meaning: a default complicity in anti-blackness. In practical usage, this ‘NBPoC’ does not refer to a collective group but rather produces the assumption that the individual is the collective- writ-small. Therefore, the NBPoC should not speak about or for (real) black struggles but is told to deal with anti-blackness in their own communities.

There are two immediate objections to this reasoning. First, it is strange to hold individuals accountable for varied (historic) injustices through a subjective demarcation regardless of other categories or conditions. hence, no one is immune if held accountable for what other members of their community do, let alone its general alliance with oppressive forces.27 Secondly, while ‘NBPoC’ indi- viduals (such as Turks or Moroccans in the Netherlands) are criticised somewhat out of proportion, white ‘allies’ remain unchallenged and white supremacy as a social reality, which impacts on all PoC, remains untouched. The idea that, for instance, a Dutch-Moroccan is more privileged than a Dutch-Surinamese or a Dutch-ugandan is mainly a result of a reactionary interpretation. In addition, ‘blackness’ is linked to an Africa romanticised as a continent and understood in an ahistorical way. Africa is divided by a biological hierarchy of skin colour and facial features – as if there are no cultural, linguistic, or religious differences between East, West, South, North and Central Africa.

Noting differentiations between groups is necessary to understand patterns of oppression and the multi-layered status of marginalisation is an important reason to take experiential knowledge seriously. Such internal differences can be over- looked by projecting standardised categories. Racism is generously distributed across a whole range of victims of anti-refugee politics, anti-blackness, Islamophobia, anti-Semitism, etc. But this state of affairs is also used to undermine ‘political black- ness’ or even the collective sense behind PoC. This complexity requires a nuanced approach towards racism; we cannot sweep all kinds of racism into one. The term ‘black’, when used politically, was not meant as a pigment marker. It denoted unity in struggle; a guideline for revolutionaries of colour who saw in the (racist) state a mutual enemy. So, organising in mixed groups together, uniting against police bru- tality, helps nail the lie of biological and essentialist notions of colour/race. Such a praxis actually allows one to raise the issue of prejudice within groups. Moreover, transformative awareness about, and radical commitment to, combating internal oppression is a crucial, if underestimated, possibility offered by unifying struggles. Across western metropoles, during particular eras a political outlook was shaped by struggles informed by internationalism and confidence. For them, the term black was a unifying radical denominator, a context in which activists were involved in an optimistic progressive politics within and across their respective communi- ties. This approach is exhibited in neither the current WP approaches nor the inven- tion of ‘NBPoC’. That this is easily overlooked confirms the difference between analytical and descriptive tools.

Much of my understanding of political blackness, and its breaking down by state policies of ethnicism, originates in the critical work of Sivanandan about multiculturalism and diversity in the uK.28 It is outside the scope of this article to offer a detailed account and compare the different contexts, but we can see how the bases on which state funds are allocated validate ethnic claims. Anthropologist Francio Guadeloupe has demonstrated this dynamic in a detailed account of the role of blackness and Afrocentricity for Dutch artists and activist scenes. The alignment of ethno-racial categorisation with state aims and funding regimes leads, according to him, to ‘strategic essentialism’.29A white versus black descrip- tor in line with uS usage does not actually have the same historic lineage in the Netherlands. This is where a ‘politics of fulfilment’ began to matter, and in turn, this accommodates a practice that encourages material and conceptual rivalries, or a ‘hyper commercialized meta identity’.30 unsurprisingly, this does not sit well with progressive politics. It indicates that the meanings of Africa, Afro, black are adapted and/or conflated as part of the larger re-interpretation of anti-racism. An international black nationalism grounded in a supposed sub-Saharan kinship is very unconvincing. This myth of a unified black identity (in the North American sense of the term) supposedly functions as the enduring reality of how race is understood by all peoples of sub-Saharan African descent, with a clear-cut divi- sion of human beings into black, brown, and white, as Guadeloupe notes.31 In this metanarrative, black identity is the prerogative of persons with what are consid- ered classic sub-Saharan features: dark skin, coiling or curling hair, and genetic ancestry in sub-Saharan Africa. ultimately, this supposed genetic ancestry (an updated version of the ontology of blood) is an invention where ‘Black identity belongs to sub-Saharan people . . . this [is a] metaphysical understanding of colo- nial history by which blood, skin, bone, and genetic ancestry slips in through the backdoor of [the] social constructivist avowal of race’.32 Taking a similar approach to Guadeloupe, olaloku-Teriba identifies a pattern where there is ‘on one hand, the exceptionalisation of a thing referred to as “anti-blackness”; and on the other, the mobilisation of this charge against “non-black people of colour” who attempt to draw comparison between black struggles and their own’.33 The ‘tension between the presumptions of this universalising analysis of racial categories and the as-yet unresolved question of blackness, what it is and who possesses it, plagues anti-racist politics and organising’.34

A problem emerges when emphasising ‘racism denial’, or utilising ‘brown privilege’, nurtures competition between ethnic minority groups. Naturalising differences among oppressed groups gives political currency to the wrong anti- racism. Any criticism of this view by non-black anti-racists is labelled anti-black, and hence, delegitimised. In this outlook, a radical holistic and material analysis of racism is opportunistically coded as ‘erasure’. Just like white people who mainly carry responsibility and will not ‘know’ what racism is, NBPoC will never ‘really’ know what it is like to be black since realising this can only come from personal experience. But what stops this logic from expanding to every subjective group? Men will never know what it is like to be women. Cis women will never know what it is like to be trans. Able LGBTQ women will never know what it is like to be a disabled LGBTQ woman. When political responsibility becomes invested in personal accountability or subjective characteristics outside of genu- ine coalition work, the space for transformative change narrows down. While it can work in a complementary way, replacing social reality with subjective experi- ence and a universal political vision of emancipation with cultural- or colour- based analysis weakens the struggle against oppression rather than strengthening it, as examples in the next section show.

#### Their strategy is coopted by the neoliberal elite – elites get to declare themselves “one of the good ones” while abdicating the work of changing shit for the better

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Stephen, 11/27. “Self-exoneration via Self-flagellation: The structure of neoliberal guilt.” https://publicautonomy.org/2015/11/27/neoliberal-guilt/

You may have seen the video: a young white woman declares her complicity with white supremacy, insists on her own affinity and commonality with racists who murder Black people, and yet — such is her genius — she manages to depict herself in the most idealized way, as a paragon of virtuous anti-racism.

I was thinking that there should be a proper label for this increasingly common, perhaps distinctively neoliberal communicative stratagem that deploys ritual self-flagellation (“We’re quite shit!”) as a vehicle for self-exoneration (“As one of those declaring that we’re shit, clearly I’m an exemplary figure, to be admired and emulated”). But then I realized that the whole point of ritual self-flagellation, in the literal as well as the metaphorical senses, is self-exoneration, or at least a taking of one’s distance, on a now-elevated perch, from the mundane sinners all around who don’t even bother to whip themselves. So, the observation that it is used as a self-exoneration tactic is redundant, ultimately. That’s just what what we mean by self-flagellation. Still, this somehow doesn’t satisfy my hunger for phrases, so for the time being I’m going to call it “auto-exculpatory self-flagellation.”

Why do I suggest that auto-exculpatory self-flagellation might be “distinctively neoliberal”? It’s because there’s an element of brand management and self-marketing built into this practice. It is self-promotion in a properly entrepreneurial sense of the word “promotion.” More specifically, like an app-flogging tech startup, one cleverly creates the perception of a lack (in this case, a lack of virtue), even as one offers up one’s services as the local monopolist provider uniquely positioned to satisfy the new demand.

So understood, it is perhaps the substitute, among suitably entrepreneurial, neoliberal egos, for the obsolete experience of “liberal guilt.” If liberal guilt wallowed in a longing for the lost confidence in one’s own innocence, expressed in a para-Keynesian displacement of agency onto policy makers, neoliberal guilt sees instead an opportunity to cash in on one’s complicity with wrongdoing by converting it into a kind of psycho-social “income” stream, in the currency of “social capital,” namely, the prestige of being “one of the good ones.” What this situation demands, the self-exonerator thinks, is a promotional video for a campaign of viral marketing…promoting me!

But is it a bad thing? Or more pointedly, should we blame these entrepreneurs of self-exoneration?

Well, that would be the wrong way to think about such things, especially if the context is political. The way to think about politics is politically, and that means to foreground two elements conspicuous by their absence from the discourse of the guilt-neoliberal: causal explanation and strategic analysis.

Instead of the individualizing, personalizing pronouncement that “we’re shit,” or “they’re shit,” political thinking analyzes why bad things are happening, with a particular interest in the institutions, structures and systems that generate harms and injustices. On this basis, it looks to develop a strategy for defeating and (to borrow Marx’s term) smashing [brechen] these systems by means of popular resistance and social struggle, including (where feasible) the construction of self-organized alternatives.

The question isn’t, is this person (me, you) or this group of people (us, them) bad or good? Rather, the question is, how can we find a plausible path toward smashing the systems that generate so much injustice? And here is where auto-exculpatory self-flagellation falls so short. It hides the systemic, institutional causes of injustice behind a screen of personalizing moral righteousness and it eschews the development of strategies for winning, preferring instead to focus on the accumulation of social capital. The way to relate to it is not with a counter-moralism that tries to shame the self-exonerator, but to analyze the causes of this phenomenon and develop strategies for undermining its influence. Above all, that means advancing radical politics as an attractive and effective alternative to liberalism. Liberalisms of every sort, as forms of individualism, thrive in contexts where the prospects for potent collective action seem bleak. It can be undermined only by showing in practice that collective struggle can win.

### 1NC – Retreat Bad

#### “Black interoperability” is a “suspension of engagement” – that retreat away from institutions of power remains trapped within the university, which calcifies power inequities

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.

### 1NC – Monopolization Turn

#### The aff’s premise that “anti-monopolization is an antiblack settlerist enterprise” forecloses the ability to reclaim antitrust towards radical end – that’s the only way to solve racialized economic exploitation, which turns the aff

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.

In spite of this suffering and sacrifice, the future for predominantly white corporate monopolists has never been brighter. Excessive and unrestrained capitalism has enriched a small group of wealthy elite corporations and individuals by concentrating the nation’s economic and political power under their control—a mutually reinforcing, vicious cycle. Between March 18 (the unofficial beginning of the pandemic in the US) and November 24, 2020, 644 billionaires increased their combined wealth by $931 billion dollars (from $2.95 trillion to $3.88 trillion, or a rise of 31.6 percent).2 This occurred even as poverty deepened and the October unemployment rate hit nearly double its pre-pandemic low. Some in this elite class of corporations and individuals have used their accumulated power to concentrate markets that are fundamental to human thriving (e.g., technology, agriculture, financial services, and health care) by forming massive corporate monopolies.

Corporate monopoly is bad for workers, consumers, and for our democracy. Our nation’s founders were keenly aware of the danger of monopoly. In fact, the US revolution was sparked by anger directed at the monopolistic power of the British Crown. Though popularly taught as being about unjust taxation, the Boston Tea Party was actually a rebellion ignited by rage directed at the East Indian Trading Company, a monopoly chartered by the British monarchy.3 Additionally, in 1787, Thomas Jefferson wrote to James Madison that the proposed US Constitution should include a Bill of Rights that explicitly excluded monopolies.4 Though the language did not make it into the final Constitution, this letter demonstrates that the distrust of monopoly is justified and runs deep in our nation’s ethos.

Efforts to rein in the “robber barons” of the Gilded Age (i.e., Andrew Carnegie, J.D. Rockfeller, Cornielius Vanderbelt, and J.P. Morgan) are monumental in the history of anti-monopoly government action in the US. Victories following this period include government action to break up several large monopolies in the railroad and oil and gas industries. Additionally, this period normalized many worker protections that we take for granted today, such as a 40-hour workweek and overtime pay.

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” 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.

### 1NC – Institutions Good

**Liberal institutions are deeply flawed, but rejecting them is worse**

**Johnson 16** (Cedric, author of Revolutionaries to Race Leaders: Black Power and the Making of African American Politics and editor of The Neoliberal Deluge: Hurricane Katrina, Late Capitalism and the Remaking of New Orleans. He is also a representative for UIC United Faculty Local 6456, “An Open Letter to Ta-Nehisi Coates and the Liberals Who Love Him,” Jacobin Magazine, February 3, 2016, https://www.jacobinmag.com/2016/02/ta-nehisi-coates-case-for-reparations-bernie-sanders-racism/?utm\_campaign=shareaholic&utm\_medium=facebook&utm\_source=socialnetwork)

Ultimately, the historical narrative that underpins the reparations claim, a view of history that **emphasizes racial conflict as primary, white supremacy as hegemonic and immutable**, and black politics as insular and unitary, can only leave us with a **fatalistic view of political possibilities** that neglects the **rich, diverse history of interracial left political struggle**. Contrary to the arguments offered by Coates and others, interracial social movements, universal social policy, and an expanded public sector created the contemporary black middle class as we know it. Even as the slogan of white supremacy united various reactionary Southern elements and restored the power of the merchant-landlord class, interracial organizations fought to secure black freedom and create greater equality for black and white workers. The **Readjuster Party** in Virginia worked to unite workers against landed interests, and pressed for debt relief, lowered property taxes on farmers, chartered unions, established a black college, expanded public services, and removed the poll tax. Other organizations at the end of the nineteenth century posed a different interracial, left vision of American society — organizations like the Populist Party of the 1890s, the Knights of Labor, and the Citizens Committee of New Orleans. Throughout the twentieth century, struggles to expand labor rights, universal suffrage, and civil rights, and to abolish inequality, drew together diverse publics, creating concrete forms of social justice (albeit sometimes short-lived and imperfect). Whites who realized that their fates were intimately connected to those of southern blacks **supported struggles against racism**. Jim Crow segregation — the historical system of racial apartheid that was legitimated at the federal level by Plessy v. Ferguson’s “separate but equal” doctrine in 1896, codified by the states, and strictly enforced through violence and intimidation — began a **long but certain death** after the Second World War. While contemporary forms of inequality in wealth, housing, schooling, and criminal justice may **bear a strong resemblance to Jim Crow**, these injustices are **classed** in ways that the ascriptive status of blacks in the late nineteenth and early twentieth century were not. Contemporary forms of oppression are not propelled by the need to subjugate black labor to the interests of Southern planters and industrialists, but as a means of managing a growing class of Americans who are not exclusively black but have been made obsolete by hyper-industrialization, the large-scale introduction of automation and cybernetic command, just-in-time production, and other strategies of flexible accumulation in US farms and factories. We continue to reach for **old modes of analysis** in the face of a **changed world**, one where **blackness is still derogated** but **anti-black racism is not the principal determinant of material conditions** and economic mobility for many African Americans. Social exclusion and labor exploitation are different problems, but they are never disconnected under capitalism. And both processes work to the advantage of capital. Segmented labor markets, ethnic rivalry, racism, sexism, xenophobia, and informalization all work against solidarity. Whether we are talking about antebellum slaves, immigrant strikebreakers, or undocumented migrant workers, it is clear that exclusion is often deployed to advance exploitation on terms that are most favorable to investor class interests. In other words, the most impoverished and dispossessed are hyper-exploited, placing downward pressure on wage floors, worsening conditions and undermining worker power in specific sectors and throughout society. Liberal antiracist discourse further isolates the conditions of the most excluded segments of workers, separating their experiences from those of other workers, and their labor from the broader processes at work, instead of emphasizing the empirical and potential political unity of the laboring classes. Respect for difference is valued in today’s multicultural milieu, but the **mobilization of different sub-strata of the working class against one another** has long been a cherished strategy of capital. In our own times, this has been a vaunted campaign strategy of the New Right since the presidential campaigns of Barry Goldwater, George Wallace, and Richard Nixon in the sixties. Throughout that decade and into the early seventies, each man contributed to an ever more expansive repertoire of anti–civil rights and anti–New Left rhetoric, tugging the exposed, fraying threads of the New Deal coalition. In his bid for the Republican presidential nomination, Donald **Trump has reached for the same playbook** the New Right has used for decades, speaking in vile tones about the alleged criminality of Latino immigrants, talking openly about building a fence along the Mexican border, and calling for a US travel ban on all Muslims. As it has in previous election cycles, such racist patter has resonated among some alienated white rural and suburban voters, and those in less populous states, who find it easier to bash minorities, the alleged liberal media, or left intellectuals than to contest the power that neoliberal politicians, multinational corporations, and the investor class wield over their lives. **Only** in those historical moments when working-class and popular movements organize against these differences and around common predicaments and interests has society lurched toward greater equality. Many **contemporary antiracist liberals have lost sight of this** historical truth. And **we will continue to lose if we follow their lead.** While the currency of the antiracist position offered by Coates stems in part from the post-racial debates of the Obama age, it is also rooted in the longer, established role of the black intellectual interpreter to white publics and the transformation of the public intellectual enterprise due to the advent of social media networks and consumer-communication niches. As much as I resisted the incessant comparisons between Coates and Baldwin at first, I am starting to think they may have some value. Baldwin rose to prominence as a commentator on the crest of the struggle to defeat Jim Crow segregation, and he was an eloquent spokesman, one who called out the racism and liberal hypocrisy of Cold War America. His words rattled the affluent society and awakened American publics to the poverty and segregation in their midst. Unfortunately, the arrival of the black intellectual as gadfly and conscience of the nation in the television era bore a new set of problems. Too many well-meaning whites mistook their guilt and pleasure of self-flagellation for genuine unity with blacks and authentic antiracist political commitment — in other words, solidarity. That problem of replacing politics with public **therapy** endures to this day, and it flourishes in a context where social media linkages surrogate other historical forms of social interchange and collective action. Antiracist liberalism thrives in a context where the **performance of** self-loathing, **outrage**, and concern are easily traded public currency, instead of the more socially costly politics of public sacrifice and the **redistribution** of societal resources. Like Baldwin, I think Coates fulfills a similar historical role in assuaging white guilt. What we need instead is solidarity. I do not have any illusions about what Sanders or any other presidential candidate can accomplish, especially given the Republican control of Congress. Popular struggles and mass pressure have been the most effective means for advancing the most progressive changes in American society. But I’m also not so young and naïve to think that elections do not matter. We cannot expect to achieve greater equality through an election cycle, but elections can shape the political arena in meaningful ways and **create openings** for progressive social movements. **Having a pragmatic, mainstream left candidate who is gaining traction by making the case for social-democratic reform is historic and consequential.** Like the formation of the Labor Party in 1996, the anti-globalization movement of the late Clinton years, the mass protests against the Bush administration’s “war on terror,” the Occupy Wall Street demonstrations, the Wisconsin protests against Governor Scott Walker’s budget cuts, the 2012 Chicago Teachers Union strike, anti–police brutality struggles, the Fight for 15 campaign, and so forth, the Sanders campaign is part of a gathering tide of social struggles over the past two decades that have fought against neoliberal austerity, and circulated popular criticisms of the market forces and reactionary political choices that have created more material hardship, social angst, and debt for millions of Americans. Public-sector employment has played a powerful role in building the black middle class. Perhaps the best case against Coates’s criticisms of universal, social-democratic public policy is the progressive history of black workers and the United States Postal Service. Beginning with the Great Migration, which saw thousands of blacks leave the South for northern cities, the post office has long been a major employer of blacks — including Clyde Ross, the chief protagonist of Coates’s study of housing discrimination and the Contract Buyers Club in North Lawndale. The progressive, integrative role of the postal service and the public sector would only expand in the latter half of the twentieth century with shifting urban demography and the **organized power of blacks** in society writ large. The neoliberal project has decimated the public sector and **harmed black workers**, rolling up what had been a means of stable, unionized, livable wage employment. Moreover, the US Supreme Court’s forthcoming decision on “**right to work**” will likely weaken the organizing capacity of public unions by removing payment requirements for union dues. This is but the **latest campaign** in a broader class war, **one where black workers stand to lose like all others**. More than any other contest in recent memory, the 2016 Democratic presidential primary has provided us with a clear set of alternatives, a choice between the failed New Democratic policies of neoliberalism and social-democratic policies that might **revitalize the public sector** like guaranteed housing; free, quality education; and health care to all regardless of their ability to pay — all issues that have value among black constituencies. If we can’t take advantage of this opportunity and win a majority behind this kind of politics, anything more radical beyond it will remain just **a fantasy.**

# Block

## T

### 2NC – TVA

#### 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.

#### Solves and is topical.

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. 3-13, https://www.liberationinageneration.org/wp-content/uploads/2021/03/Anti-Monopoly-Activism\_032021.pdf.

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, the Athena Coalition8 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.

### 2NC – AT: governance link

#### Forcing us to negate personal experiences cuts off dialogue that’s essential to centering their narratives

SUBOTNIK 98

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Having traced a major strand in the development of CRT, we turn now to the strands' effect on the relationships of CRATs with each other and with outsiders. As the foregoing material suggests, **the central** CRT **message is not simply that minorities are being treated unfairly**, or even that individuals out there are in pain - assertions for which there are data to serve as grist for the academic mill - **but that the minority scholar himself or herself hurts and hurts badly**.

An important problem that concerns the very definition of the scholarly enterprise now comes into focus. **What can an academic** trained to [\*694] question and to doubt n72 **possibly say to Patricia Williams when effectively she announces, "I hurt bad"?** n73 **"No, you don't hurt"? "You shouldn't hurt"?** "Other people hurt too"? Or, most dangerously - and perhaps most tellingly - "What do you expect when you keep shooting yourself in the foot?" If the majority were perceived as having the well- being of minority groups in mind, these responses might be acceptable, even welcomed. And they might lead to real conversation. But, **writes Williams, the failure by those "cushioned within the invisible privileges of race and power**... to incorporate a sense of precarious connection as a part of our **lives is... ultimately obliterating**." n74

"Precarious." "Obliterating." **These words will clearly invite responses only from fools and sociopaths; they will, by effectively precluding objection, disconcert and disunite others**. **"I hurt," in academic discourse, has three broad though interrelated effects**. First, **it demands priority from the reader's conscience. It is for this reason that law review editors, wai**

**ving usual standards, have privileged a long trail of undisciplined - even silly** n75 **- destructive and, above all, self-destructive arti cles.**

n76 **Second, by emphasizing the emotional bond between those who hurt in a similar way, "I hurt" discourages fellow sufferers from abstracting themselves from their pain in order to gain perspective on their condition**. n77

[\*696] **Last, as we have seen,** it precludes the possibility of open and structured conversation with others. n78 [\*697] **It is because of this conversation-stopping effect** of what they insensitively call "first-person agony stories" **that Farber and Sherry deplore their use.** "The norms of academic civility hamper readers from challenging the accuracy of the researcher's account; it would be rather difficult, for example, to criticize a law review article by questioning the author's emotional stability or veracity." n79 Perhaps, a better practice would be to put the scholar's experience on the table, along with other relevant material, but to subject that experience to the same level of scrutiny.

If **through the foregoing rhetorical strategies CRATs succeeded in limiting academic debate**, why do they not have greater influence on public policy? **Discouraging white legal scholars from entering the national conversation about race**, n80 I suggest, **has generated a kind of cynicism in white audiences** which, in turn, has had precisely the reverse effect of that ostensibly desired by CRATs. **It drives the American public to the right and ensures that anything CRT offers is reflexively rejected.**

In the absence of scholarly work by white males in the area of race, of course, it is difficult to be sure what reasons they would give for not having rallied behind CRT. Two things, however, are certain. First, **the kinds of issues** raised by Williams **are too important** in their implications  [\*698]  for American life **to be confined to communities of color.** If the lives of minorities are heavily constrained, if not fully defined, by the thoughts and actions of the majority elements in society, **it would seem to be of great importance that white thinkers and doers participate in open discourse** to bring about change. Second, given the lack of engagement of CRT by the community of legal scholars as a whole, the discourse that should be taking place at the highest scholarly levels has, by default, been displaced to faculty offices and, more generally, the streets and the airwaves.

## Counteradvocacy

### 1NR – counteradvocacy

#### 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.

#### Only the alt can account for the ways that concrete power inequities structure the violence against black women – neoliberal institutions are parasitic on black women, but only organizing and political commitments solve

Freshour 17

Carrie Freshour, PhD Candidate, Development Sociology, Cornell University, ““AIN’T NO LIFE FOR A MOTHER!” RACIAL CAPITALISM AND THE CRISIS OF SOCIAL REPRODUCTION,” November 11, 2017. <https://societyandspace.org/2017/11/07/aint-no-life-for-a-mother-racial-capitalism-and-the-crisis-of-social-reproduction/>

Recent feminist scholarship aims to understand the relationship between paid and unpaid work through the lens of social reproduction, that is, “the work required to maintain people as social, emotional, and intellectual beings on a daily and intergenerational basis” (Glenn, 2002, 2010). For Marxist feminists, the dialectical relationship of social reproduction to production creates an important analytic for understanding those practices of “life’s work” that exist beyond waged, material production for capital, while maintaining a critique of those relations. This theorization emerges in the context of an increasing precariousness of work and life amidst global neoliberal economic restructuring and a “retreat” of the welfare state ([Fraser, 2016](https://newleftreview.org/II/100/nancy-fraser-contradictions-of-capital-and-care.); Mitchell, Marston, Katz, 2004; Strauss and Meehan, 2015; [Weeks and Curcio, 2015](https://www.viewpointmag.com/2015/10/31/social-reproduction-neoliberal-crisis-and-the-problem-with-work-a-conversation-with-kathi-weeks/),). Yet viewed through the framework of racial capitalism this process is not new.

US institutions of slavery, Jim Crow, and the criminal justice system, integral to capital accumulation, have always worked to discipline low-wage, racialized, labor at the level of life’s work (Hill Collins, 1991). Today, anti-Black criminalization and anti-immigrant deportations are mobilized alongside workfare policies to contain or dispose of working-poor surplus populations, those who are no longer useful for capital (Gilmore, 2007: 28; Pimpare, [2007](http://www.stephenpimpare.com/wp-content/uploads/2015/06/Pimpare-2007-NPS.pdf)). In the context of the poultry industry, ICE raids and deportations force the largest poultry companies to return to a majority Black women workforce. While these women experience the physical and mental pain of extremely low-wage, racialized and gendered workdays, they must also confront a retreat or outright denial of state support. Through an examination of poultry processing work in the US South, I argue that struggles over social reproduction reveal the underlying workings of racial capitalism. I adopt Jan Breman’s (1994) notion of “wage hunter and gatherers” to designate the state of precarious work and life for working-class Black women who are once again being recruited to the poultry.

I trace workers’ experiences of crisis and contestation both within the poultry plant and in their everyday lives through a brief historical analysis of the industry from the standpoint of labor up to the contemporary moment. This research is based on primary and secondary historical material alongside 20 months of ethnographic research with Black and Latina women poultry workers and two grassroots social justice organizations both inside and outside one of northeast Georgia’s largest poultry processing plants.

The Welfare State and Labor Discipline

Poultry production, up until the 1940s, remained small scale and was commonly considered “women’s work” (Gray, 2014). Women raised birds in their yards for household consumption and a meager income. Yet, soon after the Great Depression, white landowning farmers and merchants in Northeast Georgia took over the industry and its profits. According to historian Monica R. Gisolfi (2017), this takeover was structured along the pre-existing crop lien system used in the overproduction of cotton that previously dominated the region. Racially discriminatory state interventions under the Agricultural Adjustment Act (AAA) worked together with this agricultural credit system, creating structural barriers to commercial poultry production for Black and poor white sharecroppers and tenant farmers. AAA programs subsidized cotton farmers to idle land and quite literally displace farm labor (Raper, 1936). Between 1935 and 1940, the number of tenant farmers in the region dropped by almost 25 percent as landowners destroyed cotton crops in exchange for AAA allotment checks (Gisolfi, 2017: 13). This newly “freed” population was disciplined to become wage labor for the South’s agrarian economy or for the industrial cities of the North.

When the first processing plant opened in Gainesville, Georgia, in 1941, it recruited workers among a rural population of mostly white women and a small number of Black women (around 10 percent) ([Horowitz and Miller, 1999](https://migration.ucdavis.edu/cf/more.php?id=144)). Initially, Black women were used as a hiring last resort and were placed in “black jobs” in the live hang and draw-hand departments, the worst and dirtiest jobs in the plant (Gray, 2014). These women came from places “out in the country” of the surrounding counties, considered “uneducated,” “unskilled,” and desperate for work (Cobb, 1993). Black women began working in the plants at higher rates in the latter part WWII as white women left for better paying jobs in wartime production. Working in the poultry also meant that Black women could participate in social insurance programs of which they were denied as agricultural and domestic workers ([Stuesse and Helton, 2014](https://southernspaces.org/2013/low-wage-legacies-race-and-golden-chicken-mississippi-where-contemporary-immigration-meets); Gray, 2014; Winders, 2009). By the late 1960s, plants had been fully integrated, with Black women making up the majority. The rise of the poultry industry was built on the backs, arms, and hands of Black women in the South.

Martin, Jesse, & Me!

Beginning in the late 1970s, national unions focused their attention on states in the right-to-work South. Poultry plants were central to these campaigns. The first large scale poultry strike occurred in February 1979 and lasted until December 1980 at Sanderson Farms in Laurel, Mississippi (Schwartmann, 2013). The strike focused not on wages or overtime but on the pace of work, rules that limited workers to three bathroom breaks per week, and charges of sexual harassment against male foremen. Workers were “tired of being treated like dogs!” ([Brown, 1979](https://www.washingtonpost.com/archive/politics/1979/12/02/union-fighting-southern-traditions-as-well-as-mississippi-poultry-plant/55e07dab-c7b1-43fd-9e1e-6686da542495/)). This two-year strike was the start of several union organizing efforts centering local, Black leadership and Civil Rights (Fantasia and Voss, 2004; Schwartzman, 2013; Halpern and Horowitz, 1996). Photos from the 1989 RWDSU drive at Cagle Inc. in Georgia center a group of Black women wearing shirts that say, “Martin, Jesse, and Me!” calling on the legacy of these leaders while also placing rank-and-file women within the lineage of the movement ([Cromer, 1990](http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1154&context=lrr)).

Yet, as growing numbers of Southern Black women began organizing, both the US social contract of the post-war period as well as the poultry industry were being restructured. Welfare reform and the introduction of TANF coincided with Clinton-led neoliberalization, most notably NAFTA, to reshape both labor and the poultry industry in the US South. Tyson, the industry’s leader in production, expanded at a rapid pace, increasing production at home for both domestic and overseas markets. The opening of global export markets coincided with the rise of processed chicken. By 2000, 90 percent of chicken was sold in pieces. This meant greater profits, but also an increase in labor demands. Line speeds increased from 35 birds per minute (bpm) in 1970 to 91 bpm in 1990. Black workers protested these changes through union organizing documented above as well as absenteeism and attrition (Griffith, 1993; Schwartzman, 2013; Gray, 2014). Rather than respond to workers’ needs, companies mobilized a labor shortage argument alongside overused pejoratives of Black workers and a lack of “work ethic.” This barrage against Black workers did not stop at the workplace but conveniently bolstered attacks against Black women’s use of social service programs (“welfare queen”) targeting and criminalizing Black motherhood ([NYT in Weinberg, 2003](http://www.thebhc.org/sites/default/files/Weinberg_0.pdf); Kohler-Haussman, 2017). These associations have been used against Black women for centuries (Hunter, 1997; Hill Collins, 2005; Davis, 1981; Roberts, 1999), simultaneously justifying the “crisis of the poultry industry” and the need for immigrant workers, represented as a hard-working group against a racialized group’s laziness and lack of “work ethic.” The mobilization of welfare reform alongside heightened anti-Black criminalization and incarceration was successful in disorganizing the insurgent Southern Black working-class, to which women poultry plant workers were central (Kohler-Hausmann, 2017; Haney, 2010; McCorkel, 2013). This moment encapsulates what Schwartzman (2013) refers to as the “American Dilemma” as the US became a nation of jobs that 1) “nobody wants” 2) are shipped overseas and 3) and for which people are not qualified.

The Hispanic Project

Latinas/os were a small part of the poultry industry workforce until the late 1980s. By 1993, these workers were a quarter of the workforce (Griffith, 1995) and by 2005, they made up 75 percent (Striffler, 2005). The two largest poultry producers in the US, Tyson and Pilgrim’s, led the way in recruitment efforts and were charged with conspiracy to smuggle undocumented workers into the US and knowingly employing them illegally. The recruitment and exploitation of a largely undocumented workforce successfully displaced Black workers in the meat and poultry industries across the US South. This “docile” and cheapened workforce initially served the poultry industry well. In my field site, union membership in the plants dropped from 80 percent to 40 percent ([Aued, 2007](http://onlineathens.com/stories/090207/news_20070902062.shtml#.WUlwUBPyuRs)). Unions were forced to organize across racial, linguistic, and citizen-status differences, or continue losing strength. Thus, in 2007, large unions like AFL-CIO, SEIU, and United Food and Commercial Workers (UFCW) released public statements in support of comprehensive immigration reform. While these statements reflected unity, locals across the rural South had a difficult time carrying out this work for lack of resources and bilingual language skills among organizers and stewards.

As early as 2006, the UFCW in Northeast Georgia collaborated with a local group, the Economic Justice Coalition (EJC) for the plant’s unionization drive. “The idea was to have a big cookout in both the communities, the Black community over at Riverbank off West Main and the Hispanic community out in Evergreen,” Mrs. Linda Lloyd, director of the EJC, recalled as I sat with her in her cramped office only a few blocks from Riverbank. UFCW also hired bilingual organizers, like Nick Stanley, who I spoke with last fall. He recounted the campaign over the phone: “It was carried by a few leaders in the plant, men in mechanics and women in debone.” This collaboration paid off as UFCW Local 1996 won the election in September 2006. These groups teamed up again a year later in the months leading up to contract negotiations for the EJC’s annual Labor Day march. This march was followed by lunch and a town hall meeting on poultry workers’ needs involving the NAACP, faith-based leaders, union representatives, and immigrant rights organizers. Across the South, coalitions among Black and Latina/o workers were gaining strength ([Bacon, 2012](https://www.facingsouth.org/2012/05/common-ground-on-the-kill-floor-organizing-smithfield); Steusse, 2015). Undocumented Latina/o immigrants began making demands for union recognition and labor rights but also for immigration reform, DACA and DAPA, the right to drive, fair housing, healthcare, and transportation. They began to make demands for their social reproduction.

The largest mass mobilization of undocumented immigrants occurred on May 1, 2006 when hundreds of thousands of immigrants committed to a general strike. This strike hit the poultry industry especially hard. Tyson, Perdue, and Gold Kist were forced to close 22 plants across the South. Four months later, ICE conducted several workplace raids across the country. These raids, along with the indictments that followed, in some ways disciplined large and small poultry companies from knowingly hiring undocumented immigrants. But these raids also work as a “gendered, racial removal program” (Golash-Boza and Hondagneu-Sotel, 2013) often with lasting effects on detainees’ mixed-status families and broader communities remain living and working in the US. Through the framework of racial capitalism, deportations work in relationship to the active criminalization of the Black working-poor. Both limit available strategies for social reproduction by pushing each population into a state of precarity in both life and work, simultaneously disciplining and cheapening their labor.

“Ain’t No Job for a Mother!”

Counter to popular rhetoric, for many of the most disenfranchised populations across the American South “the poultry” provides a reliable and desirable form of “high” low-wage employment. As outlined above, working-class Black women have held a long-standing relationship with the poultry. Once, absenteeism and high turnover rates could be used by workers to gain some autonomy by moving in and out of a variety of low-wage jobs and piecemeal social services, from the poultry, to Wal-Mart, temporary disability, home health care, Burger King, and back again. Poultry plant workers with little control over the labor process would strategically take temporary pay cuts to provide brief reprieve for their bodies and momentary dignity for their souls (Griffith, 1993). Yet, today, with disappearing social support and increased policing and criminalization for a population with a historically tenuous relationship with the so-called welfare state, there is less dignity or choice involved in Black women’s decision making to move in and out of this work. Workers thus become, what Jan Breman (1994) terms, “wage hunter and gatherers” piecing together life’s work to strategically, and often ingeniously survive and sometimes thrive. Still, as one interviewee, a 32-year-old Black mother of 5 noted, the poultry “ain’t no job for a mother.”

During worker interviews, I asked several questions addressing the unpaid labor that feminist scholars call “social reproduction.” These concern cooking, cleaning, managing households, and care work of children, spouses and the other family members. When asked, “what do you do when you get home from work?” women responded in a variety of ways, but all interviewees talked about cooking for their family in between rest and reprieve. Even a woman who claimed to “not have time to cook,” went on to say, “well, not unless it’s for my kids. I cook for my kids.” As inside the plant, outside during worker interviews, food provided a lively topic of discussion. Although women workers are not able to cook every day, many develop survival strategies by cooking huge batches on the weekends that they may eat from throughout the week. Many women begin planning meals while at work, on the line, and during breaks, sharing recipes and ideas with each other. Poultry plant workers are unable to access SNAP benefits, “food stamps,” being just over the poverty level, so suggestions on which stores had the best sales each week became extremely valuable. Occasionally, women purchased frozen, partly-processed chicken in bulk from the plant, to stretch their incomes.

Every woman I interviewed has children, and their position as mothers was the greatest impetus for initially finding work at the poultry. Yet, no one could afford to place their children in formal childcare centers or after school programs. The childcare subsidies allocated by federal and state agencies like DFCS meant to aid (citizen-only) working-mothers consistently runs out each year (Project Safe interview, 2015; [Johnson, 2015](https://gbpi.org/wp-content/uploads/2015/03/Child-Care-Report-2015.pdf)). None of the mothers I interviewed had received such subsidies. Instead, they rely on their mothers, sisters, or neighbors to take care of their children, paying an average of $40/week for these services. Interestingly, of the women who had voluntarily quit the poultry (and were not forced because of immigration status), most quit because they were pregnant or had given birth and did not have anyone else to stay home with their babies. Instead they pieced together a small, six-week maternity leave with other, more flexible forms of low-wage work. They often expressed concern and personal guilt about childcare and their inability to help their children with homework or attend events at school. There is never enough time.

Work at the poultry is physically exhausting. This leaves workers with little energy to do much else, even if they have the money. In numerous interviews, when I asked women the simple question of, “what do you do for fun?” many looked confused or took a while to answer, some joking they didn’t have time for fun, or they were too tired to even catch up on their shows. Jordan, a 23-year-old Black mother of two responded, exacerbated by the question, “what do you think Carrie? I have a 1-year-old and a 3-year-old. I work all the time. I barely have enough time to go to the store.” Through observations of the working-day as well as in-depth interviews with workers in their homes, it becomes clear that the labor process within the plant not only structures women’s working day, but also shapes their time and energy outside of work. Women’s access to the social service programs meant to ease this workload and financial stress are structurally unavailable for undocumented workers and rarely available for the many Black workers who qualify.

Centering these conditions provides a clearer understanding of how the poultry industry not only shapes, but also depends upon a continual crisis of social reproduction for its Black and immigrant Latina workforce. With few alternatives, poultry workers’ daily lives embody this crisis. The dual threats of removal and displacement are so deeply intertwined and represent criminalizing mechanisms of racial capitalism that shape both life and work. These act in tandem with disappearing social services to ensure a permanent, racialized and gendered reserve army of labor, in many ways forced to return again and again to the poultry as wage hunter gatherers. Yet, wagelessness must be understood as normalized for many members of the Black working-class, and is not a “new” condition, but rather a “lifetime condition” (c.f. [Arrighi, 1990](https://newleftreview.org/I/179/giovanni-arrighi-marxist-century-american-century-the-making-and-remaking-of-the-world-labour-movement): 53). In the words of Cedric Robinson (1983), “the organizers of the capitalist world system appropriated Black labor power as constant capital” (443). Racial capitalism continues to rely on such conditions. Therefore, it is imperative for social movement organizing to prioritize this segment of workers’ experience of contemporary capitalism in order to re-envision and transform the institutions that exploitatively shape both work and daily life.

#### The alt’s political economy is key to confronting neoliberal market forces – only attention to the role of contingent economic and legal forces in producing antiblackness solves racial justice

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James W. Fox Jr, “Black Progressivism and the Progressive Court,” *The Yale Law Journal Forum*, 6 January 2021, pp. 414-420, https://www.yalelawjournal.org/pdf/FoxEssay\_81a8zrrr.pdf.

IV. BLACK PROGRESSIVISM AND THE PROGRESSIVE COURT

There are two important themes evident in each of these writings from early Black progressives: the systemic nature of racism and the essential connection between racial and economic justice. For each of these authors, racism was far too complex and pervasive for it to be addressed by any single front. Indeed, to limit antiracism in that way would in fact support racism by allowing it to accumulate and solidify power across other spheres. This was one of the things Wells and Du Bois found so problematic with Booker T. Washington's accommodationism and its hyperfocus on industrial education. 77And while Washington and the progressives may have agreed on the importance of economic development generally, Washington's cultivation of millionaires like Andrew Carnegie made the anticapitalist strand of Black progressivism unpalatable for conservative Bookerites.

Comparing the Black progressive thought sketched here with the Court's "pro-rights" cases of the middle period of the Lochner era, it becomes clear that the isolated and status-quo enhancing nature of the opinions meant they would, in the minds of Black progressives, have little chance of success. 78For instance, when the Court struck down the Alabama peonage law in Bailey it explicitly abjured race as a basis for its decision. 79Rather, the Court focused on how the law criminalized a breach of contract and thus converted a personal-service contract into a type of servitude. 80Certainly the outcome of the case was welcome to Black progressives, who had been highlighting the injustice of peonage laws for almost thirty years. For Black progressives, however, the issue was not that the law criminalized contract relations, but that peonage re-established racial slavery. By divorcing its reasoning from the problem of race, the Court avoided confronting how this peonage law was part of a system of racial oppression that also violated the Reconstruction Amendments. Doing so would have required looking behind cases like Giles, Plessy, and the Civil Rights Cases and the related doctrines supporting states' rights and limited federal powers. Instead, the Court could rely on a contract-enhancing analysis arguably consistent with Lochner to provide some enforcement heft to the Thirteenth Amendment while not displacing established Jim Crow jurisprudence.

Similarly, the Court in Buchanan overturned a Louisville ordinance prohibiting Black people from moving into a majority-white neighborhood. A full-throated Black progressive analysis of such a law might well have argued for the unconstitutionality of legal segregation and separation of the races. This was a perfect case to embrace Du Bois's idea that social rights were fundamental rights, or to declare that laws implicitly targeting race were invalid class legislation much as the Court had looked at the implied purposes of the labor regulations in Lochner. But this would have required overturning the underlying justification for Plessy and Pace; indeed, the Louisville ordinance was drafted to fit neatly within those cases because it also barred white purchasers from moving into majority-black neighborhoods. Overturning the ordinance seemed to require a confrontation with the Pace-Plessy doctrine. The Court again sidestepped this conflict. The Court emphasized the need to protect the property rights of the white owner. While the Black progressives working with the interracial NAACP, which brought the case, were clearly pleased with the result, the fact that the Court dodged the racial equality issues meant that, under the doctrine of Buchanan, residential segregation would remain divorced from systemic racism. And since the Court's opinion ended up supporting the rights of white property owners, it meant that Black people could only benefit if they could find a sympathetic white owner to sell to them. Whereas Black progressivism focused on the broadly unequal distribution of property caused by centuries of slavery, the Court's focus on protection of de facto property distributions not only avoided this problem but arguably upheld it, for if white people had the constitutional right to sell to Black people they also had the right not to. Residential segregation by custom--which Du Bois, Fortune, and Wells all viewed as on par with legal segregation--was legally secured under the rule of Buchanan.

The Court's penchant to avoid systemic issues was also apparent in the voting-rights case of Guinn v. United States. Oklahoma, soon after obtaining statehood, rewrote its election laws to exclude Black people from suffrage. It did so by implementing a literacy test and excepting white Americans through a grandfather clause timed to coincide with a date prior to the Fifteenth Amendment. The Court overturned the grandfather clause, but expressly upheld the literacy test as being race-neutral, clinging to (although not citing) its 1898 holding in Williams. From the perspective of Black progressivism this type of surgical constitutionalism served only to support the vast swath of racially discriminatory election laws. While enforcement of the Fifteenth Amendment was clearly cheered (the NAACP had argued as an amicus in the case), the failure to address the system of suffrage discrimination itself served to support that discrimination in its effects, a problem the NAACP and other would spend decades combatting. This fact--that in each case the Court managed to address a narrow issue and that the cases had relatively little systemic impact--highlights another aspect of the Black progressive critique. As Michael Klarman has observed, victories in cases such as Guinn were essentially meaningless precisely because litigation strategies required extensive financial resources and extended civil-society networks. 81But absent significant economic development in Black communities, resources for long-term test litigation strategies were thin indeed. The economic and wealth critique advanced early on by Thomas Fortune still rang true: So long as wealth remained primarily in the hands of white corporations and property owners and wages remained low and discriminatory, sporadic cases like Buchanan, Bailey, and Guinn provided no de facto equality, even on the very topics they addressed. Without the federal government's willingness to fund basic citizenship programs, such as broad-based educational reforms, labor protections, or equal-suffrage enforcement, little progress could be made. As Ida Wells had observed and predicted, mass disenfranchisement in the South produced political paralysis on race issues nationally, and the Lochner-era Court's concurrent doctrines that greatly constrained federal powers only layered on more obstacles to racial justice. 82

So, did the Court's post- Lochner race jurisprudence matter? To the extent it reflected and revealed tensions, fissures, and cracks in the Court's constitutional doctrines, they may have helped some. And given the limited range of options, they were some of the few tools available for the NAACP to build its long-term strategies. It also may have helped that there was some movement on other progressive fronts, including a spate of constitutional amendments and some state and local advances outside the South. But as Black progressives understood better than either white progressives or procapitalist libertarians, no ideological or jurisprudential approach--not liberty of contract, not prolabor progressivism, not property rights--could lead to broad-based racial quality. So long as racial equality was not a central doctrinal and political goal, so long as equal protection and equal citizenship were seen as occasional byproducts rather than animating ideals, and so long as the challenges to the historical intertwining of racial and labor oppression and punishment remained politically and economically fragmented, law was unlikely to be much help in realizing the hopes of Black Abolition and Reconstruction.

This brief inquiry into the jurisprudence of the Progressive Court and the critique of Black Progressives also speaks to our contemporary conflicts about the nature of constitutional equality and freedom both in the Court and on the ground. Much like the Progressive Era, the modern Court has embraced a procapitalist, antilabor approach to constitutional powers and individual rights. 83And much like the early Progressive Era Court, the modern Court has curtailed a prior generation's civil-rights and racial-justice advances. 84But rather than simply identifying this historical parallel on the Court, the above focus on Black Progressivism asks us to also consider the parallels between Black Progressivism and modern Black and antiracist writers and activists. And some of the parallels are striking. Ida Wells and the Niagara Movement both identified how the southern criminal-justice systems replicated slavery relations, blocked efforts to advance racial equality, and entrenched white supremacy's national political power. That critique continues today with the movement for prison abolition and other fundamental criminal-justice reforms, including efforts to decouple criminalization from voting eligibility. 85Thomas Fortune, Ida Wells, and W.E.B. Du Bois all identified the relationship of racial oppression and race-based capital and wealth accumulation as deeply unjust and dangerous for democracy. Living now during the second Gilded Age, with wealth inequality just as stark as that which motivated the Progressive Movement, we too must ask how and why the stubborn persistence of racial injustice maps onto the ever widening wealth and income chasm. 86As Ta-Nehisi Coates, Richard Rothstein, Thomas Mitchell, and others keep telling us, modern racial oppression is fundamentally inseparable from governmental, legal, and economic structures of wealth and class distribution, a point that would have not surprised Black Progressives of the 1890s and 1900s. 87And just as Fortune, Wells, and Du Bois each challenged judicial doctrines and categories such as the tripartite civil-political-social rights rubric or the condemnation of class legislation, so today do we need to critique facially neutral doctrines like colorblindness in equal-protection law and the irrelevance of racial-bias fourth amendment law. 88

Of course none of these parallels should be asked to bear too much of the load of our current efforts to create racial justice in law. Current conflicts, doctrines, and structures have a multivariate history, some of which trace back to the Progressive era and before, and some of which have newer manifestations. Still, the critiques presented by Black Progressives should help us remain vigilant about how racial oppression and economic and class dynamics have a long history of reinforcing and reconstructing each other. White wealth was built in large part by enslaved and segregated Black labor. The contemporary Black Lives Matter civil-rights movement is not just an extension of the resistance to organized and governmental violence that Wells and others presented over 100 years ago. It is also an argument about how economic exclusion and oppression--the lack of employment and educational opportunities, unsafe and unaffordable housing, lack of access to medical care--interlock to maintain racial injustice, of how the injustice itself is simultaneously denied by and essential to the dominant political and legal ideologies. Absent full attention to racial justice as a primary goal, other ideologies, whether libertarian or communitarian, liberal or conservative, leftist or reactionary, are going to leave undone the equality mission embedded in the Reconstruction Amendments, like the prolabor, probusiness, or Progressive ideologies of the early 1900s. But just as importantly we can also see how current doctrines can be rhetorically turned in the direction of justice, as Wells did by identifying segregation as itself the worst type of class legislation and as the NAACP did in using Lochner Court's libertarianism as one of its tools to challenge Jim Crow. Resistance to the Court's current doctrines must involve both the development of alternative doctrinal paths and the reconfiguration of those paths the Court has already taken, and they must, like Wells, Fortune, and Du Bois, always keep one eye on the lived experiences of inequality that show us why the work is important.

#### Alt TRANSFORMS unjust power relations – it is oriented towards the expression of popular democratic agency

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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

#### The alt is key – oppression stems from the denial of political agency – ensuring political freedom solves

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Lewis Gordon, “2: Re-Imagining Liberations,” *Freedom, Justice, and Decolonization*, Routledge 2021, pp. 21-24.

Politics involves the power of speech in the production of power through which human beings are able to govern their existence. Notice the distinction here between politics and governing. Government, properly understood, is supposed to be a tool of politics. In this sense, the government achieves its legitimacy from politics, which makes sovereignty not located in government but instead in the authority brought to it. Here, we find a distinction between “authority” and “authoritative.” A government could be an authority without being authoritative. In such instances, it has lost its legitimacy and, thus, relies purely on force. Where it is authoritative, the people are motivated without coercion. The Spanish philosopher and statesman Ortega Y Gasset called this unique political quality “opinion.”21 Public opinion is central for political life. That is why even dictators worry more about what people believe, think, and claim than what they know. All authoritarian governments depend on spying on their citizens and waging campaigns of misinformation and disinformation.

At the heart of politics, then, is power. What is power? In simple terms, it is the ability to make things happen with access to the means of doing so. The simplest means for human beings is our body and its reach. The human transition into cultural life—with its resources of language, writing, and technology—led to the ability of human beings to reach each other, other creatures, and things beyond the location of our physical bodies. The human world, in other words, is not only infused with power but also the expression of it. Where power is positive, it enables others to make things happen that affect their lives and others in the form of flourishing. The now banal term for this is “empowerment.” Where power is negative, it is horded and results in the disempowering of others. Colonialism, enslavement, racism, sexism, and varieties of other forms of dehumanization and exploitation are forms of disempowering of others through the concentration of powers in special groups. Here, we see a source of great tension—namely, the relationship of rule to politics. Oppressive regimes seek rule over politics.

This dichotomy of rule and politics makes concrete the well-known distinction between what is known over the past few hundred years as the right and the left. The rightwing tends to aim for rule over politics and the leftwing tends to focus on politics more than rule. Oddly enough, this tends to lead to a more concrete distinction in which the right, even when they disavow government, tend to concentrate on law and order, especially in the forms of force, and the left tend to focus on protest and other activities of speech. This connects even more to their responses to moments of social crisis. The impulse of the right is to reestablish order, which always takes the form of a “return” to a supposedly perfect past. The left are divided on this issue. The basic premise of the left is that getting better takes the form of proliferating freedom. Thus, to return to a perfect order would be antithetical to such goals. Looking to the past, the left see people struggling to create a better future. The past, in other words, was never perfect. Moreover, looking at the past and moments of crisis, the left’s aim of proliferating freedom leads inevitably to the distinction between liberty and freedom. Liberty involves the absence of obstacles. The kind of left that focuses on liberty, therefore, often regards government (rule) and at times even society and politics (social world, speech, and power) as threats to liberty. Freedom, however, is complicated. It involves cultivating the ability to make things happen, which means it requires power as empowerment and processes of growth. It also does not regard society as an enemy but instead a necessary condition for human flourishing, which is treated as a rich sense of freedom and other normative aims such as health, justice, and other aims beyond that such as, as we have seen, MAat, in addition to others such as Ubuntu, Uhuru, he (和), etc.22

Liberation from and Liberation for

We return, then, to the question of liberation. As with our discussion of decolonization and decoloniality, liberation raises not only the question of its negative movement—liberation from—but also, in agreement with Catherine Walsh, its positive one—liberation for. The libertarian left tend to be suspicious of the second formulation, which for them often means the personalizing of what to do once liberation from is achieved. This position tends to work well with liberalism, and as that, in its neoliberal, neoconservative, and even conservative forms, stands to the right of liberation for; it is no accident that the libertarian left have a history, in countries such as Australia, Canada, the United Kingdom, and the United States, of allying with the right. This relativism of right and left also means that other forms of left could articulate positions that result in the interests of the right. The critical discussion of moralism, for instance, raises this problem. Moralized subjects in societies where one could only have a legitimate public voice only as a victim undermine the category of political subjects, whose “voice” is a function of political conditions of appearance. What is the difference? Victimization belongs properly to moral and legal resolutions, but political agency belongs to participation in the production of power for all—in a word, citizenship. Liberation from is a response to harm; liberation for is the rallying of creative resources of possibility.

Under Euromodern rule, the harms of colonialism, enslavement, and racism required impositions of rule, which barred politics in the lives upon those whom they were imposed. This was one of Steve Bantu Biko’s insights on the South African apartheid state. To maintain itself, it waged a war not only against non-white peoples but also against politics because to maintain itself, it had to prioritize rule at the expense of political life. Blocking politics required barring political life from certain groups of people. This involved making them invisible. This invisibility took at least four forms.23

One is racial, which focuses on quantity. There are always “too many” members of a racially degraded group around, which makes them what the French call de trop (roughly, unnecessary, unwanted, or unsuitable). The significance of this for critical discourses of diversity should be evident. It is one of the reasons why diversity could be celebrated in some institutions in which only one member of a despised group has limited access.

Another is temporal. Where settler colonialism claims victory, Indigenous people “belong” to the past. This makes their continued presence a ghostly one. The settler’s longing for a future devoid of the Indigenous peoples occasions anxiety over their continued presence.

A third goes directly to the heart of politics: speech. Such people are ignored when they speak. Not heard, they, in effect, have no voice. This is historically a heavily gendered experience in European and many Asian countries in which to speak was a properly male phenomenon. (Oddly enough, I typed the previous sentence right before a session at a conference in which a group of male participants simply started speaking to each other while a female participant was responding to one of the gentlemen’s papers!) Elaborating the details of the history of voice and why it was different in many pre-Euromodern colonial societies of the Global South would take us far afield. The main thing is that this invisibility is predominantly female in Euromodern societies and those affected by them, which are the foci of this chapter.

A fourth is epistemological. It is the presumed illegitimacy of non-Euromodern knowledge. Elsewhere, I refer to this phenomenon as epistemic closure. 24 It is a form of presumed knowing in which there is, where a particular group is identified, nothing more to know or learn.

The imposition of these forms of oppressive invisibility entails liberation from them. Liberation for a society without those dynamics entails a world of no people who are always de trop by virtue of their race, barred from the future by virtue of being indigenous, voiceless because blocked from embodying political agency or citizenship by virtue of their gender or race, and excluded from the production and appearance of and contributing to knowledge. There are, of course, other forms of invisibility, but I have chosen these four because of their familiarity in both colonial countries and postcolonies of Euromodernity. The fourth, which focuses on knowledge, also raises radical questions of the conditions of thought and norms of thinking and living. Radicalized, it raises the question of justifications. After all, the decolonial challenge is whether even modes of knowing and even being normatively moved in such societies are also disempowering.25 It demands, then, questioning even liberation, which is why the Wits University Centre for Diversity Studies’ formulation of “liberations” was also a demand for radical self-critique.

#### THESE are the impacts that the topic is about, which their analysis IGNORES through its retreat into the self – ONLY embracing the progressive power of antitrust to counter corporate power allows us to solve the violence of the squo

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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>.

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.