# Disclosure---Kentucky---Round 6

## 1NC

### OFF

#### Our interpretation is that topical AFFs must affirm the resolution---

#### “The United States federal government” is the three branches.

Black’s Law Dictionary 90 (6th Edition, p. 695)

In the United States, government consists of the executive, legislative, and judicial branches in addition to administrative agencies. In a broader sense, includes the federal government and all its agencies and bureaus, state and county governments, and city and township governments.

#### “Prohibition” requires ending something fully.

Feldman 86 – Member of Procopio's Native American Law practice

Glenn M. Feldman, On Appeal from the United States Court of Appeals for the Ninth Circuit, California v. Cabazon Band of Mission Indians, 1986 U.S. S. Ct. Briefs LEXIS 1221, Supreme Court of the United States, 1986, LexisNexis

In arguing that California's bingo laws are prohibitory rat ther than regulatory, the appeallants have simply misunderstood the fundamental distinction between "prohibition" and "regulation" of conduct. As succinctly put by the Supreme Court of Washington more than 50 years ago, after noting that the prohibition and regulation of the sale of liquor are entirely different things: "To prohibit the liquor traffic implies the putting a stop to its sale as a beverage, to end it fully, completely, and indefinitely." In contrast, regulation "implies that the sale of intoxicating liquor shall go on within the bounds of certain prescribed rules, restrictions, and limitations." Ajax v. Gregory, 32 P.2d 560, 563 (Wash. 1934). Because regulation of conduct involves prescribing limitations, regulation, by definition, necessarily involves some degree of prohibition. Blumenthal v. City of Cheyenne, 186 P.2d 556, 566 (Wyo. 1947). The two concepts, however, are analytically distinct. Therefore, when courts have been faced with statutory schemes similar to California's bingo laws, they have consistently held them to be regulatory and not prohibitory.

#### The phrase “business practice” requires a pattern of conduct.

Lucas 88 – Judge, California Supreme Court

Malcolm Millar Lucas, Cal. ex rel. Van De Kamp v. Texaco, 46 Cal. 3d 1147, Supreme Court of California, October 1988, LexisNexis

\*\* Italics in original.

The statute defines "unfair competition" to mean, as relevant here, "unlawful, unfair or fraudulent *business practice* . . . ." ( Bus. & Prof. Code, § 17200, italics added.) In so doing it effectively requires what the court variously described in the leading case of Barquis v. Merchants Collection Assn. (1972) 7 Cal.3d 94 [101 Cal.Rptr. 745, 496 P.2d 817], as "a 'pattern' . . . of conduct" ( id. at p. 108), "ongoing . . . conduct" ( id. at p. 111), "a pattern of behavior" ( id. at p. 113), and, "a course of conduct" (ibid.).

What the Attorney General challenges in this action is the Texaco-Getty merger. Under the Barquis court's construction of the statute, however, the merger itself cannot be characterized as "a 'pattern' . . . of conduct," "ongoing conduct," "a pattern of behavior," "a course of conduct," or anything relevantly similar: it is rather a single act. That the complaint, under the Attorney General's reading, alleges that Texaco engaged in certain unlawful, unfair, or fraudulent business practices in the past and may engage in other such practices in the future is simply not enough: the complaint attacks not those past or future practices, but only the merger.

#### The “core antitrust laws” are sections 1 and 2 of the Sherman Act and section 7 of the Clayton Act.

The Antitrust Division 07 – Law enforcement agency that enforces the U.S. antitrust laws

“Antitrust Division Statement Regarding the Release of the Antitrust Modernization Commission Report,” The Antitrust Division, Department of Justice, April 2007, https://www.justice.gov/archive/atr/public/press\_releases/2007/222344.htm

The AMC has made many specific recommendations in its report, and the Division is in the process of reviewing all of them. The Division commends the AMC for its three primary conclusions:

Free-market competition should remain the touchstone of United States' economic policy. The Commission's conclusion in this regard is a fundamental starting point for policy makers. Over a century of experience has shown that robust competition among businesses, each striving to be increasingly successful, leads to better quality products and services, lower prices, and higher levels of innovation.

The core antitrust laws—Sherman Act sections 1 and 2 and Clayton Act section 7—and their application by the courts and federal enforcement agencies are sound and appropriately safeguard the competitiveness of the U.S. economy.

New or different rules are not needed for industries in which innovation, intellectual property, and technological innovation are central features. Unlike some other areas of the law, the core antitrust laws are general in nature and have been applied to many different industries to protect free-market competition successfully over a long period of time despite changes in the economy and the increasing pace of technological advancement. One of the great benefits of the Sherman and Clayton Acts is their adaptability to new economic conditions without sacrificing their ability to protect competition.

#### Two impacts---

#### 1---Procedural fairness---only predictable limits centered on the resolution create a predictable prep burden for the negative, which is a prerequisite for procedurally fair engagement---unconstrained aff choice creates an untenable research burden for the neg. That’s an impact---people don’t debate for the same reasons, but everybody thinks there’s some value in preserving the activity.

#### 2---Antitrust debates are good---rigorous and iterative research gives us the tools to challenge violent corporate monopolization.

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.

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, 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.

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).

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#### Counteradvocacy—

#### The United States federal government should:

#### First—

--raise the minimum wage to $15

--increase federal investment in employment opportunities

--increase tax credits for those with lowest wages

--enhance enforcement of labor protection laws including rights to form unions

--close loopholes exempting independent contractors from labor laws

--provide remedies for workers that demonstrate employers violate labor laws

#### Second—

--should substantially increase incentives and support for research, development, demonstration, and deployment of carbon capture and storage technologies

--substantially increase restrictions on private sector greenhouse gas emissions

#### First plank solves inequality

PIIE ’20 – Peterson Institute for International Economics, think tank based in DC

“How to Fix Economic Inequality? An Overview of Policies for the United States and Other High-Income Economies” <https://www.piie.com/sites/default/files/documents/how-to-fix-economic-inequality.pdf>

LABOR POLICIES

Raise the federal minimum wage and wages for essential low-paying jobs

Raising the federal minimum wage would help the lowest paid workers in states that have not already introduced their own higher minimum wages. Opponents say raising the minimum wage would burden employers and reduce the number of jobs available, but several studies find there is little effect on employment.

Jobs in childcare, nursing, elder care, food service, and healthcare are vital to society, but they pay poorly with little to no opportunities for advancement. Workers in these fields need higher wages and career progression opportunities to raise social mobility. These jobs are also less susceptible to automation.

Enforce existing minimum wage laws.

Some employers evade minimum wage laws by classifying employees as independent workers, deducting company costs from wages (for example, taking the cost of a uniform from an employee’s pay), failing to pay overtime, and through other forms of wage theft.

One study suggests that the total wages US employers steal by violating minimum wage and other labor laws exceeds $15 billion each year. More resources to combat wage theft and incentives for compliance would help.

Increase government investment in job creation programs

Fiscal and monetary stimulus—more government investment in job-creating projects—can be more effective than specific government transfer programs to spur a “hot economy” that pushes wages up faster than prices, according to Jason Furman (PIIE). Governments can also spend on infrastructure or other programs to generate employment (which was done during 2009-10), supplement worker income, or train workers for jobs, as programs did during the Great Depression.

Give employees more bargaining power at companies.

Richard Freeman (Harvard University) calls trade unions the one “institutional force that fights against inequality.” Several experts point out that as US union membership has fallen, worker bargaining power has declined. As a result, growth in labor productivity has benefitted mainly top wage earners. Easing restrictions on the formation of unions would help. Daron Acemoglu (MIT) says corporations should have nonexecutive workers serve on their boards, the way some German companies do.

Many experts advocate for empowering unions to bargain for better compensation, benefits, access to training, and education. A recent Business Roundtable initiative recommends that big companies make commitments to all stakeholders, including workers and customers, not just investor shareholders.

Protect workers in the “gig economy” and other alternative work arrangements.

Shifts in technology and labor arrangements, such as temporary, part-time, on-call, and selfemployment jobs, have sometimes disadvantaged workers. Firms are incentivized to hire or classify existing workers as independent contractors because they do not have to provide them with traditional labor protections and worker benefits. The government can develop universal and portable systems that give social protections and benefits for these workers and prevent worker misclassification.

Create a federal job guarantee.

The federal government can become the employer of “last resort” through a National Investment Employment Corps spending $750 billion to $1.5 trillion while eliminating the need for some antipoverty programs, argues William Darity Jr. (Duke University). A federal job guarantee would cut inequality by lifting the lowest earners and protecting employment opportunities for groups subject to discrimination.

Richard Freeman (Harvard University) maintains that a federal job guarantee could have been effective at managing the economic shock of the COVID-19 crisis. It could have put newly unemployed workers to work on critical government projects, such as contact tracing, at a wage above the poverty level. As economies rebuild, the federal government can facilitate access to labor through job programs that expand during periods of economic slowdown and shrink during periods of private sector job growth. The same can be said of the need for climate-related labor—federal governments can provide jobs to work on critical green projects.

Expand Trade Adjustment Assistance beyond trade-affected workers.  
Trade Adjustment Assistance (TAA) is much criticized as ineffective, but those who received training through the program enjoyed substantial increases in earnings. The program falls short because of its limited scope—it only helps workers demonstrably hurt by trade, not by technology or other factors beyond their control. Removing the conditions and expanding the TAA program to include workers displaced by automation and other factors would deliver the program’s benefits to a wider group of recipients.

#### Second plank solves climate change—Keeping warming below 2 degrees is impossible without CCS

DOE 16

US DOE, Issue Brief: Carbon Capture, Utilization, and Storage: Climate Change, Economic Competitiveness, and Energy Security, August 2016, <https://energy.gov/sites/prod/files/2016/09/f33/DOE%20Issue%20Brief%20-%20Carbon%20Capture%20Utilization%20and%20Storage_2016-08-31.pdf>

Carbon capture, utilization, and storage (CCUS) technologies provide a key pathway to **address the** urgent U.S. and global need **for affordable, secure, resilient, and reliable sources of clean energy.** In the United States, fossil fuel-fired power plants account for **30% of total** U.S. greenhouse gas (**GHG) emissions** and **will continue to be a** major part of global energy consumption for decades to come. **CCUS technology is** necessary **to meet climate change mitigation goals** at the lowest possible cost to society, **but its** widespread deployment will require continued improvements **in cost and performance. In addition,** key sources within the industrial sector**, which accounts for 21% of total U.S. GHG emissions,** cannot be deeply decarbonizedwithout CCUS. **A combination of tax incentives and research, development, demonstration, and deployment** (RDD&D) **will be** critical **to developing** transformational carbon capture technologies **and to** driving down the costs **of capture**. 2 DOE Issue Brief Issue Brief Carbon Capture, Utilization, and Storage: Climate Change, Economic Competitiveness, and Energy Security BACKGROUND AND CONTEXT Mitigating global climate change while creating economic opportunities and providing affordable, secure, resilient, and reliable clean energy is one of the preeminent challenges of our time. Advancing no- and low-carbon energy technologies to help meet these challenges is a primary goal of the U.S. Department of Energy (DOE). However, investment in and deployment of CCUS technology lags other clean energy technologies. **Stronger policies would provide the** financing **and** market certainty **needed for** deployment **and to develop** supply chains**,** commercial infrastructure**, and ultimately,** private sector investment **in CCUS technologies**. **Continued RDD&D is also critical to improving performance and driving down the costs of CCUS technologies**. CCUS FOR CLIMATE CHANGE **There is** international consensus **that CCUS will play a** critical role **as part of an** economically sustainable route **to the emissions cuts needed to limit global warming to 2°C.**1 In 2014, **the** Intergovernmental Panel on Climate Change (**IPCC) concluded that without CCUS, the costs of climate change mitigation could** increase by 138%**, and** further, **that** realizing a 2°C scenario may not even be possible without CCUS technologies. 2 In dollar terms, the additional investment needed in the absence of CCUS in the electricity sector to limit warming to a 2°C scenario is estimated to total $2 trillion over 40 years.3 International Energy Agency (IEA) models of the technology mix needed **to meet a 2°C scenario show that CCUS will** need to contributeabout one sixth **of global CO2 emission reductions in** 2050, and 14% of the cumulative emissions reductions between 2015 and 2050 compared to a business-as-usual approach.4 In order to realize the level of mitigation from CCUS that IEA projects would be needed to limit warming to 2°C, industrial and power sector applications of CCUS would need to contribute a greenhouse gas reduction of 7 Gigatonnes per year by 2050.5 IEA estimates that achieving these reductions would require a total global deployment of more than 950 GW of new and retrofitted power generation capacity with CCS, equivalent to roughly 2,000 500 megawatt coal-fired power plants, each emitting 3.5 million metric tons of CO2. 6 **In addition to the** critical role **that CCUS plays in** decarbonizing the electric power sector**,** deep decarbonization of key sources in the industrial sectorwill not be possible **without CCUS**. 7 In the IEA’s 2°C scenario models mentioned above, **approximately** half (45%) of the total global emissions reductions **between 2015 and 2050 are from industrial sector use of CCS in applications which** cannot be replaced by renewable or other non-emitting energy technologies.8 **Finally, IEA modeling of emissions scenarios to keep the temperature rise below 2°C reveal that the GHG emissions reductions needed could** only be achieved “with bioenergy with CCS (**BECCS) using** sustainably produced feedstocks **and** afforestation**, and/or with** other CO2 removal technologies **that are** deployed widely **by the second half of the century.”9**

#### More generally, this counterplan is an example: the thesis of our counteradvocacy is that a preferable strategy is to adopt policies that solve the harms of status-quo neoliberal capitalism without throwing the baby out with the bathwater –

#### The net benefit is that a neoliberal competition policy is good, because while SOME THINGS including for example healthcare and CCS should NOT be markets, there are many things that should be, because markets are uniquely effective at driving key incentives –

#### Prefer a tailored defense of competition policy—it is compatible with broader anti-neoliberalism—the aff conflates sources of structural equality and devolves into totalitarianism.

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

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

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

Santa Clara L. Rev. 703)

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

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

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

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

#### Markets are a computational necessity – we should make them more democratic instead of rejecting them

Posner and Weyl 18 – Eric A. Posner is Kirkland and Ellis Distinguished Service Professor of Law and Arthur and Esther Kane Research Chair at the University of Chicago. E. Glen Weyl is an economist and researcher at Microsoft Research New England.

Eric A. Posner and E. Glen Weyl, “Epilogue: After Markets?” *Radical Markets: Uprooting Capitalism and Democracy for a Just Society*, Princeton University Press 2018, Epub (email [arg5180@gmail.com](mailto:arg5180@gmail.com) for relevant text).

Markets as Miracles

As we saw in chapter 1, many economists who were committed to the market economy also considered themselves “socialists.” Yet in the early twentieth century, socialism became identified with central planning, thanks to the role of Marxism and the French Revolution in inspiring and justifying the economic policies of the Soviet Union. Central planning also received a boost from World War I, where national control of the economy for the purpose of war production was more successful than advocates of laissez-faire could ever have imagined. This led to a heated debate about whether central planning should be used in peacetime as well.

In the popular imagination, central planning could not succeed because it provided individuals with no incentives to work. People needed the prospect of riches, or at least wages, to get them out of bed in the morning. Yet incentives were quite strong in the Soviet Union, stronger, in many ways, than they are in capitalist countries. While there was less chance under Communism to grow rich, any prisoner of the Gulag knew the fate of those who “malingered.”

Another popular argument against central planning was advanced by Nobel Laureate Friedrich Hayek in 1945. Hayek argued that no central planner could obtain information about people’s tastes and productivity necessary to allocate resources efficiently.1 The genius of the market was the way that the price system could, in disaggregated fashion, collect this information from everyone and supply it to those who needed to know it, without the involvement of a government planning board.

A related version of this argument, less well-known than Hayek’s but actually more compelling, was made a few decades earlier. The brilliant economist Ludwig von Mises argued that the fundamental problem facing socialism was not incentives or knowledge in the abstract but communication and computation.2 To see what Mises meant, consider an illustrative parable proposed by Leonard Read in his 1958 essay, “I, Pencil.” 3

Read tells the “life story” of a pencil. Such a simple thing, one would at first think. And yet as you begin to reflect, you realize the enormously complex layers of thought and planning it would require to make a pencil from scratch. The wood must be chopped, cut, shaped, polished, and honed. The graphite must be mined, chiseled, and shaped. The ferrule—the collar that connects the wood shaft and the eraser—is an alloy of dozens of metals, each of which must be mined, melted, combined, and reformed. And so forth.

Yet what is most remarkable about the pencil is not its complexity but the complete lack of understanding that anyone involved in the manufacture of the eventual pencil has about any of these steps in the process. The lumberjack knows only that there is a market for his wood and some price that induces her to buy the needed tools, cut down trees, and sell lumber down the line of production. The lumberjack may never even know that the wood is used for a pencil. The pencil factory owner knows only where to purchase the needed intermediate materials and how to run a line assembling them. The knowledge and planning of the pencil’s creation emerge organically from the process of market relations.

Now suppose that we were to try to replicate the market relationships with a central planning board. The board would determine how much wood to chop and when, the number of workers to employ at each stage of production, the correct places and times to produce, ship, and build. Yet, to do this effectively the board would have to understand a great many things. It would have to learn from each of these specialized producers the unique knowledge of her domain of expertise that allows her to earn a living—for example, whether the lumber would have a more valuable use elsewhere in the economy (to build houses or ships or children’s toys) than as an input for pencils. Absorbing all this information and constantly receiving and processing the necessary updates to keep abreast of evolving conditions in each of these steps of the process, would overwhelm the capacity of even the most skilled managers.

And even if the board somehow had an unlimited capacity to absorb this information, it would still have the unmanageable problem of trying to act on this sea of data. Prices, supply and demand, and production relations in markets arise through a complex interplay of individuals each helping to optimize a tiny part of a broad social process. If, instead, a single board had to plan this entire dance, it would force a small number of individuals to contemplate an endless sequence of choices and plans. Such elaborate calculations are beyond the capacity of even the most brilliant group of engineers.

Mises wrote decades before the rise of the fields of computer science and information theory and lacked any way to formalize these intuitive ideas. Many of Mises’s arguments were dismissed by mainstream economists, whose increasingly narrow mathematical approach to the field Mises disdained. Mises’s critics, including Oskar Lange, Fred Taylor, and Abba Lerner, argued that the market mechanism was but one of many ways (and far from the most efficient way) to organize an economy. They viewed the economy purely mathematically, rather than computationally, and saw no difficulty in principle with solving a (very large) system of equations relating the supply and demand of various goods, resources, and services.

In a simplified picture of the economy, ordinary people perform dual functions as producers (workers, suppliers of capital, etc.) and consumers. As consumers, people have preferences regarding different goods and services. Some people like chocolate, others like vanilla. As producers, they have different talents and capacities. Some people are good at doing math, others at mollifying angry customers. In principle, all we need to do is figure out people’s preferences and their talents, and assign jobs to people who do them best, while distributing the value created by production in the form of goods and services that people really want. Rewards and penalties need to be determined to give people incentives to reveal their preferences and talents, and to ensure that they actually do what they are supposed to do. All of this can be represented mathematically and solved. That’s why socialist economists viewed the economy as a math problem the solution of which only required a computer.

Yet the later development of the theory of computational and communication complexity vindicated Mises’s insights. What computational scientists later realized is that even if managing the economy were “merely” a problem of solving a large system of equations, finding such solutions is far from the easy task that socialist economists believed. In an incisive computational analysis of central planning, statistician and computer scientist Cosma Shalizi illustrates how utterly impossible “solving” a modern economy would be for a central planning board. As Shalizi notes in his essay, “In the Soviet Union, Optimization Problem Solves You,” the computer power it takes to solve an economic allocation problem increases more than proportionately in the number of commodities in the economy.4 In practical terms, this means that in any large economy, central planning by a single computer is impossible.

To make these abstract mathematical relationships concrete, Shalizi considers an estimate by Soviet planners that, at the height of Soviet economic power in the 1950s, there were about 12 million commodities tracked in Soviet economic plans. To make matters worse, this figure does not even account for the fact that a ripe banana in Moscow is not the same as a ripe banana in Leningrad, and moving it from one place to the other must also be part of the plan. But even were there “merely” 12 million commodities, the most efficient known algorithms for optimization, running on the most efficient computers available today, would take roughly a thousand years to solve such a problem exactly once. It can even be proven that a modern computer could not achieve even a reasonably “approximate” solution—and, of course, today there are far more goods, services, transport choices, and other factors that would go into the problem than there were in the Soviet Union in the 1950s. Yet somehow the market miraculously cuts through this computational nightmare.

Markets as Parallel Processors

But all of this raises a question. If the problem is so hard to solve, how is it possible for the market to solve it? Consider Lange’s quote from our epigraph.5 The market is just a set of rules enforced by the government—not much different from a computer algorithm, although a very complex one. It’s true that no single person invented the market. Yet the rules of the market are well understood, and economists are constantly telling people to implement them. Imagine that a new country is created, and its leaders ask a western economist how best to create an economy. The economist will tell them how to set up a market—the rules of contract and property law, for example. (Indeed, economists have been running around the halls of government of developing countries and the floors of start-ups for decades doing just this.) Aren’t the economists just supplying a kind of computer program to the leaders, who by implementing it are engaging in a style of centralized planning?

To understand how the market solves the “very large system of equations,” you need to know the key ideas of distributed computing and parallel processing. In these systems, complicated calculations that no one computer could perform are divided into small parts that can be performed in parallel by a large number of computers distributed across different geographic locations. Distributed computing and parallel processing are best known for their role in the development of “cloud computing,” but their greatest application has gone unnoticed: the market economy itself.

While the human brain is wired differently from a computer, computational scientists estimate that a single human mind has a computational capacity roughly ten times greater than the most powerful single supercomputer at the time of this writing.6 The combined capacity of all human minds is therefore tens of billions of times greater than this most powerful present-day computer. The “market” is then in some sense a giant computer composed of these smaller but still very powerful computers. If it allocates resources efficiently, it does so by harnessing and combining their separate capacities.

Adopting this perspective, we must ask how the market is “programmed” to achieve this outcome. The economy consists of a variety of resources and human capacities at a range of locations, along with a system for transmitting data about these resources among individual human beings. A standard approach in parallel processing is to take information local to one location in, say, a picture or puzzle and assign this to one processor, integrating these inputs on still other processors in a hierarchical fashion. Now apply this image to the economy. In every place, we take one of the computers (humans) available to us and assign it to collect information about that location’s needs and resources and report some parsimonious “compressed” summary of all that data to other computers. For example, there might be a hierarchical arrangement of computers, with those responsible for particular locations on the ground reporting to a higher “layer” that integrates local areas and then upward from there.

Consider the following example. A person works on a farm and is in charge of ensuring that the farm is productive and that her family is happy. This person sends information about the farm and her family, not in its full richness and complexity, but in broad strokes, to district managers. One manager specializes in understanding the resources that farms need to operate—seeds, fertilizer— while another understands the resources that people living on farms need in order to be happy, including food and clothing. These managers would then aggregate these data and convey them to the next layer, perhaps a national wheat distributor or a regional supplier of products for use on farms. At every level of this chain, some information would need to be lost for the parallel processing to remain parallel and tractable: the farm manager could not detail every way in which a slightly better paved road would help in conveying goods to market or how slightly cleaner water would protect her crops. But at least she could report the largest and most important needs and hope that the loss of information only slightly reduces the efficiency of the resulting solution.

This arrangement has a flavor of central planning but also resembles a market economy. People specialize in different parts of the production chain and operate under limited information, yet are able to coordinate their behavior because the information takes a certain form. While people are experts on local conditions, they know little about economic conditions elsewhere. They know that grain prices are high and tractor prices are low, but not why this is the case. When they buy a tractor or sell grain, they don’t tell the vendor or purchaser their life story, all the conditions on their farm, and so forth. They just place an order or offer so much grain at the going price.

This “price system” thus greatly simplifies communication between different parts of the economy. In fact, economists have shown that prices are the minimum information that a farmer needs to plan her operations effectively. So long as every important way that the farm could benefit or draw down resources from the outside world has a price attached to it, this is all the information the farmer needs to make economic decisions. Any greater information would be a waste, from a purely economic efficiency perspective, though it might be interesting from time to time to develop personal relationships. Conversely, if these prices were not available, there would be no way for a farmer to know whether it pays to use new tractors or rely instead on more labor, nor would she know how many seeds to plant for next season. The farmer without such prices could easily produce too little or waste resources on a tractor that could be better used for more labor, seed, or even consumption.

In this sense, prices are the “minimum” information necessary for rational economic decision-making.7 No other system of distributed computing can be equally productive and yet require less communication.

Markets elegantly exploit distributed human computational capacity. In doing so they allocate resources in ways that no present computer could match. Von Mises was right that central planning by a group of experts cannot replace the market system. But his argument was mistakenly taken as implying that the market is “natural” rather than a human-created program for managing economic resources. In fact, there is nothing natural about market institutions. Human beings create markets—in their capacity as judges, legislators, administrators, and even private business people who frequently set up organizations that create and manage markets.

Markets are powerful computers, but whether they produce the greatest good or not depends on how they are programmed. We advocate “Radical Markets” because we believe that in the present stage of technological and economic development, when cooperation has grown too large to be managed by moral economies, the market is the appropriate computer to achieve the greatest good for the greatest number. If we see it as such, we can fix the bugs in the market’s code and enable it to generate more wealth that is distributed more fairly.

By sharpening our understanding of the role and value of markets, the computational analogy clarifies our claim that the solutions we propose are based on extending the reach of markets. The COST on wealth radicalizes markets as it puts greater responsibility on individuals to articulate their values and gives them greater ability to claim things they value highly. QV does the same in the political sphere. Our ideas on migration give individuals more scope for determining the best path for where they live and work. Our proposals on antitrust and data valuation break up centralized power and place greater responsibility on individuals and small firms to compete, innovate, and make rational economic choices to allow for the distributed computation of optimal economic allocations. But all these proposals raise the question: if the market is just a computer program that harnesses the power of individual human intellects, will it still be necessary as computer power increases?

### OFF

#### The United States federal government should substantially increase prohibitions on anticompetitive business practices by the private sector, including expanding the scope of its core antitrust laws and rejecting the consumer welfare standard in favor of criminalizing concentrations of corporate power in line with the recommendations of the Vaheesan evidence.

#### Solves the AFF – And proves the desirability of centering the necessary changes to antitrust law and policy and the very real impact of changing them

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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.

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.

### Case

#### Their “mode of refusal” fails and turns case – it leaves capitalism’s structural conditions in place and de-radicalizes revolutionary movements

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Anna Watkins Fisher, “The Play In the Sytem: The Art of Parasitical Resistance,” Duke University Press, 2020, p. 4-5, https://deepblue.lib.umich.edu/handle/2027.42/163344

Like Amazon Noir, the performance-based artworks explored in this book manifest a logic of aesthetic resistance whose meaning, and effects are far more indeterminate, far harder to pin down, than those which animated much of avant-garde and oppositional art in the late twentieth century. These artworks take seriously the ambiguity that is already implied by the word resistance, as an act that necessarily presupposes the structural conditions against which it struggles, precisely because it cannot destroy or escape them outright. By turns irreverent, irksome, and disturbingly amoral, the artworks I discuss are not virtuous. They are not good or reassuring in the way we may typically think of political art. But these works nevertheless raise necessary and difficult questions about the meaning and value of resistance, and the very possibility of critique, in a moment of ubiquitous appropriation and financialization characterized by extreme consolidations of capital and ever more enmeshed and dependent relationships to power. Can something still be considered resistant if it is complicit with the structural conditions it challenges? Is resistance thinkable from a position that is not autonomous but embedded?

This book responds to calls for politico-aesthetic strategies adequate to the waning sense of agency in a moment when the political tools on hand appear co-opted in advance. It begins from the premise that conventional notions of radical art and politics, gestures of transgression and refusal inherited from twentieth-century avant-garde aesthetics and revolutionary politics, traffic an idealism that does not fully account for the deep structural enmeshment of the contemporary subject. As corporate and state entities have become more efficient at recuperating disruption back into the workings of capital—and as digital technologies have intensified surveillance and accelerated appropriation—control and resistance have become nearly indistinguishable. Projects of artistic subversion and activist resistance not only appear to be impotent gestures or anachronisms of a bygone era, but, even more perniciously, seem to throw gas on the fire of systems of extraction and exploitation.13 What are the meaning and value of a politics of disruption when artworks that are critical of corporations and government institutions can be said to help them—however inadvertently—close their loopholes? When hackers actually help states and corporations improve the security of their information systems?14 When anti-establishment art and modes of critique are adopted as profitable marketing strategies?15 What, we might ask, is the efficacy of resistance when it performs an immunitary function that renders the mechanisms it seeks to challenge all the more impervious to it? Today, when disruption and critique are not what threaten the stability of the system but are essential to its functioning, would-be radical artists and critics find themselves implicated in, even feeding, the very power structures they seek to oppose.16

The Play in the System is not a book about specific digital platforms, practices, or technologies; neither is it a book that focuses on contemporary artists and interventionists either working in a particular media or visual genre or representing a specific ethnicity or gender. It is a book about an idea, a system, the emergence of a new aesthetic and critical formation in response to the blunted force of frontal resistance in the face of ever more accommodating and entrenched systems of power. The digital is not necessarily the medium or site of exhibition of these artworks; it is the informing condition of their emergence. The digital constitutes a favorable milieu for the consolidation of power structures that predate it, for technologies, sold as empowering, draw us ever more tightly into their ideological mechanisms through apparatuses of capture and economies of dependency. This study reconceives resistance under what Gilles Deleuze famously termed the regime of control, where power has moved outside disciplinary spaces of enclosure and made openness its constitutive promise.17 Control, as compared to discipline, describes a formation of power that is more indirect, unbounded, and “flexible.”

#### The 1AC’s speculation about new forms of subjectivity absent any real material change/organizing only invites neoliberal interventions that turn the aff – prioritizing new knowledge before new material relations fails

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Samuel A. Chambers, “Undoing Neoliberalism: Homo Œconomicus, Homo Politicus, and the Zōon Politikon,” Critical Inquiry, Summer 2018, https://www.journals.uchicago.edu/doi/abs/10.1086/698171

Perhaps it comes as no surprise, as it surely is not unreasonable, that Brown wants a champion to vanquish homo œconomicus. But before discussing the potential hero, we should first reconsider the enemy. What sort of creature is homo œconomicus? In her reading, Brown makes it clear that the figure of homo œconomicus changes, both across the period that Foucault studies (the seventeenth to twentieth centuries) and over the past few decades—the time that most interests Brown (see U, pp. 31–32). Brown consistently describes homo œconomicus as a “figure of the human” and most of the sources she cites as authorities on homo œconomicus also treat it as a figure in this way (see U, pp. 79, 238–39). In other words, for Brown, the character homo œconomicus expresses and reflects the very sort of “governing rationality” that is central to her understanding of neoliberalism (U, p. 30). Brown’s sophisticated account cannot be reduced to the idea that the rationality of neoliberalism is simply a product of, an enunciation of, homo œconomicus. Of course not; it is the overall rationality, along with the attendant social and political practices that constitute and sustain that governing rationality, which brings homo œconomicus [it] to life. Yet this surely means that one can challenge the hegemony of this rationality only through the production of a distinct rationality, not merely by proffering a distinct figure who would “possess” a different rationality.

And by placing homo politicus, a figure initiated by or derived from Aristotelian ontology, on the same plane as homo œconomicus, Brown muddies the waters. Where do these figures come from, and how do they operate? Foucault tracks the changing rationality of homo œconomicus, but it is prudent to stress that, for Foucault, this figure is neither a real, empirical subject nor a general politico-philosophical type. Homo œconomicus is a subject position that belongs to a definite set of discursive practices within a specific historical context. By pointing to the historical location of this figure I stress a point that Brown leaves out of her story: homo œconomicus is not just a philosophical construction, so Foucault does not need to make him or her up (as the philosopher or economist would do) but can merely uncover him or her (as the archaeologist does). As I mentioned briefly above, this figure emerges first in late nineteenth-century political economy critiques of Mill’s work, and the idea of homo œconomicus then retroactively expands backwards, such that it comes to refer to Mill’s predecessors in classical political economy, particularly Adam Smith and David Ricardo.25 Homo œconomicus thus has a discursive, historical, archival existence that Foucault tracks in some detail. When he then uses that figure to describe transformations in twentieth-century economics, he continues to operate on the same terrain—the space of theoretical accounts within the changing field of political economy and economics.

Moreover, in the time period that Foucault is studying, there is no such corollary figure of homo politicus. This is why Brown must lurch so abruptly from one period to another—shifting awkwardly from Foucault’s focus on the nineteenth and twentieth centuries all the way back to Aristotle. Brown’s attempt to retrieve homo politicus from Aristotle, so that she might then oppose him to homo œconomicus, requires an untenable conflation of a political ontology (her reading of Aristotle) with a genealogical account of history (Foucault).26 Homo politicus cannot be our champion in the struggle against homo œconomicus because the two do not share the same terrain; the former cannot win for the very simple reason that there is no field of battle on which the two could meet. Brown attempts to pull the thread of homo politicus back through modernity, to show that the “emergence of homo œconomicus may not mean that homo politicus vanishes or even becomes subordinate,” and further, to prove that “the rise of political economy in the eighteenth century remains compatible with a presumed sovereignty of the political over the economic” (U, pp. 92, 93). Yet as I have shown in the preceding section, the Neo-Latin neologism homo politicus does not precede but rather follows homo œconomicus. Brown’s homo politicus is a philosophical hypostatization, derived from a reading of Aristotle and then projected across modernity.27

We cannot say, as Brown does, that “there was homo politicus” at the beginning because only politics—that is, a historical and sociopolitical process, a series of mechanisms of seeing and hearing, a whole distribution of the sensory realm—could tell us whether the creature that was there from the start was a logical animal or a phonic animal. Rancière formulates a related version of this point and puts it this way: “the simple opposition between logical animals and phonic animals is in no way the given on which politics is then based. It is, on the contrary, one of the stakes of the very dispute that institutes politics” (D, p. 22). Here Rancière shifts politics from the realm of ontology (as derived from the nature of human being) to the realm of concrete history (as dynamic process). This transfiguration of politics is the context for what one might call, for lack of a better term, Rancière’s alternative account, which appears in Disagreement in rather elliptical form: “the modern political animal is first a literary animal” (D, p. 37). The idea of literarity can help to make sense of this line, as that concept suggests that all animals are caught up in a circulation of words—surrounded by an excess of words, one that precedes and haunts every distinction drawn between the phonic and the logical.

Literarity, this excess of words that marks the human condition, makes homo politicus—as Brown, through Aristotle, conceives him or her—nothing less than an impossibility. We cannot first answer the question “what is man” so as to then derive his political nature; only politics can tell us in the first place (which is never really the first place) what anthrōpos is or will be. Brown’s articulation of homo politicus has the temporality of politics all wrong: her logic presumes that we could start with a homo that was already politicus (see U).29 What we have instead, what we always face, is the appearance of various zōa, only some of which/whom emerge as anthrōpos—an emergence that itself cannot occur except through politics.

And perhaps one need not go against Aristotle to make this claim. Richard Mulgan’s detailed philological work on this topic shows that, taking the broad view of Aristotle’s corpus, it appears that Aristotle means to emphasize that man is an animal (see “W,” p. 184).31 Returning in the mid-1970s to the passage from 1253a of the Politics, Mulgan begins by pointing out that “it is often forgotten that Aristotle uses the phrase [politikos zōon] of animals other than man.” Mulgan suggests that the famous passage from book 1 of the Politics could be translated/interpreted to suggest either that only man is political, or that many animals are political, even if in certain ways “man is more [politikos] than other animals.”32 For Mulgan, the former reading—though it surely has been the dominant one in the history of political thought—is far less tenable. To uphold it would require us to take Aristotle to be contradicting what he writes in other texts—an unnecessary interpretation since Aristotle’s original Greek easily accommodates an interpretation of the Politics not as giving man the exclusive property of politicalness but instead as showing that many animals are political. The distinguishing mark of anthrōpos lies not in politicalness per se but elsewhere.33 Aristotle thereby does distinguish anthrōpos, but the ground for that distinction is not politikos. Numerous animals are political, including man.

But this means that Aristotle’s own texts might be rendered compatible with the notion, derived in different ways from my readings of both Marx and Rancière, that politicalness is not a property of any given creature. In this way we see that there is no homo politicus because “homo” is not the ground of “politicus.” Another way of putting this point, one that speaks both to Brown’s reading of Aristotle as well as to Brown’s and our grasp of the current neoliberal conjuncture, is to say that there has never been just homo politicus. History does not produce for us one single genus that has endured throughout time. Rather, there has been homo politicus athenikos, homo politicus republicanus, homo politicus liberalis, homo politicus democraticus, homo politikus communistus—and obviously the list could go on and on. Political existence is not given in or by nature. The mode of political being is not a fixed ontological secret to be discovered; it is a distinct phenomenon of—produced and sustained by—a larger social order. Hence Brown’s question—how can homo politicus fight back?—is misplaced or malformed. The questions should be: what is our mode of being political today and how we might become political in other ways in the future?

This analysis makes clear that Brown is right to turn our attention to the plight of political animals—both historically and today. The problem with her formulation lies in thinking we could have, we could locate, we could call on, the pure species, homo politicus—or worse, that we could find it at “the beginning.” In the beginning there was not homo politicus, because in the beginning there was not. Each of the various kinds of homo politicus is itself the outcome of a dynamic and ongoing process but never the starting point. Homo politicus cannot appear in the abstract but only in specific concrete historical forms—in particular guises. It is only in this sense that, like homo œconomicus—who appears first as partner of exchange and then as entrepreneur—homo politicus also has a history.

To say this is to rethink the struggle at the heart of Brown’s project. To reiterate, Brown sets up a long-running battle between homo œconomicus, on the one hand, and homo politicus, on the other. Moreover, she strongly suggests that we are near the end of the struggle, or at least near an inflection point, since homo politicus seems to be close to death.35 But if there is no homo politicus at the beginning; if there is no pure species of homo politicus at any moment in history; if homo politicus always has a history and always only appears as a specific subspecies within history, then we must insist today that homo politicus has not been vanquished, nor could it be. Only the form of homo politicus has changed. The question we ought to ask is not whether homo politicus is still strong enough to save us, but what form homo politicus has taken today and how we might reshape it.

I have tried to show that Brown’s projection of homo politicus proves untenable, unviable, or ill-conceived. But the issue is more subtle than a mere refutation of Brown’s construction. It cannot be a matter of simply saying, against Brown, that there is no such thing as homo politicus. On the contrary, homo politicus surely exists today, but it takes the specific form of homo politicus neoliberalis. For better or worse, neoliberalism is not just an order of reason; neoliberalism is itself a series of historical processes and practices that lead to the production of a particular form of political subjectivity. But to say that neoliberalism itself brings about forms of subjectivity means that one cannot challenge neoliberalism merely by postulating alternative forms of subjectivity. Rather, any meaningful or robust challenge to neoliberalism will depend upon alternative theories and practices that themselves produce and sustain new forms of subjectivity.

#### Radical political demands are good – they’re key to effectively mobilizing leftist organizations and any other strategy fails to contest capitalism’s control over the political

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Nick Srinicek and Alex Williams, “INVENTING THE FUTURE: Postcapitalism and a World Without Work,” Verso Books, 2015, https://openaccess.city.ac.uk/id/eprint/16935/1/SRNICEK%20and%20Williams%20(2015)%20'Inventing%20the%20Future'.pdf

Whereas the previous chapter analysed the changing social conditions that are making a post-work world increasingly necessary, this chapter will outline what a post-work world might mean in practice.1 To that end, we advance some broad demands to start building a platform for a post-work society. In asserting the centrality of demands, we are breaking with a widespread tendency of today’s radical left that believes making no demands is the height of radicalism.2 These critics often claim that making a demand means giving into the existing order of things by asking, and therefore legitimating, an authority. But these accounts miss the antagonism at the heart of making demands, and the ways in which they are essential for constituting an active agent of change.3 In this light, the rejection of demands is a symptom of theoretical confusion, not practical progress. A politics without demands is simply a collection of aimless bodies. Any meaningful vision of the future will set out proposals and goals, and this chapter is a contribution to that potential discussion. None of the proposals presented will be radically new, but this is part of their strength: it is not a free-floating project, since frameworks and movements already exist and have traction in the world.

Today, revolutionary demands appear naive, while reformist demands appear futile. Too often that is where the debate ends, with each side denouncing the other and the strategic imperative to change our conditions forgotten. The demands we propose are therefore intended as non-reformist reforms. By this we mean three things. First, they have a utopian edge that strains at the limits of what capitalism can concede. This transforms them from polite requests into insistent demands charged with belligerence and antagonism. Such demands combine the futural orientation of utopias with the immediate intervention of the demand, invoking a ‘utopianism without apology’.4 Second, these non-reformist proposals are grounded in real tendencies of the world today, giving them a viability that revolutionary dreams lack. Third, and most importantly, such demands shift the current political equilibrium and construct a platform for further development. They project an open-ended escape from the present, rather than a mechanical transition to the next, predetermined stage of history.5 The proposals in this chapter will not break us out of capitalism, but they do promise to break us out of neoliberalism, and to establish a new equilibrium of political, economic and social forces. From the social democratic consensus to the neoliberal consensus, our argument is that the left should mobilise around a post-work consensus. With a post-work society, we would have even more potential to launch forward to greater goals. But this is a project that must be carried out over the long term: decades rather than years, cultural shifts rather than electoral cycles. Given the reality of the weakened left today, there is only one way forward: to patiently rebuild its power – a topic that will be covered in the chapters to follow. There simply is no other way to bring about a post-work world. We must therefore attend to these longer-term strategic goals, and rebuild the collective agencies that might eventually bring them about. By directing the left towards a post-work future, not only will significant gains be aimed for – such as the reduction of drudgery and poverty – but political power will be built in the process. In the end, we believe a post-work society is not only achievable, given the material conditions, but also viable and desirable.6 This chapter charts a way forward: building a post-work society on the basis of fully automating the economy, reducing the working week, implementing a universal basic income, and achieving a cultural shift in the understanding of work.

#### Market-based mechanisms are key to sustainability – we can solve environmental harm by pricing in negative externalities, but the alt would be worse for the environment

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Mark Budolfson, “Arguments for Well-Regulated Capitalism, and Implications for Global Ethics, Food, Environment, Climate Change, and Beyond,” *Ethics and International Affairs*, vol. 35, no. 1, 2021, pp. 89-92, https://www.cambridge.org/core/services/aop-cambridge-core/content/view/96F422D04E171EECDEF77312266AE9DD/S0892679421000083a.pdf/arguments-for-well-regulated-capitalism-and-implications-for-global-ethics-food-environment-climate-change-and-beyond.pdf.

Applications to Food, Environment, and Climate Change

Let us turn to a concrete example. It is often claimed that we need less capitalism, less growth, and less globalization if we are to successfully address such challenges as climate change, population growth, air and water pollution, feeding the world, ensuring sustainable development for the world’s poorest people, and other interrelated challenges at the environmental nexus.22

However, if the argument for well-regulated capitalism is sound, then these claims are wrong. Just because the aforementioned challenges may require pervasive changes throughout the economy does not mean that they require large changes to the basic structure of the economy such as a move away from capitalism.

Climate change—like many large-scale environmental harms—is the perfect example to illustrate why large environmental challenges that require pervasive changes to the economy need not require large changes to the economy’s basic structure. The key point is that in that an unregulated marketplace polluters do not pay the true cost to society of their pollution, which incentivizes too much pollution; the best solution for society in the case of climate change and many other large environmental challenges is simply to use markets to regulate the relevant pollution by putting an appropriate price on emissions (reflecting the cost to society), so that people and firms have to pay the true cost of their emissions. This could be accomplished by putting a simple tax on emissions, or by instituting a more complicated market-based system.23

In more detail, the problem of climate change arises because humans do not have to pay the cost of the harms from greenhouse gas (GHG) emissions when they engage in emitting activities. As a result of not having to pay the true cost of these activities, we make decisions that lead to too many emissions, and a worse outcome than we could achieve if we behaved differently, which would require pervasive changes throughout the economy. But according to mainstream economics, the best solution to this problem is a textbook example of well-regulated capitalism that applies the theory of externalities to achieve pervasive changes across the economy at the least cost to society: We should tax24 GHG emissions at a rate equal to the harm they inflict if emitted, because this will (to a first approximation) create the right incentives to cause all of the pervasive changes throughout every aspect of the economy in the way that best achieves the optimal level of GHG emissions for society.25 And because one ton of GHG emissions does the same harm regardless of where it is emitted on the earth, there is just a single price that we should use as a tax on all emissions regardless of where they occur.

Many economists, including Nobel laureate William Nordhaus, argue that pricing the externality in this simple way is not only necessary to solving climate change but also essentially sufficient.26 Other economists argue that investments in public goods like basic knowledge and infrastructure might also be necessary, as well as measures to address equity and justice (such as investing the revenues from a carbon tax in a progressive way, having different carbon prices in different regions that collectively lead to the same globally optimal reductions that could be achieved with a single uniform global price, or even putting additional weight on co-benefits from air pollution reductions via climate policy in places where minorities have historically been unjustly saddled with disproportionately high exposure to pollutants). These additional measures would be taken on the grounds that climate policy will be enacted in a “nonideal”/“second-best” context in which background distortions, inequity, and injustice make them necessary to achieve the best outcome.27 But these measures are all part and parcel to well-regulated capitalism.

Furthermore, getting rid of capitalism would involve harm to the world’s poorest and most vulnerable people that could exceed the harm that is at stake for the world in connection with climate change and other environmental harms. Evidence for this claim is provided by taking the quantitative magnitude of health, wellbeing, and justice gains due to capitalism, according to the argument for premise 1 above, projecting trends into the future, and comparing these gains to the quantitative magnitude of health, wellbeing, and justice losses at issue in connection with climate change and other environmental harms, as provided by leading estimates.28 Again, according to the argument for well-regulated capitalism, the essence of our situation is that humanity is better off with our current flawed forms of capitalism than we would be without capitalism; however, we are not as well off as we could be if we properly regulated the externalities that are causing environmental harms, so there is no argument in favor of the status quo. Instead, we should properly regulate externalities, and thus move toward well-regulated capitalism, which would yield the optimal trade-off for humanity between the benefits of capitalism and the costs of pollution and other ills.

Viewed through the lens of the argument for well-regulated capitalism, other environmental challenges have a similar structure, such as food-systems challenges (including feeding the world without destroying the environment), air and water pollution, ensuring sustainable development for the world’s poorest, and other interrelated challenges at the environmental nexus. These problems are more complicated than climate change because they each involve multiple externalities and multiple background distortions, where the magnitude of those is sometimes highly location dependent, and issues of equity and justice are exceedingly complex. But the basic mechanisms for the best solutions are the same according to proponents of the argument for well-regulated capitalism, and indeed the best responses all require capitalism in order to work well and avoid a cure that is worse than the disease.

#### As a point of optimism in connection with these often-discouraging challenges, the relationship between the wealth of a society and environmental degradation often has an inverted U shape: As society initially gets wealthier, environmental degradation increases, until a point of peak degradation, after which the environment improves as society becomes rich enough to invest more and more in environmental quality rather than in basic needs. In the richest nations of the world, the peak of degradation arguably happened in the mid- to late twentieth century, and can be seen in measures of, for example, air and water pollution.29 In some emerging economies like China, there is hope that the peak has been reached and environmental degradation will now decline as society becomes richer and richer. For other developing nations, the peak has not been reached yet. Moreover, different forms of degradation (such as industrial air pollution and agricultural water pollution) might peak at different points within a nation. Putting this together, there is reason to hope that environmental challenges will reach a peak in our lifetime, and if we can meet them with well-regulated capitalism, they will begin to progressively improve over time in line with the end of extreme poverty for the entire world. Capitalism has brought these problems to a head because it has caused the world to get richer so quickly. But according to the argument for well-regulated capitalism, this is a good problem to have, as it is a symptom of a global society that is on the cusp of growing its way out of poverty and out of widespread environmental degradation. According to this argument, we should want to grow our way out of both of these problems as quickly as possible, rather than keep both problems around indefinitely by moving away from capitalism.30

#### AI acquisitions have increased six-fold.

CB Insights ’19 – data analytics company [CB Insights; private company with a business analytics platform and global database that provides market intelligence on private companies and investor activities, targeted at private equity, venture capital, investment banking, angel investing, and consulting professionals by providing insights about high growth private companies; 9-17-2019; "The Race For AI: Here Are The Tech Giants Rushing To Snap Up Artificial Intelligence Startups"; CB Insights; https://www.cbinsights.com/research/top-acquirers-ai-startups-ma-timeline/; accessed 8-15-2021]

Artificial intelligence has long been a major focus for tech leaders across industries. Big corporations across every sector, from retail to agriculture, are trying to integrate machine learning into their products. At the same time, there is an acute shortage of AI talent.

This combination is fueling a heated race to scoop up top AI startups, many of which are still in the early stages of research and funding.

Below, we dig into AI acquisition trends, from which companies are the most acquisitive to what areas of focus are attracting the most attention.

TECH GIANTS LEAD IN AI ACQUISITIONS

The usual suspects are leading the race for AI: tech giants like Facebook, Amazon, Microsoft, Google, & Apple (FAMGA) have all been aggressively acquiring AI startups in the last decade.

Among the FAMGA companies, Apple leads the way, making 20 total AI acquisitions since 2010. It is followed by Google (the frontrunner from 2012 to 2016) with 14 acquisitions and Microsoft with 10.

Apple’s AI acquisition spree, which has helped it overtake Google in recent years, was essential to the development of new iPhone features. For example, FaceID, the technology that allows users to unlock their iPhone X just by looking at it, stems from Apple’s M&A moves in chips and computer vision, including the acquisition of AI company RealFace.

In fact, many of FAMGA’s prominent products and services came out of acquisitions of AI companies — such as Apple’s Siri, or Google’s contributions to healthcare through DeepMind.

That said, tech giants are far from the only companies snatching up AI startups.

Since 2010, there have been 635 AI acquisitions, as companies aim to build out their AI capabilities and capture sought-after talent (as of 8/31/2019).

The pace of these acquisitions has also been increasing. AI acquisitions saw a more than 6x uptick from 2013 to 2018, including last year’s record of 166 AI acquisitions — up 38% year-over-year.

In 2019, there have already been 140+ acquisitions (as of August), putting the year on track to beat the 2018 record at the current run rate.

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

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

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

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

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

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

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

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

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

NEW TECHNOLOGIES, OLD PROBLEMS

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

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

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

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

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

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

THE MILITARIES OF TOMORROW

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

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

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

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

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

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

A LOSING GAME

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

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

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

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

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

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

#### Competition-focused antitrust is key to solve inequality- concentration raises prices and depresses wages

Lynn, 17 -- Open Markets Institute executive director

[Barry, and Kevin Carty, OMI researcher, "To Address Inequality, Let’s Take on Monopolies," Inequality.org, 9-22-17, https://inequality.org/research/address-inequality-lets-take-monopolies/, accessed 6-26-21]

To Address Inequality, Let’s Take on Monopolies

When a few firms dominate the market, they have the power to charge consumers more and pay workers less.

Most Americans know that our country has become extremely unequal. They may not know that the richest 0.1 percent of Americans own as much wealth as the bottom 90 percent, or that the richest 1 percent took more than half of all income growth since 1979. But they know that the rich benefit more and more nowadays, while middle and working class families take home less and less.

Our team at the Open Markets Institute is dedicated to investigating and publicizing the radical concentrations of wealth — and of power — that are responsible for creating much of this extreme inequality. Through investigative journalism and historical and legal research we have shown that monopoly power is at the root of many of the most pressing injustices in America today—including degraded jobs, depressed entrepreneurship, financial instability, and the weakening of the economic and social fabric of communities all across the country.

Last month, our team of ten people was forced to leave our long-time home at a well-known Washington think tank. We were pushed out for expressing support for an antitrust decision against Google, a tech monopoly that is also one of that think tank’s largest funders. Since then, we have re-established ourselves as an independent, non-profit organization that does not accept funding from any for-profit corporation. We are fully committed to continuing, and expanding, the groundbreaking reporting and research we have done for years.

The origins of America’s monopoly problem today trace to the early 1980s, when an odd alliance of legal scholars and economists from the Right and Left pushed through a radical rethinking of America’s traditional antimonopoly philosophy. Instead of using antimonopoly law to protect our democratic institutions from concentrated power, they said we should aim only at making economic systems more “efficient,” in order to better promote our “welfare” as “consumers.”

In the decades since, every administration has embraced the tenets of this new “Chicago School” thinking, in the process abandoning the anti-monopoly policies which had helped underwrite the democracy and broad-based prosperity established during the New Deal era.

America’s current economy bears the effects of that radical transformation. Four airlines control 80 percent of their market, two drug store chains dominate the pharmacy industry, and Google, Facebook, and Amazon each control nearly all of search, social media, and e-commerce online. The list goes on and on, with almost every industry in America — from agriculture to retail — having become highly concentrated.

This rapid rise in monopolization has increased inequality in all sorts of ways. Monopolistic businesses can charge people more for basic goods like health care, transportation, and food. As Lina Khan, the Open Markets director of legal policy, and Sandeep Vaheesan explained recently in the Harvard Law and Policy Review, monopoly pricing on goods and services “turns the disposable income of the many into capital gains, dividends, and executive compensation for the few.”

Those same businesses also have more power to exploit their workers because a monopolized economy brings less competition for the labor of the worker. In fact, one study from the University of Chicago found that individual wages today would be $14,000 higher per year (yes, $14,000!) if the economy had the same levels of competition as it had 30 years ago. It is no accident that Walmart — the nation’s biggest private employer — pays its workers less than a living wage, and crushes their unions when they try to organize. In many communities, workers have few places other than Walmart to sell their labor.

Monopoly power is very often brought to bear against the least advantaged in an already unequal society. Monopolistic meatpackers and farm operators subject their slaughterhouse workers, who are predominantly people of color, and their farm workers, who are predominantly immigrants, to exploitative labor conditions and stop them from forming unions to achieve better treatment. Monopoly, like the inequality it spurs, aggravates existing disparities.

Worse this inequality of economic power also promotes greater inequality in our political system. The same big businesses and big investors that raise prices, lower wages, and exploit the disadvantaged are also some of the most powerful actors in America’s politics. Not only do they use their wealth to lobby lawmakers, fund academic researchers, and influence think tanks and policy experts, they also use their market power to pressure elected leaders, as when Aetna threatened to pull out of the Affordable Care Act exchanges unless the Obama administration approved its massive merger with Humana.

#### Size is key- big companies drive massive wage declines- dozens of studies confirm

Tepper, 18 -- founder of Variant Perception, a macroeconomic research group

[Jonathan, and Denise Hearn, Head of Business Development at Variant Perception, "A Fast Way to Destroy An Economy: Let Monopolies Control it," Evonomics, 12-14-18, https://evonomics.com/monopolies-king-kong-hearn-tepper/, accessed 6-26-21]

Lower Wages and Greater Income Inequality

Almost all the focus in industrial concentration has been on profits, productivity, and investment, but the biggest impact has been on wages. Workers have systematically lost power versus large companies that now dominate industries.

Dozens of studies now document how industrial concentration is driving income inequality. The smoking gun, however, has been missing. Researchers had the intuition but could not prove that monopsonies, particularly at the local level, affected consumer wages.

In a monopoly, one company is the only seller and can hike prices as it likes. In a monopsony, one company is the only buyer and can pay whatever prices or wages it likes. For example, Amazon has become the monopsonist in the book industry, as the main buyer from publishers, and it sets the price at which books are sold. For some professions, one company can set wages.

Recently, economists have begun to look into the problem of labor market monopsony to find out just how bad the situation is.

The evidence is depressing. Economists Marshall Steinbaum, Ioana Marinescu, and José Azar looked at job markets across the United States to see how concentrated employers were. They found that most commuting zones where workers would search for a job were highly concentrated, and this dragged down wages. The results of wage decreases were extremely troubling. They showed that going from a very competitive to a highly concentrated job market is associated with a 15–25% decline in wages.

The market for goods is national, while job searches happen locally. This helps explain why ideal, perfectly competitive markets are in fact a myth. Steinbaum’s study shows that this insight is correct. He and his colleagues note, “The most concentrated labor markets, and the ones where the effect of concentration on wages is largest, are the rural ones.”

Companies can pressure workers in many ways to drive down pay. Economists Jason Furman and Alan Krueger have shown that many firms are able to suppress wages through monopsonistic behavior, such as collusion, noncompete agreements, and barring employees from class action lawsuits. In 2015, Jonathan Baker and Steven Salop identified market power as a likely contributor to the growth in US wealth inequality. Lina Khan and Sandeep Vaheesan have noted how monopoly pricing is a form of regressive taxation that turns the disposable income of the many into capital gains, dividends, and executive compensation for the few. “Evidence across a number of key industries in the United States indicates that excessive market power is a serious problem.”

Some monopolies pay very well for the lucky few. Pay tends to increase with size of the firm. Professor Holger M. Mueller of New York University and his colleagues found that wage differences between high and low-skill jobs increase with firm size. They also demonstrated that there is a strong relation between the change in firm size and rising wage inequality for most developed countries. They note that what many interpret as a broad move toward more wage inequality may be driven by an increase in employment by the largest firms in the economy.

The trend toward larger companies is driving a wedge between the few at the top dominant companies who are paid spectacularly well and the majority of Americans whose wages are stagnant. Economist David Autor and his colleagues concluded in a recent paper that the rise of “superstar” firms with high profits and relatively small workforces has contributed to the shrinkage in workers’ share of national income and a corresponding increase in the share of profits.

#### The wage effect explains substantial inequality- economic multipliers. It’s reverse causal- applying antitrust solves

Manduca, 19 -- University of Michigan sociology professor

[Robert, “Antitrust Enforcement as Federal Policy to Reduce Regional Economic Disparities,” 2019, <https://journals.sagepub.com/doi/full/10.1177/0002716219868141>, accessed 6-26-21]

An increasing number of scholars and policy-makers recognize that many American companies have gotten too big (Wu 2018). In industry after industry, the major players have consolidated until only a handful of firms control the large majority of the market. Some conglomerates, most infamously Amazon.com, have attained dominant positions in multiple markets simultaneously, and adeptly use their position in one market as leverage over competitors in another (Khan 2017).

The result of this consolidation has been a rise in economic inequality. At the most fundamental level, when a firm acquires a competitor, it reduces the number of alternatives available to its employees, customers, and suppliers, increasing its power over anyone who interacts with it (Emerson 1962; Coleman 1982). As a result, firms in concentrated markets are able to hold down wages (Wihners 2018; Azar et al. 2018). This is a core reason that the share of national income going to labor has declined by 6 percentage points since 1980 (Autor et al. 2017; Barkai 2016).

The negative consequences of market concentration for regional economies are particularly severe (Salerno 2017). The waves of corporate consolidation over the past four decades have deprived many cities and towns of the corporate headquarters and local businesses that used to be a source of high paying jobs and demand for professional business services (Longman 2015). The loss of these high paying jobs is amplified by economic multipliers: the local spending of each accountant or lawyer may support two or three restauranteurs or gas station attendants. Beyond strictly economic effects, local business owners are often a key source of charitable donations, a role that absentee owners do not continue at the same levels (Branell 2006). More broadly, local business ownership is a strong predictor of community and civic health on a number of indicators (Tolbert et al. 2002; Tolbert, Lyson, and Irwin 1998).

For rural areas, often dominated by a small number of employers or industries, the consequences of consolidation have been particularly severe. Consider agriculture. In the 1980s, 37% of every dollar consumers spent on food ended up with the farmer who produced it. Today, the farmer receives less than 15% (Kelloway 2019). Taking economic multipliers into account— agriculture often forms the economic base of rural areas—that change alone can plausibly account for a substantial portion of rural America’s struggles. It has come largely because of consolidation in both the buyers and suppliers to fanners. Where there used to be dozens of seed companies, now there are just three (Charles 2016). Prices for seed have risen accordingly. And where there were once many buyers for farm products, now there are just a handful: in meatpacking, for instance, four companies control 85% of the market for beef (Leonard 2014). This consolidation was a direct result of changes to the interpretation of antitrust law, and could be reversed through updated policy.

Agriculture is just one sector where the results of consolidation have been especially pernicious for regional economies. Another example is air travel, which has been felt most noticeably by midsize cities. The number of major airlines has fallen steadily since deregulation in the 1970s, from more than twenty to just four as of this writing. As a result of consolidation, air-service has become more concentrated in major cities, with connectivity to small and midsize airports dropping substantially since 2007 (Wittman and Swelbar 2014). The lack of convenient air service is a major constraint on cities' economic competitiveness and is often cited as a reason that corporate headquarters leave smaller cities and towns (Longman and Khan 2012).

The lack of effective antitrust enforcement over the past 40 years has been a major contributor to economic stagnation in many parts of the country, and a reinvigorated approach to enforcement offers a promising route to help restore prosperity across the country. If implemented carefully, with attention to potential policy feedbacks, a renewed antitrust movement could maintain and expand itself over time.

## 2NC

### Antitrust Counteradvocacy

#### *Their* 1AC author agrees that antitrust *can* be good, which proves the counter-advocacy is more desirable than the aff.

Michelle 1AC Meagher 20, Senior Policy Fellow at the University College London Centre for Law, Economics and Society and co-founder of the Inclusive Competition Forum, “Competition is Killing Us: How Big Business is Harming Our Society and Planet – and What to Do About It,” Penguin Books, 09/10/20, http://library.lol/main/68A6954D8AED2613F57F3BDB32F361B0

In the meantime, antitrust practitioners have managed to diligently develop a complicated regulatory framework for market power that somehow allows markets to consolidate anyway. Even more egregiously, we – as a society ‒ have misconstrued the true nature of corporate power itself. We cannot see what is right in front of us. Antitrust’s fixation with price, although amenable to economic quantification, will not help us contain power beyond the economist’s narrowly construed definition of market power. If we only look at whether prices will go up or down, we cannot capture the many broader, more subtle, surreptitious and insidious ways in which companies can bend the economy and society to their will.

Regulators – antitrust authorities included – have their work cut out for them as the impacts of corporate conduct refuse to limit themselves to national jurisdictional boundaries. With the majority of the world’s biggest companies headquartered in America, and with the American regulatory approach historically influential across the world, we must all look to the United States to understand how we arrived at our world of big, unaccountable companies and how we might move forward.

The global community of antitrust lawyers, economists, officials, scholars and practitioners must face up to what has been a profound dereliction of duty. Charged with safeguarding the progress of industrial development, we adopted such a narrow interpretation of our task that we managed to supervise the mass consolidation of industry on the blanket, untested and rather naive assumption that, with the potential for low prices always dangled before our eyes, no harm could come from the rise of colossal companies. It happened on our watch.

Thankfully, times are changing. In 2019, the influential Business Roundtable group of 180 CEOs of America’s most powerful companies declared that shareholder value would no longer rule supreme in the boardrooms of their companies – although it remains to be seen whether they really mean it. The Scottish Government, the Welsh Assembly and the UK Parliament each declared a climate emergency. In the US, antitrust authorities have opened investigations into the power of the tech titans, dozens of attorneys general across the United States are bringing cases against Facebook and Google, and presidential candidates Elizabeth Warren and Bernie Sanders have placed antitrust at the top of the agenda, alongside an attempt to create real corporate responsibility for the biggest companies.

But there are two separate conversations happening: about corporate power and monopoly on the one hand, and shareholder value and corporate responsibility on the other. Until we realize that these are actually the same conversation – that corporate power can undermine corporate responsibility and that corporate responsibility is meaningless if companies are slavishly pursuing power – then we will not be able to start the hard work of re-engineering global capitalism for a sustainable, or even survivable, future.

#### Our advocacy solves by reversing monopolistic trends.

**Vaheesan 20** – Policy Counsel at the Open Markets Institute. Former regulations counsel at the Consumer Financial Protections Bureau

Sandeep Vaheesan, “Privileging Consolidation and Proscribing Cooperation: The Perversity of Contemporary Antitrust Law,” UC Davis Journal of Law and Political Economy, 2020, https://escholarship.org/content/qt8cj0z1tq/qt8cj0z1tq.pdf

An antitrust policy that seeks to promote a more equitable distribution of power and wealth would have radically different foundations. Replacing the consumer welfare objective with the economic and political objectives that animated the Congresses that enacted the Sherman, Clayton, and Federal Trade Commission Acts is a critical step. Consumer welfare captures a relatively thin slice of corporate power. Equally important is rewriting the rules of antitrust to both curtail the consolidation and monopolization of business property and permit certain forms of coordination between independent actors.

Restrictions on mergers should be a core part of a progressive antitrust. Merger policy should be greatly strengthened for narrow consumer welfare grounds alone. Mergers and acquisitions fail to produce the promised efficiencies and often lead to higher prices and profit margins. But more importantly, mergers combine business assets and centralize power. Larger businesses, whether measured by market share or size, wield greater power over consumers, suppliers, workers, and citizens. A strong anti-consolidation norm should be a mainstay of progressive antitrust, as it was from 1950 through the early 1980s.20

An anti-merger norm would not be a categorical ban on business growth but would instead encourage growth through other means. The Clayton Act’s anti-merger provisions restrict corporate growth through mergers, not corporate growth in general (Peritz 1996). It channels growth strategy away from buying rivals, suppliers, and distributors toward investment in new facilities and technologies. An implicit presumption of an anti-merger statute is that corporations will grow through internal expansion. Philadelphia National Bank, 473 U.S. at 370. Even accepting the unsupported theory that corporate consolidation yields more efficient enterprises, a strong anti-merger rule is not a recipe for stunted firms and a loss of productive efficiencies. Indeed, it could be the basis for a far more productive and technologically dynamic corporate sector.21

Along with hostility toward corporate consolidation, antitrust law and policy should adopt a more nuanced view of collusion among independent actors. As a threshold matter, recognizing that antitrust law permits certain forms of coordinated activity, including mergers and acquisitions, is critical. As Sanjukta Paul has written, antitrust allows business firms to coordinate the activity of their employees, including across separate corporate entities under common ownership (Paul 2020). For instance, if antitrust law categorically promoted competition, it would prohibit two divisions of a single corporation or two members of a joint venture from setting prices—but the Supreme Court has clearly rejected such rules and treated these arrangements as the action of a single entity (Paul 2020). See Copperweld, 467 U.S. at 771; Dagher, 547 U.S. at 6. Instead it singles out price-setting among independent actors. The ban on collusion means small players are robbed of the one mechanism that allows them to govern markets while maintaining their independence (Paul 2020).

The tolerance of certain forms of collusion (or cooperation) is already built into the body of antitrust law. For instance, the courts have interpreted the Clayton Act, Norris-La Guardia Act, and National Labor Relations Act as permitting employees (though not other workers) to engage in some forms of coordinated activity. Apex Hosiery Co. v. Leader, 310 U.S. 469, 512 (1940). In agriculture, the Capper- Volstead Act, 7 U.S.C. § 291, allows “[p]ersons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut or fruit growers” to undertake collective action as sellers without running afoul of antitrust law.

Instead of viewing these legislative exemptions as ad hoc “concessions” to certain groups, progressive antitrust advocates, enforcers, and scholars should treat them as a core part of an anti-monopoly program. Congress enacted the antitrust laws to constrain the power of monopolists and trusts, not to promote “competition”—even a socially destructive competition that further weakens the positions of workers and small firms—indiscriminately across the economy (Vaheesan 2019). Accordingly, a progressive antitrust should be built on constraining the autonomy of powerful corporations and protecting the freedom of workers, professionals, and small firms to join in solidarity. To put it in concrete terms, medium-sized and large corporations would face tight restrictions on acquiring rivals and controlling markets, whereas workers, professionals, and small firms would have the freedom to organize and engage in collective action against more powerful actors (Vaheesan and Schneider 2019).22 (Importantly, small-player coordination should not be carte blanche for all forms of cooperation: for example, small firms should not be permitted to collude against their workers and keep their wages down.)23 Such an antitrust regime would redistribute and democratize power downward (Paul and Vaheesan 2019) and even lay the groundwork for a radical transformation of corporations and the entire American economy (Schneider and Vaheesan 2019).

#### An anti-domination approach solves all their offense.

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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-administravist 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.

This essay will proceed as follows. Part I situates administrative agencies in an understanding of liberal democratic constitutionalism that (A) eschews outmoded notions of popular sovereignty and (B) natural law. It will then (C) explain how adequately conceived notions of the separation of powers and the rule of law cannot serve as indefeasible objections to administration. Part II makes a positive case for agency authority by drawing from the insights gained from political theory’s representative turn. It will first (A) define this important intellectual development and then (B) explain how administrative agencies might fit comfortably within a representative system. The essay (C) concludes by showing how theories of representation can inform some enduring debates in administrative law and suggesting some changes that might enhance the legitimacy of agency action.

PART I: ADMINISTRATION, POPULAR SOVEREIGNTY AND RIGHTS

Democracy promises the rule of “we the people.”48 Democratic citizens, possessing inalienable rights, are to come together, deliberate,49 and jointly create the laws that bind them. The administrative agency, with its unaccountable expert technocrats, policymaking autonomy, and immunity from micromanaging judicial review, looks like an unwelcome uncle at the constitutional dinner table.

Intuitively, these knee-jerk objections cannot be quite correct. Agencies carry some obviously democratic credentials. As Adrian Vermeule points out, they are, after all, the creation of statutory lawmaking.50 At least as early as 1798, Congress has delegated coercive rule-making power to Federal bureaucracy on matters as diverse as tax inspections, territorial governance, veterans’ pensions, mail delivery, intellectual property, and the payment of public debts.51 In McCullough v. Maryland,52 the U.S. Supreme Court interpreted the “necessary and proper” clause53 to anticipate Congress’ desire to create such agencies – in this case, a national bank. Bruce Ackerman,54 in his seminal work, argues that our contemporary agencies carry Constitutional credentials. Many were birthed through multiple hyperpolitical elections and constitutional challenges within the courts. Further, from their very inception, agencies struggled internally to accommodate their actions to constitutional requirements.55 The Administrative Procedure Act56 (“APA”), for example, imposes upon agencies principles of due process and the rule of law.57

Regardless, if democratic lawmaking is to shape the community of those that make it, there must be some kind of agent or instrumentality to carry it out.58 A Congressional decision to levy a tax is meaningless without an Internal Revenue Service to collect it.59 Yet it is impossible to imagine that such agencies might operate like mindless, loyal robots. Whether performed by court or administrator, the application of laws will inevitably involve controversial policy judgments.60 Lawmaking is, by its nature, always more abstract than we would like. Such “general propositions do not,” noted Justice Holmes, Jr. in his influential Lochner v. New York61 dissent, “decide concrete cases.” The required elaboration almost always imports values that are not clearly and unambiguously identified in any statutory text.62 The task of accommodating administration to constitutional democracy cannot, therefore, aim at eliminating the agency costs implicit in the application of law. It can only seek to understand how they might comfortably fit within a constitutional order.

The next two sections will elaborate upon these intuitions. Many objections to agency power presume antiquated conceptions of sovereignty and rights. They juxtapose the will of a powerful organ-body sovereign63 against a governed mass of subjects who hold an array of pre-political liberties that require judicial protection. This all-powerful body is thought to be represented by Congress64 as the commissioned agent (or embodiment?) of the popular sovereign. To preserve citizens’ natural, pre-political liberties, this agent of the popular sovereign is constrained by a separation of powers, checks and balances, a Bill of Rights, etc. – each policed by independent courts capable of identifying and enforcing citizens’ inalienable liberties.65 If this is indeed the rubric of the liberal democratic constitutional state, it is difficult to see how agencies pass constitutional muster. They are not Congress – and so their policymaking cannot be legitimate expressions of the popular will. They often avoid substantial judicial review, and so they might violate natural liberties with impunity. Fortunately, this rubric is wrong.

A. The Mind and Body of the Democratic Sovereign

True, for much of modern Western history, sovereignty, understood as the supreme, absolute and indivisible power to make law, was thought to be held by a specific body: the one wearing the crown.66 To constitute and justify public power, Hobbes, for example, imagined a state of nature full of individuals authorizing and relinquishing their natural liberties to a “Mortall God,”67 i.e., the modern corporate state, represented (or re-presented) in the flesh-and-blood bodies of the king or legislature.68 During the democratic revolutions, radical69 theorists merged the monarch with her subjects.70 They imagined “the people” not only replacing the king as sovereign, but also governing itself as a subject, thereby creating an identity between ruler and ruled. Rousseau’s volonté générale71 serves as a model for this kind of logic.72 Montesquieu, whose thinking influenced the American founders,73 likewise held that the “people as a body have sovereign power” in a republic.74 Even A.V. Dicey, despite his fame as a rule of law scholar, believed that a representative legislature would “produce coincidence between the wishes of the sovereign and the wishes of the subjects.”75 It is a sovereign-subject hat trick: the ruled become the ruler, the democratic “people,” understood as a body, a “unitary macro-subject,”76 come to occupy what was once occupied by the body of the king. Carl Schmitt likewise endorsed a scrupulous identity between governed and governor - with homogenizing and fascist implications.77 For Schmitt, it was impossible to imagine a leader speaking with the voice of the people unless the people themselves first sang in perfect harmony.

There are flaws in this equation. The “people,” understood literally, cannot rule. They do not possess a primordial collective will existing outside and independent of their political institutions.78 Moreover, the entire population of a diverse community of hundreds of millions cannot be present within those institutions. Nor can that population ever find a unanimous general will, a non-controversial understanding of the common good, no matter how constrained and qualified their public reasoning or how universal and general its aspirations.79 Thus, no coherent popular will can obtain even after undertaking the decision-making processes of political institutions.80 Just as the contractual “meeting of the minds” is a legal fiction of private law,81 a popular “meeting of the minds” is a political fiction of public law. As a result, despite the democratic revolutions, the old gap between ruler and ruled remains.82 In other words, the merger between governed and governor attempted by the democratic revolutions did not remove the danger of heteronomy,83 even if the offices of government might be staffed by elected representatives and even as constitutional systems split powers and limited legal authority.84 Some (body) would wield public power, and the rest would be subject to its rules. Even Rousseau downgraded the popular sovereign to a silent, passive actor that left the actual business of governing to functionaries.85 Like the client of a travel agent, Rousseau’s democratic citizen was meant only to approve or disapprove the prepackaged plans presented by ministers.86

Lawmaking under constitutional liberal democracy is thus not a question of ascertaining the existence of some non-existent popular “will” to be left in the hands of loyal fiduciaries in government87 to carry out like mindless automatons. Nor is it comprised of the dictates of a caesarist leader purporting to speak with the unified voice of the sovereign people.88 Instead, it a question of developing transparent and accessible collective decision-making procedures that ensure that all citizens can understand themselves as equal participants in their collective ordering; that ordinary people are involved in public life and have a say in their collective destiny.89 They do not rule. Rather, they are equal players in the game of representative democracy.90

Thus, although contemporary notions of constitutional liberal democracy ascribe the highest legitimate source of authority to “the people,” they do not understand “the people” as a reified, homogenous whole with an identifiable will that pre-exists whatever governing apparatus might be laid atop it. Though “popular sovereignty” is a political fiction, it is a useful one – at least if it is used as a standard of justification and critique, not as a proper noun. It is an aspirational, regulative idea intended to depersonalize and distribute public power in a way that serves the entire community.91 It is a Kantian “as if” principle.92 Namely, if we try to think like a popular sovereign might think, if such a thing could ever exist, we will orient our public reasoning not towards our individual self-interest alone, but in terms of inclusivity, human equality and the public good.93 Because if the sovereign is a “we,” then governing involves more than the interests and preferences of single individuals. We will therefore demand that political institutions remain accountable and accessible to popular complaints. We will adopt a Weberian politics of responsibility, remembering that our decisions might inflict unforeseen costs upon others.94

This figurative idea of popular sovereignty also unlocks the closed doors of power and forces the inclusion of voices previously ignored.95 Whosoever happens to be governing at any given time, that person is not “the people” precisely because “the people” cannot ever be present. As a result, anyone denied an audience can appeal to popular sovereignty as they seek admission to political decision-making. Importantly, popular sovereignty demands, as French philosopher Claude Lefort96 notes, that this place of power remain an empty one – or at least one with a revolving door – where no body at all is permitted to rule permanently. For to fill that void would allow for a part to speak on behalf of the whole. “We the People” might become, as political theorist Nadia Urbinati notes, “Me the People.”97 It would thus force homogeneity upon plural societies as leaders with controversial viewpoints purport to represent everyone as they make and implement policy. Moreover, the usurpation of this space would undermine the depersonalization of power inherent in the idea of a fictional popular sovereign and, importantly, the rule of law and not of men.98 If the place of power remains empty because all citizens contribute in some way to lawmaking, then we can credibly claim that it is law, not our politicians, who rule.

As a result, it can be no objection to agency policymaking that it usurps authority from the popular sovereign. Because if we take popular sovereignty literally, so, too, do elected representatives. They likewise cannot logically or credibly speak with the voice of the sovereign people.99 Thus, insofar as theories of non-delegation and legislative primacy rely on an organ-body theory of popular sovereignty,100 they are misplaced. Attacks against the “technocratic” power wielded by administrative officers may likewise overstate the democratic credentials of the Congressional legislation against which such power is compared – and found wanting. Indeed, it is at least possible that administrative agencies can be made consistent with the requirements of constitutional popular sovereignty.101 Namely, the question is whether and to what extent they operate according to procedures that allow citizens to understand themselves as co-equal participants in shaping agency action. Finally, that independent administration is “headless” is not, as feared by contemporary New Deal critics, fascist or totalitarian.102 It may in fact be a necessary precondition for liberal democracy. A Leviathan with a single head with a single mouth, purporting to speak for all, can be monstrous indeed.

### Case

#### Finance is sustainable – COVID proves

Giraud-Bel 20 – Financial expert at the World Bank. MA in Law and Public Affairs.

Emilie Giraud-Bel, “Financial regulation in the face of COVID-19: Resilient but complex clockwork,” *Atlantic Council*, 11 August 2020, https://www.atlanticcouncil.org/blogs/new-atlanticist/financial-regulation-in-the-face-of-covid-19-resilient-but-complex-clockwork/.

A resilient financial sector

The COVID-19 outbreak has presented the financial system with its most challenging test since the global financial crisis ten years ago—and the system has held up.

Worldwide, S&P forecasts credit losses for banks of about $2.1 trillion for 2020 and 2021 due to the pandemic, with $1.3 trillion this year alone. Regarding the insurance sector (non-life), a Lloyd’s study into the impact of COVID-19 in 2020 estimated both significant underwriting losses ($107 billion) and a reduction of the value of its global assets by $96 billion, together making it the industry’s largest ever loss ($203 billion).

It is too early to forecast the full evolution of the pandemic and its economic fallout. However, we know today that the initial shock has passed and the financial system has shown its resilience. As highlighted by Sir Jon Cunliffe, Deputy Governor for Financial Stability of the Bank of England, the banking system has been able to absorb a very sharp financial market shock and large prospective losses. This is in line with the Financial Stability Board (FSB), which confirmed as early as March, and then again in July, the solid position of the financial system.

At the global level, with substantially stronger capital and liquidity resources, banks were in a much better position to face the COVID-19 crisis than the 2008-09 global financial crisis. The insurance sector, being very well capitalized, also confirmed its ability to absorb losses.

Finally, Central Banks reacted swiftly to the COVID-19 shock. By cutting policy rates, providing additional liquidity to the financial system, and enhancing the provision of US dollar liquidity through swap line arrangements, they have played a critical role in preserving economic stability. Tellingly, as former Italian Prime Minister Enrico Letta highlighted, the European Central Bank did in a few weeks what required a few years during the previous crisis.

#### Tech and inevitable adaptation prevent apocalyptic collapse – reject their pessimistic fear mongering

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Ronald. March 12. “Climate Change Problems Will Be Solved Through Economic Growth” <https://reason.com/blog/2018/03/12/climate-change-problems-will-be-solved-t>

"It is, I promise, worse than you think," David Wallace-Wells wrote in an infamously apocalyptic 2017 New York Magazine article. "Indeed, absent a significant adjustment to how billions of humans conduct their lives, parts of the Earth will likely become close to uninhabitable, and other parts horrifically inhospitable, as soon as the end of this century."

The "it" is man-made climate change. Temperatures will become scalding, crops will wither, and rising seas will inundate coastal cities, Wallace-Wells warns. But toward the end of his screed, he somewhat dismissively observes that "by and large, the scientists have an enormous confidence in the ingenuity of humans....Now we've found a way to engineer our own doomsday, and surely we will find a way to engineer our way out of it, one way or another."

Over at Scientific American, John Horgan considers some eco-modernist views on how humanity will indeed go about engineering our way out of the problems that climate change may pose. In an essay called "Should We Chill Out About Global Warming?," Horgan reports the more dynamic and positive analyses of two eco-modernist thinkers, Harvard psychologist Steven Pinker and science journalist Will Boisvert.

In an essay for The Breakthrough Journal, Pinker notes that such optimism "is commonly dismissed as the 'faith that technology will save us.' In fact, it is a skepticism that the status quo will doom us—that knowledge and behavior will remain frozen in their current state for perpetuity. Indeed, a naive faith in stasis has repeatedly led to prophecies of environmental doomsdays that never happened." In his new book, Enlightenment Now, Pinker points out that "as the world gets richer and more tech-savvy, it dematerializes, decarbonizes, and densifies, sparing land and species." Economic growth and technological progress are the solutions not only to climate change but to most of the problems that bedevil humanity.

Boisvert, meanwhile, tackles and rebuts the apocalyptic prophecies made by eco-pessimists like Wallace-Wells, specifically with regard to food production and availabilty, water supplies, heat waves, and rising seas.

"No, this isn't a denialist screed," Boisvert writes. "Human greenhouse emissions will warm the planet, raise the seas and derange the weather, and the resulting heat, flood and drought will be cataclysmic. Cataclysmic—but not apocalyptic. While the climate upheaval will be large, the consequences for human well-being will be small. Looked at in the broader context of economic development, climate change will barely slow our progress in the effort to raise living standards."

Boisvert proceeds to show how a series of technologies—drought-resistant crops, cheap desalination, widespread adoption of air-conditioning, modern construction techniques—will ameliorate and overcome the problems caused by rising temperatures. He is entirely correct when he notes, "The most inexorable feature of climate-change modeling isn't the advance of the sea but the steady economic growth that will make life better despite global warming."

Horgan, Pinker, and Boisvert are all essentially endorsing what I have called "the progress solution" to climate change. As I wrote in 2009, "It is surely not unreasonable to argue that if one wants to help future generations deal with climate change, the best policies would be those that encourage rapid economic growth. This would endow future generations with the wealth and superior technologies that could be used to handle whatever comes at them including climate change." Six years later I added that that "richer is more climate-friendly, especially for developing countries. Why? Because faster growth means higher incomes, which correlate with lower population growth. Greater wealth also means higher agricultural productivity, freeing up land for forests to grow as well as speedier progress toward developing and deploying cheaper non–fossil fuel energy technologies. These trends can act synergistically to ameliorate man-made climate change."

Horgan concludes, "Greens fear that optimism will foster complacency and hence undermine activism. But I find the essays of Pinker and Boisvert inspiring, not enervating....These days, despair is a bigger problem than optimism." Counseling despair has always been wrong when human ingenuity is left free to solve problems, and that will prove to be the case with climate change as well.

## 1NR

### T-USFG

#### Epistemology doesn’t come first

Jackson, professor of IR – American University, ‘15

(Patrick Thaddeus, “Must International Studies Be a Science?” *Millennium - Journal of International Studies* vol. 43, no. 3, p. 942-965, June)

These diverse methodologies have different approaches to causation, to case comparison, and to explanation in general; those differences, in turn, mean that different scientific methodologies generate different kinds of valid claims with different epistemic statuses, and should not be regarded as poor approximations to or deficient forms of one another. While neopositivists look for cross-case covariation as the truest mark of causation, critical realists look for dispositional causal powers, analyticists apply ideal-typical models to disclose the specific features of individual cases, and reflexive scholars ground their claims in their own social locations. There is no reason why this plurality has to lead to relativism, but neither should it be misunderstood as creating a simple, homogenous account of the world; translation challenges persist, and the result of a pluralist science is a variety of warranted knowledge-claims.22

But for all of this internal diversity, there are important commonalities among these varieties of scientific methodology that serve to distinguish them, as a group, from other forms of knowing. Following Max Weber, we might characterise all four of these scientific methodologies as aiming at a ‘thoughtful ordering of empirical actuality’,23 or, to put it another way, as participating in a form of knowing that emphasises systematic claims, public criticism intended to improve those claims, and a specific kind of ‘worldliness’ that excludes references to divine commands and magical forces. This is not to say that a claim has to achieve some specific level of systematicity, publicity, and/or worldliness in order to be regarded as ‘scientific’; the commonality I am highlighting here is not a candidate for a demarcation criterion that would allow us to distinguish science from non-science in any kind of definitive fashion.24 Instead, I am suggesting that in the space marked out by these methodologies, questions about a claim’s systematicity, its susceptibility to public criticism, and its worldliness are in some sense appropriate questions to ask. In effect, to regard ourselves as being engaged in scientific inquiry is to invite these questions, and to submit our claims to evaluation in terms of these criteria.

The kind of knowledge that is supposed to be produced by efforts to be as systematic, public, and worldly as one can be is knowledge of a particular kind: factual, propositional knowledge, or what we might call ‘knowing-that’.25 This is the kind of knowing that Wittgenstein had in mind when he suggested, in the opening sections of the Tractatus, that the world ‘is all that is the case…the totality of facts, not of things’.26 It is what Aristotle called epistemic knowing: ‘universal, invariable, context-independent’ and ‘based on general analytical rationality’.27 It prizes relative impersonality in connecting claims to their warrants, in that the validity of a claim is not subject to idiosyncratic impressions but is instead articulated in a way that is understood as generally established.28 In Weber’s formulation, the goal of this kind of knowing is to produce a set of factual claims that even someone who did not share our values would find compelling.29

Here again it is important to note that this is not some kind of absolute standard that these methodologies necessarily meet. It is unclear to me that we ever have perfectly impersonal knowledge, or that any claim whatsoever achieves anything like universal generality. But this is not the point. Instead, the point is that epistemic claims advanced in the methodological modes of neopositivism, critical realism, analyticism, and even reflexivity are accompanied by standards of validity that purport to be something other than an arbitrary whim binding only on the speaker. The logical condition of possibility for Sandra Harding’s suggestion that the accumulated body of what we call ‘scientific knowledge’ is thoroughly marked by cultural particularity and a colonial past, and her call for a ‘strong objectivity’ that brings previously marginalised perspectives back into the conversation, is precisely the notion that there is something illegitimate and untenable about this unacknowledged partiality.30 And the claim that some account of things is Eurocentric or androcentric is no more and no less reliant on similar definitions and procedures shared by a community of speaker and audience than is the claim that dyadic democracy and war frequency are inversely correlated—and as such, the very form of the claim opens the possibility of questioning just how impersonally, epistemically valid it is. ‘Epistemically valid for me/for us’ does not make any sense, because the very idea of epistemic knowing implies validity independent of any conceptual scheme, even if the vocabulary within which the claim is made is itself local and contingent.31

## 2NR

### Case

#### Financialization’s self-sustaining

Konings, 18

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Critics of neoliberal capitalism rarely recognize the productive power of speculation. If there is one theme that unites the various critiques of contemporary finance, it is the emphasis on its speculative character. Financial growth is said to be driven not by the logic of efficient markets, but rather by irrational sentiment, “animal spirits” that do not respect fundamental values. Emphasizing the role of volatility in contemporary capitalism (evident at the time of writing, as the stock market is experiencing a downturn) is important as an antidote to notions of market efficiency and equilibrium. But it is a mistake to think that it provides a sufficient basis for effective critique. Predictions regarding the limits or collapse of neoliberal finance have simply not enjoyed a good track record. Over and over, the contemporary financial system has proven capable of sustaining higher levels of speculative activity than anticipated. This has certainly been true of the past decade. Capital and Time: For a New Critique of Neoliberal Reason is my attempt to make sense of this—that is, to understand what might be wrong or missing in the existing heterodox critique of speculation, and to advance a more accurate understanding of the role of uncertainty, risk, and speculation in contemporary capitalism. At the heart of the critique of speculation we find a distinction between real and fictitious forms of value. Although “essentialist” (or “foundationalist”) modes of explanation have been under fire across the social sciences for several decades now, when it comes to the critique of finance they have had considerable staying-power: without a notion of real value, it often seems, we lose any objective standard against which to assess the speculative gyrations of capitalist markets. Capital and Time asks what kind of critical theory we might develop if we bracket the anxious attachment to a notion of fundamental value. To that end, it turns to the work of economist Hyman Minsky. Although Minsky has been popularized precisely as a critic of speculation, he in fact insisted that almost all value judgments and investments were to some degree speculative—their success or failure would be determined in an unknown future. For him, the key economic question is how order emerges in a world that offers no guarantees, how more or less stable standards and norms arise amidst uncertainty. Of course, the “endogenous” origin of financial standards is a well-rehearsed theme in heterodox economics—indeed, it is a staple of the “post-Keynesian” literature that claims Minsky’s legacy. But such perspectives have never been able to break with the idea that financial stability is at its core dependent on external interventions that suppress speculative impulses. For Minsky, however, this is to miss the point about endogeneity. To his mind, there was no clear dividing line between financial practices and their governance: central banks and other public authorities are no more able to see into the future and to transcend uncertainty than private investors are. Minsky was therefore highly skeptical about official claims of discretionary precision management: financial governance is always embroiled in the very risk logic that it is charged with managing. That also means that financial policy can appear quite ordinary, even banal: at the heart of capitalist financial management is a logic of backstopping and bailout that responds to the possibility that the failure of an institution may take down wider financial structures. The stability of the post-New Deal financial system is often attributed to the Glass-Steagall separation of the stock market and commercial banking. But Minsky tended to view Glass-Steagall as one of several measures to direct bank credit away from the stock market towards other, no less speculative ends, notably consumer and mortgage financing. To his mind, the stability of the post-war period derived rather from the creation of an extensive financial safety net (which included, for instance, deposit insurance, which removed the rationale behind bank runs) that served to socialize risk. This institutional arrangement turned out to have a significant drawback: a pattern of chronic inflation emerged that, by the late 1970s, was widely perceived as a major problem. Minsky’s lack of faith in the possibility of cleanly staged external interventions led him to feel that that there was no real way out of this predicament. Monetarist doctrines, ascendant during the 1970s under the influence of Milton Friedman, relied on exactly the belief in an arbitrarily defined monetary standard that Minsky rejected as naïve. Muddling through, it seemed, was the price of avoiding another financial crash and depression. The Volcker shock of 1979 changed this dynamic in a way that Minsky had not foreseen but that is comprehensible when seen through the lens he provided us with. Paul Volcker looked to monetarism not as a means to enforce an external limit or standard on the financial system, but as a politically expedient way to break with accommodating policies and to proactively engage the endogenous dynamics of finance. The consequences of the Volcker shock were predictable (which is exactly why the Federal Reserve had been reluctant to pursue similar policies in previous years): inflation gave way to instability and crisis. Inflation was conquered as jobs were lost and wages stagnated. And, far from money being returned to its neutral exchange function, opportunities for speculation multiplied. The American state was never going to sit idly by as the financial system returned to dynamics of boom and bust: when instability took the form of systemic threats, authorities would bail out the institutions that had overextended themselves. Of course, Volcker would not have been able to predict the specific features of the too-big-to-fail regime as it emerged during the 1980s and evolved subsequently; but the very point of the neoliberal turn in financial management that he had overseen was to create a context where risk could be socialized in ways that were more selective and therefore did not entail generalized inflation. The inflation of asset values that has been such a marked feature of the past four decades has always been premised centrally on the willingness of authorities to view the “moral hazard” of the too-big-to-fail logic as a policy instrument—even if they may have decried it officially as a regrettable corruption of market principles. Spectacular bailouts, mundane policies to protect the key nodes of the payment systems, the “Greenspan put”, the different iterations of quantitative easing—these are all variations on that basic too-important-to-fail logic. Existing critical perspectives tend to view crisis and the need for bank bailouts as manifesting the essential incoherence of neoliberal finance, its lack of solid foundations and the irrationality of speculation. Capital and Time breaks with such moralistic assessments. The way deepening inequality and the speculative growth of asset values continue to feed off each other is troubling for any number of reasons, but there is nothing inherently “unsustainable” about it—the process does not have a natural or objective limit. At this point in time, the critique of speculation does little more than lend credibility to official discourses that present crises as preventable and bailouts as one-off, never-to-be-repeated interventions. In that way, it prevents us from critically relating to a neoliberal reality that has been shaped to its core by the speculative exploitation of risk and uncertainty, and in which regressive risk socialization serves as the everyday logic of financial governance.